

DATED

20 APRIL

2022

BABERGH DISTRICT COUNCIL (1)

SUFFOLK COUNTY COUNCIL (2)

APOLLO CAPITAL PROJECTS DEVELOPMENT LIMITED (3)

**Planning Obligation by Deed of Agreement under Section 106 of
the Town and Country Planning Act 1990 relating to land at
Former Lorry Park, Station Road, Sudbury CO10 2SS**

(relating to full planning application reference DC/21/05017)

THIS AGREEMENT IS MADE this

20th

day of APRIL

2022

BETWEEN:

- (1) **BABERGH DISTRICT COUNCIL** of Endeavour House, 8 Russell Road Ipswich, IP1 2BX ("the District Council" and until such time as it ceases to have an interest in the Site, "the Owner");
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich IP1 2BX ("the County Council"); and
- (3) **APOLLO CAPITAL PROJECTS DEVELOPMENT LIMITED** (company registration no. 04246800) of The Brewhouse, Greenalls Avenue, Warrington WA4 6HL ("the Developer"),

together "the Parties"

INTRODUCTION

- (A) The District Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.
- (B) The County Council is the local highway authority (except for trunk roads) and is also a local planning authority for the purposes of the Act for the area in which the Site is situated and because the District Council is also the Owner of the Site is entering into this Deed to act as an Enforcing Authority of the obligations contained in this Deed.
- (C) The District Council is also the freehold owner of the Site which is registered at the Land Registry title number SK314715 as more fully described in the First Schedule. Hereinafter references to the "Owner" shall mean Babergh District Council acting as the owner of the Site, and references to the District Council shall mean Babergh District Council acting in its capacity as local planning authority.
- (D) The Developer has entered into a conditional sale contract dated 14 April 2021 with the Owner for the purchase of the Site.
- (E) The Developer submitted the Application to the District Council for the Development and the District Council has resolved to grant planning permission for the Development pursuant to the Application subject to prior completion of this Deed to regulate the Development.
- (F) For the avoidance of doubt the Developer may ultimately nominate a member of its corporate group to purchase the Site and in turn undertake the Development.

- (G) The District Council and the County Council enter into this Deed so that the requirements of their policies are met and that any objections by them to the grant of planning permission on the basis of those policies are overcome.
- (H) The Parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
- (I) The District Council and the County Council are satisfied that the planning obligations sought under the provisions of this Deed meet the tests set out in Regulation 122 of the CIL Regulations.
- (J) For the avoidance of doubt the District Council in its capacity as Owner will cease to be responsible for the obligations contained in this Deed on disposal of its interest in the Site.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1. DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

Act	the Town and Country Planning Act 1990 (as amended);
Application	means the application for full planning permission to develop the Site in accordance with the application plans any amendment and other materials submitted to the District Council for the Development bearing the reference number DC/21/05017;
BCIS Index	the All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation;
BCIS Indexed	the increase in any sum referred to in this Deed as "BCIS Indexed" by an amount equivalent to the increase in the BCIS Index to be calculated in accordance with Clause 12 of this Deed;
CIL Regulations	the Community Infrastructure Levy Regulations 2010 (as amended);

Contributions	means the Footpath Diversion Contribution, the Lorry Signage Contribution, the Promotional Material Contribution and the Travel Plan Evaluation and Support Contribution;
Commencement of Development	the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out on the Site other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure and the temporary display of site notices or advertisements and "Commencement", "Commence Development" and "Commencement Date" shall be construed accordingly;
Completion of the Development	the date that the Development is first Occupied;
Development	the development of the Site for the erection of part two storey part three storey GP surgery and pharmacy, with associated parking, external works and landscaping, as set out in the Application;
Enforcing Authority	the County Council until such time as the District Council ceases to have an interest in the Site, after which time it shall mean the District Council;
Footpath Diversion Contribution	a contribution of £5,000.00 (five thousand pounds) BCIS Indexed payable to the County Council and to be applied by the County Council to include all legal costs administrative costs and all other ancillary officer time and expenses in respect of a legal order to effect the stopping up and/or diversion of Sudbury Public Footpath 14 away from the south eastern boundary of the Site and all other steps or works required to facilitate such diversion;
Interest	interest at four (4) per cent above the base lending rate of the Bank of England from time to time;

Lorry Contribution	Signage	a contribution of £5,000.00 (five thousand pounds) BCIS Indexed payable to the County Council and to be applied by the County Council to include all legal costs administrative costs and all other ancillary officer time and expenses in respect of the removal or amendment of all existing highway signage relating to the former lorry park on the Site and all other steps or works required to facilitate such removal;
Notice of Actual Commencement		notice in writing to advise of the actual date of Commencement;
Notice of Expected Commencement		notice in writing to advise of the expected date of Commencement;
Occupation and Occupied		occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupy" shall be construed accordingly;
Plan		the site location plan attached to this Deed;
Planning Permission		the full planning permission granted pursuant to the Application subject to conditions;
Promotional Material Contribution		a contribution of £5,000.00 (five thousand pounds) RPI Indexed payable to the County Council and to be applied by the County Council in respect of the development of new promotional material and interpretation panels to encourage use by the public of The Valley Trail and locally promoted walks and to include all related officer time and ancillary expense;
Travel Plan		a long-term management strategy submitted in accordance with planning condition number 7 of the Planning Permission that seeks to deliver sustainable transport objectives that is regularly monitored, reviewed and updated;

Travel Plan Evaluation and Support Contribution	a contribution of £5,000.00 (five thousand pounds) RPI Indexed payable to the County Council and to be applied by the County Council in respect of monitoring the implementation of the Travel Plan;
RPI Index	the "All Items" index figure of the Index of Retail Prices published by the Office for National Statistics from time to time 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 reasonably agreed between the Parties;
RPI Indexed	the increase in any sum referred to in this Deed as "RPI Indexed" by an amount equivalent to the increase in the RPI Index to be calculated in accordance with Clause 12 of this Deed;
Site	the land shown edged red for identification purposes only on the Plan and described in the Schedule 1 against which this Deed may be enforced; and
Working Days	means any day Monday to Friday inclusive except bank or public holidays in England.

2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause sub-clause paragraph sub-paragraph schedule or recital such reference (unless the context otherwise requires) is a reference to a clause sub-clause paragraph sub-paragraph schedule or recital in this Deed;
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa;
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner;
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise;

- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act of Parliament for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that act or deriving validity from it;
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the District Council and the County Council their respective successors or successors in title to their relevant statutory functions;
- 2.7 Any covenant by the Owner and/or the Developer not to do an act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person;
- 2.8 The headings are for reference only and shall not affect construction;
- 2.9 References to a "Plan" or "Drawing" in this Deed shall be reference to the plans attached to this Deed bearing the relevant plan number or any amended plans as shall be agreed in writing between the Developer and the District Council;

3. LEGAL BASIS

- 3.1 This agreement is a Deed made pursuant to section 106 of the Act section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011 and all other enabling powers;
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to section 106 of the Act and are enforceable by the County Council in respect of the matters set out in the Second Schedule as local planning authority against the Owner or their successor(s) in title;
- 3.3 This Deed is a deed and may be modified or discharged in part or in total at any time after the date of this Deed by deed between the Parties in the form of a Deed.
- 3.4 If the District Council agrees following an application under section 73 of the Act to vary or release any condition contained in the Planning Permission or if a condition is varied or released following an appeal under section 78 of the Act the covenants or provisions of this Deed shall (with the Parties' written consent) be deemed to bind the varied permission and to apply in equal terms to the new planning permission unless the authority determining the application for the new planning permission indicates that consequential amendments are required to this Deed to reflect the impacts of the section 73 application, when a separate deed under section 106 of the Act will be required to secure relevant planning obligations relating to the new planning permission.

4. CONDITIONALITY

4.1 The obligations contained in the Schedules to this Deed are conditional upon:

- 4.1.1 the grant of the Planning Permission; and
- 4.1.2 the Commencement of Development.

SAVE THAT clauses 1 to 4 and 7 to 23, and paragraphs 1 and 2 of Part 1 of Schedule 2 shall come into effect immediately upon completion of this Deed;

4.2 Where the Planning Permission is the subject of any judicial review proceedings or other legal challenge:

- 4.2.1 until such time as such proceedings or challenge including any appeal have been finally resolved the terms and provisions of this Deed will remain without operative effect notwithstanding the issue of the Planning Permission and the Commencement of Development PROVIDED THAT the Owner and/or the Developer shall not undertake any further works to implement the Planning Permission following the issue of such proceedings;
- 4.2.2 if following the conclusion of such proceedings or challenge the Planning Permission is quashed and is not superseded by a subsequent planning permission accepted by the Owner this Deed will cease to have any further effect; and
- 4.2.3 if following the conclusion of such proceedings or challenge the Planning Permission remains valid and fully enforceable all of the terms and provisions of this Deed will apply in full;

4.3 Wherever in this Deed reference is made to a date on which "legal proceedings or challenge in relation to the Planning Permission are concluded" (or cognate expressions are used), the following provisions will apply:

- 4.3.1 proceedings by way of judicial review are concluded:
 - 4.3.1.1 when permission to apply for judicial review has been refused and no further application can be made;
 - 4.3.1.2 when the court has given judgment in the matter and the time for making an appeal expires without any appeal having been made or permission to appeal is refused; or
 - 4.3.1.3 when any appeal(s) is or are finally determined.

4.3.2 proceedings under section 288 of the Act are concluded:

4.3.2.1 when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or

4.3.2.2 when any appeal(s) is or are finally determined.

5. THE OWNER AND DEVELOPER'S COVENANTS

The Owner and the Developer covenant with the County Council so as to bind the Site and each and every part thereof as set out in Schedule 2.

6. COUNTY COUNCIL'S COVENANTS

The County Council covenants with the Owner and the Developer as set out in the Schedule 3.

7. MISCELLANEOUS

7.1 The Developer shall pay to both the District Council and to the County Council on completion of this Deed their reasonable legal costs incurred in the negotiation, preparation and execution of this Deed.

7.2 The Developer covenants to pay to the County Council on or before completion of this Deed a contribution of £824 (eight hundred and twenty four pounds) (no VAT) towards the County Council's reasonable and proper administration costs of monitoring the performance of the planning obligations that the Developer and the Owner are required to observe and perform pursuant to the terms of this Deed.

7.3 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

7.4 This Deed shall be registered as a local land charge.

7.5 Where the agreement, approval, consent or expression of satisfaction is required by the Owner and/or Developer from the County Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the County Council by the Executive Director of Growth, Highways and Infrastructure or officer acting under his hand any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.

- 7.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 7.7 This Deed shall cease to have effect (insofar only as has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 7.8 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site (or part where such breach occurs) but without prejudice to liability for any subsisting breach arising prior to parting with such interest and for the purposes of this clause a person parts with an interest in the Site notwithstanding the retention of easements or the benefit of covenants, restrictions or reservations in respect of it.
- 7.9 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 7.10 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, functions, powers, duties and obligations of the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of its functions as a local authority.
- 7.11 The Owner and Developer agree that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of the Deed are hereby waived.
- 7.12 Save as otherwise provided in this Deed all works and activities to be carried out under the terms of this Deed (including for the avoidance of doubt such works as are of a preparatory ancillary or of a maintenance nature) are (save where expressly provided otherwise) to be at the expense of the Owner and the Developer and at no cost to the County Council.
- 7.13 The Owner covenants and warrants to the County Council and the Developer that it has the full power to enter into this Deed and there is no other person whose consent is necessary to make this Deed binding on the Site and all estates and interests therein.
- 7.14 The District Council shall indemnify the County Council against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional

costs and expenses) suffered or incurred by the County Council arising out of or in connection with the enforcement of the obligations made under this Deed.

8. WAIVER

No waiver (whether expressed or implied) by the County Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the County Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

9. CHANGE IN OWNERSHIP

The Owner and the Developer agree with the County Council to give t written notice within five (5) Working Days of any change in ownership of any of their interests in the Site occurring before all the obligations under this Deed have been discharged such notice quoting reference DC/21/00754 and giving details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan and the title number or numbers thereof.

10. RIGHTS OF ENTRY

10.1 At all times on not less than forty eight (48) hours written notice except in case of emergency with or without notice the Owner shall allow any employee or agent of the County Council entry to the Site for the purposes of inspection and monitoring compliance with the provisions of this Deed PROVIDED THAT:

- 10.1.1 such employee or agent on arrival at the Site shall if requested by any person present who appears to be the Owner the manager or person in charge thereof produce evidence of identity (but entry may be made if there is or appears to be no such person on the Site);
- 10.1.2 such entry shall be effected between 08:00 and 18:00 on any Working Day;
- 10.1.3 such employee or agent may be accompanied by such other persons as may be reasonably necessary;
- 10.1.4 such employee or agent may take photographs measurements and levels;
- 10.1.5 such employee or agent may not remain on the Site for any longer than is reasonably necessary for carrying out a proper inspection;
- 10.1.6 such employee or agent and any other accompanying persons shall comply with the Owner or the Owner's representatives, reasonable

directions and all the Owner's compliance precautions, procedures and measures in place for the Site at such time in the interests of health and safety;

- 10.1.7 such employee or agent shall be accompanied at all times by the Owner's manager or person in charge at the Site or such other employee or agent of the Owner in the interests of health and safety except in the event that no such person is available (in accordance with Clause 10.1.1)
- 10.1.8 for the avoidance of doubt the provisions of this Clause 10 shall be in addition to and does not prejudice the powers conferred on the County Council by Sections 169A, 169B and 169C of the Act.

11. DISPUTE PROVISIONS

- 11.1 Any dispute or difference of any kind whatsoever arising between any or all of the Parties out of or in connection with this Deed (including without limitation any question regarding its existence validity or termination) shall be referred to an independent single Expert ("the Expert");
- 11.2 The Expert shall have no less than ten (10) years' experience of resolving disputes similar in nature to the one that is proposed to be referred pursuant under Clause 11.1;
- 11.3 The Parties to the dispute shall jointly appoint the Expert not later than twenty (20) Working Days' after service of a request in writing by any Party to the dispute to do so;
- 11.4 If the Parties to the dispute are unable to agree within twenty (20) Working Days' as to the appointment of such Expert then the Expert shall be appointed on the application of either of the Parties to the dispute as follows:
 - 11.4.1 if such difference or question relates to the rights and liabilities of either Party to the dispute or to the terms or conditions to be embodied in the Deed or document appertaining to the Deed it shall be referred to a solicitor or barrister notified by or on behalf of the President for the time being of the Law Society; or
 - 11.4.2 if such difference or question relates to highway works engineering demolition building or construction works it shall be referred to a chartered civil engineer notified by or on behalf of the President for the time being of the Institution of Civil Engineers; or
 - 11.4.3 if such difference or question relates to the value of any interest in property it shall be referred to a chartered surveyor agreed upon by the Parties but

in default of agreement appointed by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors; or

11.4.4 if such difference of question relates to planning and related matters it shall be referred to a chartered town planner agreed upon by the Parties but in default of agreement by or on behalf of the President for the time being of the Royal Town Planning Institute.

11.5 In the event of a reference to an Expert the Parties to the dispute agree to:

11.5.1 prosecute any such reference expeditiously; and

11.5.2 do all things or take all steps reasonably necessary in order to enable the Expert to make a final determination as soon as reasonably practicable and in any event within one (1) month of his appointment Provided That if the Expert fails to do so either Party to the dispute may apply to the President for the time being of the Institution of Law Society, Civil Engineers, Royal Institution of Chartered Surveyors or Royal Town Planning Institute (as appropriate) for a substitute to be appointed in which case the same procedure shall be repeated;

11.6 The Expert shall invite written representations from each of the Parties;

11.7 The Expert will have the power to consolidate proceedings or hold concurrent proceedings;

11.8 The findings of the Expert shall be in writing signed by the Expert;

11.9 The findings of the Expert shall be final and binding both on the Parties to the dispute except in the case of manifest, material error;

11.10 The Expert shall act as an expert and not as an arbitrator;

11.11 The costs of the Expert shall be payable by the Parties in such proportion as may be determined by the Expert and failing such determination to be borne in equal shares by the Parties;

11.12 Unless this Deed has already been terminated each of the Parties to the dispute shall in every case continue to comply with its obligations under this Deed regardless of the nature of the dispute and notwithstanding the referral of the dispute for resolution pursuant to this Clause 11 but without prejudice to the rights and obligations of the Parties to the dispute in relation to the termination of the Deed;

11.13 Nothing in the provisions of this Clause 11 shall be construed as removing the jurisdiction of the courts to enforce the provisions of this Deed.

12. INDEXATION

Any sum referred to in this Deed (unless the context reads otherwise) shall be increased by an amount equivalent to the increase in the RPI Index or BCIS Index (as the context requires) from the date hereof until the date on which such sum is payable using the application of the formula $A = B \times C/D$ where:

A is the sum payable under this Deed;

B is the original sum calculated as the sum payable;

C is the RPI Index or BCIS Index (as the context requires) as appropriate for the month two (2) months before the date on which the sum is payable;

D is the RPI Index or BCIS Index (as the context requires) as appropriate for the month two (2) months before the date of this deed; and

C/D is not less than 1.

13. INTEREST ON PAYMENTS

If any payment due under this Deed is paid late interest will be payable from the date payment is due to the date of payment.

14. VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

15. NOTICES

15.1 Any notices or other written communication to be served or given by one party upon or to any other party under the terms of this Deed shall be deemed to have been validly served or given if delivered by hand or sent by first class recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing PROVIDED THAT the notice or other written communication is addressed and delivered or sent by first class recorded delivery post to the address of the party concerned as nominated in Clause 15.2;

15.2 The address for any notice or other written communication in the case of each party to this Deed shall be as follows:

The District Council	The Chief Planning Officer, Babergh District Council, Endeavour House, 8 Russell Road, Ipswich, IP1 2BX
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The County Council	The Executive Director of Growth, Highways and Infrastructure, Suffolk County Council, Endeavour House, 8 Russell Road, Ipswich IP1 2BX
The Developer	Stuart Clarke, The Brewhouse, Greenalls Avenue, Warrington WA4 6HL

16. SATISFACTION OF ANY OF THE PROVISIONS OF THIS DEED

Where in the opinion of the Owner and/or the Developer any of the provisions of this Deed have been satisfied the Owner and/or the Developer shall be entitled to apply to the County Council for a certificate to that effect and upon the County Council (acting reasonably) being satisfied that the relevant agreement obligation and covenant as the case may be has been satisfied the County Council shall forthwith issue a certificate to such effect.

17. APPROVALS

Where any details, programmes, plans, strategies, reports, matters or materials are approved by the County Council under the terms of this Deed further or amended details programmes plans strategies reports matters or materials may be submitted from time to time and if approved by the County Council (acting reasonably) shall replace those previously approved.

18. COMMUNITY INFRASTRUCTURE LEVY

18.1 The Parties to this Deed agree that for the purposes of the CIL Regulations the obligations imposed in this Deed are:

- 18.1.1 necessary to make the Development permitted pursuant to the Application acceptable in planning terms;
- 18.1.2 directly related to the Development permitted pursuant to the Application; and
- 18.1.3 fairly and reasonably related in scale and kind to the Development permitted pursuant to the Application.

19. LAND OUTSIDE THE OWNER'S CONTROL

Nothing in this Deed shall require the performance of any obligation whatsoever in, over or under land outside the ownership or control of any Party to this Deed.

20. FUTURE MORTGAGEES

The obligations in this Deed shall not be enforceable against any mortgagee or chargee of the whole or any part of the Site from time to time or any person deriving title from such mortgagee or chargee unless and until any such party takes possession of the Site (or any part of it to which such obligation relates) in which case it shall be liable as if it were a successor in title to the Owner in relation to the Site (or the relevant part of it) PROVIDED THAT neither any mortgagee nor chargee nor person deriving title from such mortgagee or chargee shall be liable for any breach of the obligations contained in this Deed unless committed at a time when that person is in possession of the Site (or any part of the Site to which such obligation relates).

21. JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the non-exclusive jurisdiction of the courts of England.

22. DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

23. COUNTERPARTS

This Deed may be executed in a number of separate identical counterparts which on completion shall be construed together as one Deed.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written

The Common Seal of
**SUFFOLK COUNTY
COUNCIL**
was hereunto affixed
In the presence of:

[Redacted Signature]

Authorised Signatory



The Common Seal of
**BABERGH DISTRICT
COUNCIL**
was hereunto affixed
In the presence of:

[Redacted Signature]

Authorised Signatory



Executed as a Deed by
**APOLLO CAPITAL
PROJECTS
DEVELOPMENT LIMITED**
acting by a Director

[Redacted Signature]

Director

in the presence of:

[Redacted Signature]

Witness name:

Witness occupation: *RECEPTIONIST*

Witness address:

SCHEDULE 1

DETAILS OF THE OWNER'S TITLE AND DESCRIPTION OF THE SITE

The freehold land shown edged with red on the Plan registered at the Land Registry under title number SK314715.

SCHEDULE 2
THE OWNER AND THE DEVELOPER'S COVENANTS WITH THE COUNTY COUNCIL

PART 1

NOTIFICATION

1. The Owner and/or the Developer shall serve the County Council with:
 - 1.1 the Notice of Expected Commencement not less than five (5) Working Days' before the date that the Developer expects Commencement of the Development to occur; and
 - 1.2 within fifteen (15) Working Days of Commencement of Development having occurred, the Notice of Actual Commencement in order to confirm that Commencement has occurred.
2. The Developer shall within fifteen (15) Working Days' give written notice to the County Council following Completion of the Development.
3. The Developer shall give not less than five (5) Working Days' notice before the date the Developer expects the Development to become first Occupied.

PART 2

CONTRIBUTIONS

1. The Developer covenants with the County Council to pay the Travel Plan Evaluation and Support Contribution to the County Council prior to first Occupation of the Development.
2. The Owner and Developer covenant with the County Council not to first Occupy any part of the Development prior to payment of the Travel Plan Evaluation and Support Contribution to the County Council.
3. The Developer covenants with the County Council to pay the Footpath Diversion Contribution, the Promotional Material Contribution and the Lorry Signage Contribution to the County Council prior to Commencement of Development.

4. The Owner and Developer covenant with the County Council not to Commence Development prior to payment of the Footpath Diversion Contribution, the Promotional Material Contribution and the Lorry Signage Contribution to the County Council.

PART 3

RIGHTS OF WAY DIVERSION

1. The Owner and Developer covenant with the County Council not to object to or to seek compensation in respect of any order or agreement required pursuant to this Deed to divert Sudbury Public Footpath 14 and the effect of such diversion on the Site or any other adjoining land in their ownership.

SCHEDULE 3
COUNTY COUNCIL'S COVENANTS

1. The County Council covenants with the Developer:
 - 1.1 to use all the Contributions it receives under the terms of this Deed for the purposes specified in this Deed for which they are to be paid unless specified otherwise in this Deed;
 - 1.2 subject to paragraph 1.5 of this Schedule 3, in the event that any of the Contributions or any part of them have not been committed (by an unconditional contract or by the expenditure of the monies) for the purposes for which they were paid under the terms of this Deed the County Council shall after the expiry of five (5) years of the date of Completion of the Development repay any unspent balance to the person who made such payments together with any interest accrued at the Bank of England Base Rate minus 2 basis points compounding annually at financial year end. If for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable for that period;
 - 1.3 at the written request of the Owner or the Developer the County Council shall provide written confirmation of the discharge of the obligations contained in this Deed owed to the County Council when satisfied that such obligations have been performed;
 - 1.4 to use reasonable endeavours to secure a legal order to effect the stopping up and/or diversion of Sudbury Public Footpath 14 away from the south eastern boundary of the Site within a reasonable timeframe from the Council's receipt of the Footpath Diversion Contribution; and
 - 1.5 in the event that any part of the Lorry Signage Contribution is not considered in the County Council's view to be necessary to meet the purpose for which it was paid the County Council may after notifying in writing the person who made such payment use any part of the Lorry Signage Contribution which is not required for the Lorry Signage Contribution purpose specified in this Deed as if it were part of the Footpath Diversion Contribution instead, save that any unspent balance of the Contributions must still otherwise be repaid in accordance with paragraph 1.2 of this Schedule 3.

