

4. To enable adequate servicing to take place, to support sustainable transport and to enable vehicles to enter and exit the public highway in forward gear, in the interests of highway safety and to safeguard against flood risk.
5. To promote biodiversity, ensure a high standard of development, promote sustainable modes of travel, protect amenity and to safeguard against flood risk.
6. To secure appropriate improvements to the existing highway in the interests of highway safety.
7. To ensure that the access is designed and constructed to an appropriate specification and is brought into use before occupation of the development in the interests of highway safety.
8. To ensure that vehicles can enter and leave the public highway in a safe manner.
9. To ensure vehicles exiting the drive would have sufficient visibility to enter the public highway safely and vehicles on the public highway would have sufficient warning of a vehicle emerging in order to take avoiding action.
10. To protect against flood risk, in the interests of highway safety and to protect amenity.
11. & 12. To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary and Principal Aquifers, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 170 and 178), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) A4 - A6, J1 - J7 and N7.
13. Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater.
14. In the interests of biodiversity and to ensure a sustainable form of development.
15. & 16. To safeguard against the risk of flooding.
17. To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development.
18. To ensure a high standard of development.

INFORMATIVES

1. You are reminded that the carrying out of building works requires approval under the Building Regulations in many cases as well as a grant of planning permission. If you are in doubt as to whether or not the work, the subject of this planning permission, requires such approval, then you are invited to contact the Building Control section at Ipswich Borough Council on email: building.control@ipswich.gov.uk or on telephone number: 01473 432951.
2. Many species of plant and animal in England, and their habitats, are protected by law. You are breaking the law if you capture, kill, disturb or injure a European protected species (on purpose or by not taking enough care); damage or destroy a breeding or resting place (even accidentally); obstruct access to their resting or sheltering places (on purpose or by not taking enough care); possess, sell, control or transport live or dead

individuals, or parts of them. For further information and guidance you are advised to speak to Natural England at www.gov.uk or by telephone on 0300 060 6000.

3. There is a planning fee payable for applications in writing to discharge planning permission conditions. Forms for applications to discharge conditions are available from the Council's website.
4. The Council recommends the installation of an appropriate sprinkler system within the development.
5. In accordance with The Environmental Permitting (England and Wales) (Amendment) (No.2) Regulations 2016, Schedule 25, Part 1, these works may require a Flood Risk Activity Permit if the applicant wants to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The River Gipping is designated a 'main river'.
6. It is an OFFENCE to carry out any works within the public highway, which includes a Public Right of Way, without the permission of the Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. The works within the public highway will be required to be designed and constructed in accordance with the County Council's specification. The applicant will also be required to enter into a legal agreement under the provisions of Section 278 of the Highways Act 1980 relating to the construction and subsequent adoption of the highway improvements. Amongst other things the Agreement will cover the specification of the highway works, safety audit procedures, construction and supervision and inspection of the works, bonding arrangements, indemnity of the County Council regarding noise insulation and land compensation claims, commuted sums, and changes to the existing street lighting and signing.
7. This permission is subject to a related agreement under Section 106 of the Town and Country Planning Act 1990.

Summary of Development Plan policies and proposals relevant to this decision: -

1. Core Strategy and Policies Development Plan Document (DPD) Review - Policies CS7 'The Amount of Housing Required', CS8 'Housing Type and Tenure', CS12 'Affordable Housing', CS17 'Delivering Infrastructure', DM1 'Sustainable Construction', DM2 'Decentralised Renewable or Low Carbon Energy', DM3 'Air Quality', DM4 'Development and Flood Risk', DM6 'Provision of New Open Spaces, Sports and Recreation Facilities', DM7 'Provision of Private Outdoor Amenity Space in New and Existing Developments', DM8 'The Natural Environment', DM9 'Protection of Trees and Hedgerows', DM10 'Green and Blue Corridors', DM12 'Design and Character', DM13 'Built Heritage and Conservation', DM14 'Archaeology', DM15 'Tall Buildings', DM18 'Amenity', DM21 'Transport and Access in New Developments', DM22 'Car and Cycle Parking in New Development', DM23 'The Density of Residential Development', DM34 'Delivery and Expansion of Digital Communications Networks'
2. Site Allocations and Policies DPD Review (2022) - Policy SP27 'Land with Planning Permission or Awaiting a Section 106 Agreement in the IP-One Area'
3. Cycling Strategy SPD (2016)
Low Emissions SPD (2021)
Public Open Space SPD (2017)
Reptile Strategy SPD (2021)
Suffolk Coast RAMS (2020)
Nationally Described Space Standards
Space and Design Guidelines SPD (2015)
Stoke Conservation Area Appraisal and Management Plan

Dated:

Signed:

James Mann MRTPI
Head of Planning and Development
Grafton House
15-17 Russell Road
Ipswich IP1 2DE

SEE NOTES BELOW/OVERLEAF

N.B. This is not an approval under the Building Regulations; Approval under those regulations may also be required.

NOTES

1. If you are aggrieved by the decision of your Local Planning Authority to refuse permission or approval for the proposed development, or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
2. If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an Enforcement Notice, if you want to appeal against your Local Planning Authority's decision on your application, then you must do so within 28 days of the date of this notice.
3. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your Local Planning Authority's decision on your application, then you must do so within; 28 days of the date of service of the enforcement notice, or within 6 months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.
4. Notice of appeal relating to Advertising Consent must be served within 8 weeks of the date of this decision notice. Appeal notices, relating to refusal, for Householder and Minor Commercial applications must be served within 12 weeks. In all other cases, the notice of appeal must be served within 6 months. Definition of a Minor Commercial application can be found here:- <https://www.gov.uk/government/publications/planning-appeals-procedural-guide/procedural-guide-planning-appeals-england>
5. Appeals can be made online at www.gov.uk/planning-inspectorate Alternatively, a paper appeal form can be requested by calling the Planning Inspectorate on 0303 444 5000.
6. The Secretary of State can allow a longer period for the giving of a notice of appeal, but he will not normally be prepared to exercise this power unless there are special circumstances, which excuse the delay in giving notice of appeal.
7. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
8. In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by the Secretary of State.
9. If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the owner can neither put the land to a reasonable beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
10. In these circumstances, the owner may serve a purchase notice on the Council (that is, where the land is situated in a National Park, the National Park Authority for that Park, or in any other case the District Council (or County Council which is exercising the function of a District Council in relation to an area for which there is no District Council), London Borough Council or Common Council of the City of London in whose area the land is situated). This notice will require the Council to purchase the owner's interest in the land in accordance with the

provisions of Chapter I of Part VI of the Town and Country Planning Act 1990.

In making this decision the Council has positively addressed the National Planning Policy Framework 2023.

Annex C

Fifth Annex - Draft Fifth Planning Permission

**TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2015**



To: KLH Architects Ltd
FAO Mr James Francis
KLH Architects Ltd
The Old Steelyard
Poplar Lane
Sproughton
IPSWICH
IP8 3HL

Agent for:
Khan & Co. Ltd

Application Reference: IP/23/00198/VC

VARIATION OF CONDITIONS ATTACHED TO PLANNING PERMISSION

Ipswich Borough Council, as local planning authority, hereby **GRANT** approval for:

Variation of Condition 9 of planning permission IP/19/00369/FUL (Demolition of single-storey extension to former Defiance PH. Re-ordering of premises to provide two flats. Erection of buildings on land behind Defiance PH containing 29 flats.) to amend the proposed access design with regards to visibility splays.

at: Former Defiance Public House 22 Stoke Street Ipswich Suffolk IP2 8BX

in accordance with your application reference: IP/23/00198/VC received 15.03.2023.

By virtue of Section 91 of the Town and Country Planning Act, 1990 this permission is granted subject to the condition that the development to which it relates must be begun not later than **XXXXXXXXXX**, which is three years from the beginning of the date of the original notice.

This permission is also subject to the following condition(s):-

1. The hereby-approved development shall be carried out in accordance with the following approved drawings:- Drawing no's 3637 - 0110 Rev P05, - 0111 Rev P05, - 0310 Rev P02, - 0311 Rev P01, - 0320 Rev P02, 5480 - 0400 P02, - 0401 - 0402 P02, - 0403 P01, - 0404 P01.
2. The hereby-approved development shall be carried out in accordance with the details approved pursuant to condition 2 of planning permission IP/19/00369/FUL (condition application refer IP/23/00100/CON).
3. Before any new foundations or external surfacing associated with the hereby-approved buildings or their vehicular areas are constructed, details of site levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
4. Before any new foundations associated with the hereby-approved development are constructed the following detail shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be provided before first occupation, made

available for use in connection with the development and retained thereafter:-

i. foul and surface water drainage strategy

Before first occupation the following details/works approved pursuant to condition 4 of planning permission IP/19/00369/FUL (condition application refer IP/22/00743/CON) shall be provided, made available for use in connection with the development and retained thereafter:-

ii. refuse and recycling storage facilities and collection strategy, and

iii. refuse/recycling presentation area

Before first occupation the following details/works approved pursuant to condition 4 of planning permission IP/19/00369/FUL (condition application refer IP/23/00064CON) shall be provided, made available for use in connection with the development and retained thereafter:-

i. electric vehicle charging, including number and location

ii. vehicle parking including visitor parking and parking of service vehicles

5. None of the hereby-approved dwellings shall be first occupied until the following details have been submitted to and approved in writing by the Local Planning Authority. The approved works/measures shall be provided on first occupation and retained thereafter:-

i. biodiversity measures

ii. external lighting

iii. boundary treatments

iv. flood evacuation plan

On first occupation the following details/works approved pursuant to condition 5 of planning permission IP/19/00369/FUL (condition application refer IP/23/00064CON) shall be provided, made available for use in connection with the development and retained thereafter:-

i. cycle parking

6. None of the hereby-approved dwellings shall be first occupied until the existing footway fronting the site has been widened to 2 metres in accordance with details approved pursuant to condition 6 of planning permission IP/19/00369/FUL (condition application refer IP/22/01055/CON).

7. None of the hereby-approved dwellings shall be first occupied until the existing vehicular access has been improved, laid out and completed in all respects in accordance with Drawing No. 0111 Rev P04 and made available for use. Thereafter the access shall be retained in the specified form.

8. The gradient of the vehicular access shall not be steeper than 1 in 20 for the first 5 metres measured from the nearside edge of the adjacent metalled carriageway. Thereafter, the access driveway shall be constructed at a gradient not steeper than 1 in 8.

9. Notwithstanding the provisions of Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the existing visibility splays.

10. Unless otherwise approved, the hereby-approved development shall only be carried out in accordance with the Construction Management Plan updated 10.7.23 and Construction Surface Water Management Plan Dated: Sep 2023 Ref: 311-001-RP03 Rev 2 (both received pursuant to condition 10 of planning permission IP/19/00369/FUL (condition application refer IP/23/00805/CON)).

11. No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-

term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

12. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.
13. The hereby-approved development shall only be carried out in accordance with the submitted Biodiversity Assessment, Energy Statement and Water Statement submitted with the application unless otherwise approved in writing with the Local Planning Authority.
14. Before commencement of internal layout works within Blocks 1 and 2, details of refuge areas and flood resistance and resilience measures shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
15. The finished floor level on the ground floor within Blocks 1 and 2 hereby-approved shall be no lower than 4.5 metres AOD.
16. No dwelling within Blocks 1 and 2 shall be occupied until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the Local Planning Authority, in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 19 of planning permission IP/19/00369/FUL and the provision made for analysis, publication and dissemination of results and archive deposition.
17. No dwelling shall be first occupied until details of hard and soft landscaping, including within the approved communal and parking areas as well as the respective management of these areas, shall be submitted to and approved in writing by the Local Planning Authority. The approved hard landscaping shall be provided before first occupation of any dwelling within Blocks 1 or 2 and soft landscaping shall be carried out in accordance with the implementation and monitoring programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the substantial completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. Thereafter the parking and communal areas shall be managed in accordance with the agreed details.

The reasons for the above condition(s) are as follows: -

1. To identify the approved drawings for the avoidance of doubt.
2. To ensure a high standard of development.
3. To protect the amenity of neighbouring residents.
4. To enable adequate servicing to take place, to support sustainable transport and to enable vehicles to enter and exit the public highway in forward gear, in the interests of highway safety and to safeguard against flood risk.

5. To promote biodiversity, ensure a high standard of development, promote sustainable modes of travel, protect amenity and to safeguard against flood risk.
6. To secure appropriate improvements to the existing highway in the interests of highway safety.
7. To ensure that the access is designed and constructed to an appropriate specification and is brought into use before occupation of the development in the interests of highway safety.
8. To ensure that vehicles can enter and leave the public highway in a safe manner.
9. To ensure vehicles exiting the drive have sufficient visibility to enter the public highway safely and vehicles on the public highway have sufficient warning of a vehicle emerging in order to take avoiding action.
10. To protect against flood risk, in the interests of highway safety and to protect amenity.
11. & 12. To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary and Principal Aquifers, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 170 and 178), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) A4 - A6, J1 - J7 and N7.
13. In the interests of biodiversity and to ensure a sustainable form of development.
14. & 15. To safeguard against the risk of flooding.
16. To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development.
17. To ensure a high standard of development.

INFORMATIVES

1. You are reminded that the carrying out of building works requires approval under the Building Regulations in many cases as well as a grant of planning permission. If you are in doubt as to whether or not the work, the subject of this planning permission, requires such approval, then you are invited to contact the Building Control section at Ipswich Borough Council on email: building.control@ipswich.gov.uk or on telephone number: 01473 432951.
2. Many species of plant and animal in England, and their habitats, are protected by law. You are breaking the law if you capture, kill, disturb or injure a European protected species (on purpose or by not taking enough care); damage or destroy a breeding or resting place (even accidentally); obstruct access to their resting or sheltering places (on purpose or by not taking enough care); possess, sell, control or transport live or dead individuals, or parts of them. For further information and guidance you are advised to speak to Natural England at www.gov.uk or by telephone on 0300 060 6000.
3. There is a planning fee payable for applications in writing to discharge planning permission conditions. Forms for applications to discharge conditions are available from the Council's website.
4. The Council recommends the installation of an appropriate sprinkler system within the development.

5. In accordance with The Environmental Permitting (England and Wales) (Amendment) (No.2) Regulations 2016, Schedule 25, Part 1, these works may require a Flood Risk Activity Permit if the applicant wants to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The River Gipping, is designated a 'main river'.
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7. This permission is subject to a related agreement under Section 106 of the Town and Country Planning Act 1990.

Summary of Development Plan policies and proposals relevant to this decision: -

1. Core Strategy and Policies Development Plan Document (DPD) Review - Policies CS7 'The Amount of Housing Required', CS8 'Housing Type and Tenure', CS12 'Affordable Housing', CS17 'Delivering Infrastructure', DM1 'Sustainable Construction', DM2 'Decentralised Renewable or Low Carbon Energy', DM3 'Air Quality', DM4 'Development and Flood Risk', DM6 'Provision of New Open Spaces, Sports and Recreation Facilities', DM7 'Provision of Private Outdoor Amenity Space in New and Existing Developments', DM8 'The Natural Environment', DM9 'Protection of Trees and Hedgerows', DM10 'Green and Blue Corridors', DM12 'Design and Character', DM13 'Built Heritage and Conservation', DM14 'Archaeology', DM15 'Tall Buildings', DM18 'Amenity', DM21 'Transport and Access in New Developments', DM22 'Car and Cycle Parking in New Development', DM23 'The Density of Residential Development', DM34 'Delivery and Expansion of Digital Communications Networks'

Site Allocations and Policies DPD Review (2022) - Policy SP27 'Land with Planning Permission or Awaiting a Section 106 Agreement in the IP-One Area'

2. Other Guidance

Cycling Strategy SPD (2016)
 Low Emissions SPD (2021)
 Public Open Space SPD (2017)
 Reptile Strategy SPD (2021)
 Suffolk Coast RAMS (2020)
 Nationally Described Space Standards
 Space and Design Guidelines SPD (2015)
 Stoke Conservation Area Appraisal and Management Plan

Dated:

Signed:

James Mann MRTPI
 Head of Planning and Development
 Grafton House
 15-17 Russell Road
 Ipswich IP1 2DE

SEE NOTES BELOW /OVERLEAF

N.B. This is not an approval under the Building Regulations; Approval under those regulations may also be required.

NOTES

1. If you are aggrieved by the decision of your Local Planning Authority to refuse permission or approval for the proposed development, or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
2. If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an Enforcement Notice, if you want to appeal against your Local Planning Authority's decision on your application, then you **must do** so within 28 days of the date of this notice.
3. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your Local Planning Authority's decision on your application, then you must do so within; 28 days of the date of service of the enforcement notice, or within 6 months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.
4. Notice of appeal relating to Advertising Consent must be served within 8 weeks of the date of this decision notice. Appeal notices, relating to refusal, for Householder and Minor Commercial applications must be served within 12 weeks. In all other cases, the notice of appeal must be served within 6 months. Definition of a Minor Commercial application can be found here: <https://www.gov.uk/government/publications/planning-appeals-procedural-guide/procedural-guide-planning-appeals-england>
5. Appeals can be made online at www.gov.uk/planning-inspectorate Alternatively, a paper appeal form can be requested by calling the Planning Inspectorate on 0303 444 5000.
6. The Secretary of State can allow a longer period for the giving of a notice of appeal, but he will not normally be prepared to exercise this power unless there are special circumstances, which excuse the delay in giving notice of appeal.
7. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
8. In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by the Secretary of State.
9. If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the owner can neither put the land to a reasonable beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
10. In these circumstances, the owner may serve a purchase notice on the Council (that is, where the land is situated in a National Park, the National Park Authority for that Park, or in any other case the District Council (or County Council which is exercising the function of a District Council in relation to an area for which there is no District Council), London Borough Council or Common Council of the City of London in whose area the land is situated). This notice will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter I of Part VI of the Town and Country Planning Act 1990.

In making this decision the Council has positively addressed the National Planning Policy Framework 2023.

Annex D
Principal Agreement

DATE 06th August 2020

- (1) IPSWICH BOROUGH COUNCIL
- and
- (2) SUFFOLK COUNTY COUNCIL
- and
- (3) MAYBUSH DEVELOPMENTS LTD

AGREEMENT

Pursuant to Section 106 Town and Country Planning Act 1990
as amended and other statutory provisions
relating to Land/Buildings at 22 Stoke Street
and land to the rear of 14-22 Stoke Street Ipswich

Legal Services
Ipswich Borough Council
Grafton House
15-17 Russell Road
Ipswich
Suffolk
IP1 2DE
IP0007.543

THIS DEED OF AGREEMENT is made the ^{06th} day of August 2020

BETWEEN:

1. **IPSWICH BOROUGH COUNCIL** of Grafton House, 15-17 Russell Road, Ipswich, Suffolk IP1 2DE (hereinafter called "**the Borough Council**"); and
2. **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX (hereinafter called "**the County Council**"); and
3. **MAYBUSH DEVELOPMENTS LTD** (Co. Regn. No 05092994) whose registered office is at C/O Haslers, Old Station Road, Loughton, Essex IP10 4PL (hereinafter called "**the Owner**")

RECITALS

- (A) The Borough Council is the Local Planning Authority for the purposes of the 1990 Act for the area within which the Property is situated and is an Authority who may enforce the planning obligations herein.
- (B) The County Council is the county planning authority and is also a local highway authority for the purposes of the Highways Act 1980 a local education authority under the relevant enactment and local library authority and by whom the obligations contained in this Deed are enforceable.
- (C) Part of the Property comprises land registered at HM Land Registry under title number SK261341 and part of the property is occupied by the Owner by means of adverse possession
- (D) The Owner is the freehold owner of part of the Property free from encumbrances and is in control of that part of the Property which is unregistered at HM Land Registry.
- (E) The Owner has submitted the Application to the Borough Council for the grant of the Permission for the development of the Property.
- (F) Pursuant to Section 106 of the 1990 Act the Councils and the Owner have agreed to enter into the Deed and acknowledge that the Development shall not take place until certain restrictions regulating the use of the Property are imposed in the manner hereinafter appearing.
- (G) Having regard to the provisions of the Local Plan, the Borough Council's Core Strategy and Policies Development Plan Document and all other material considerations the Borough Council considers it necessary in the interests of proper planning of its area that provision should be made for regulating the Development in the manner hereinafter appearing and the Borough Council is satisfied that the Permission can only be granted subject to and on completion of this Deed.

OPERATIVE PROVISIONS

- 1 The following expressions shall have the meanings hereby respectively assigned to them:-

General Definitions

"the 1990 Act"	means the Town and Country Planning Act 1990 as amended
"Additional Pathway"	Means that pathway to be created as a footpath link along the riverfront and situated within the Development and the Adjacent Development
"Adjacent Development"	means a development that includes the Additional Pathway to the west of the Amenity Space and a development that includes the Additional Pathway to the east of the Amenity Space both of which being on land allocated for development within the Ipswich Site Allocations and Policies DPD Review (2017) Site Refer IP031.
"Affordable Housing Unit"	Means a house that is affordable to those people who cannot afford to rent or buy housing generally available on the open market
"Affordable Housing Contribution"	means a commuted sum calculated in accordance with the terms of this Agreement not exceeding £250,000 (two hundred and fifty thousand pounds) to cover the cost of providing no less than 5 Affordable Housing Units based on the BCIS Index (median figure) for mixed housing developments in Ipswich which shall be used for the purpose of delivering Affordable Housing within the Borough of Ipswich
"Amenity Space"	means the amenity land and pathway to be provided as part of the Development on the land edged blue on Plan to provide amenity land with landscaping and street furniture
"the Application"	means the planning application given reference IP/19/00369/FUL submitted by the Owner and registered by the Borough

	Council on 15 th April 2019
"Benchmark Land Value"	means the value of the Property at the date of the Updated Viability Assessment based on the formula set out in the Original Viability Assessment
"BCIS Index"	means the All in Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be agreed between the Borough Council County Council and the Owner
"BCIS Indexed"	the increase in the Financial Contributions by an amount equivalent to the increase in the BCIS Index to be calculated in accordance with Clause 34 of this Deed.
"Commencement Date"	<p>means the date on which the Development commences by the carrying out on the Property pursuant to the Permission of a material operation as defined in Section 56(4) of the 1990 Act PROVIDED THAT the following operations shall not constitute a material operation for the purposes of this agreement:-</p> <ul style="list-style-type: none"> a) the demolition of any existing buildings or structures b) site investigations or surveys c) site clearance d) archaeological investigations e) investigations for the purpose of assessing ground conditions f) remedial work in respect of any contamination or other adverse ground conditions g) diversion and laying of services h) erection of any temporary means of enclosure

	<p>i) the temporary display of site notices or advertisements</p> <p>and the terms "Commencement" "Commenced" and "Commences" shall be construed accordingly</p>
"Completed"	means the completion of the sale of the final Dwelling on the Property and "Complete" and "Completed" shall be construed accordingly
"Completion Date"	means the date on which all Market Dwellings have been Completed
"the Councils"	means the Borough Council and the County Council
"Deed"	means this Deed of Agreement
"Development"	means the Development permitted under the Permission
"Dwelling"	means a dwelling forming part of the Development to be constructed in accordance with the Permission
"External Consultant"	means the external consultant appointed by the Borough Council to independently assess the Updated Viability Assessment
"Financial Contributions"	means any or all of the following financial contributions defined in the Deed; Early Years Contribution; Primary Education Contribution; Highways Contribution; Library Contribution; and Recreational Avoidance and Mitigation Strategy Contribution
"Late Payment Interest"	means interest calculated at the rate of 4% above the base lending rate from time to time of Bank of England
"Maintenance Charge"	means the sum of Eighteen Thousand Eight Hundred and Ninety Nine Pounds (£18,899) towards the maintenance costs for the Borough Council to maintain the Amenity Space BCIS Indexed
"Market Dwellings"	means a Dwelling other than an Affordable Housing Unit constructed to the Permission
"the Obligations"	means the obligations provisions requirements conditions or other burdens set out in this Deed