

TRAVERS SMITH

DATED 16th March 2006

BROADLAND DISTRICT COUNCIL

- AND -

NORFOLK COUNTY COUNCIL

- AND -

LOTHBURY PROPERTY TRUST
COMPANY LIMITED

- AND -

ROYAL BANK OF CANADA TRUSTEES LIMITED

PLANNING OBLIGATION BY WAY OF
AGREEMENT

PURSUANT TO SECTION 106 OF THE TOWN
AND COUNTRY PLANNING ACT 1990
RELATING TO THE DEVELOPMENT OF LAND
AT THE BROADLAND BUSINESS PARK THORPE ST ANDREW
NORWICH NORFOLK

THIS AGREEMENT is made the 16th day of March 2006

B E T W E E N BROADLAND DISTRICT COUNCIL of Thorpe Lodge Yarmouth Road Thorpe St Andrew Norwich in the County of Norfolk (hereinafter called "The Council") of the first part and NORFOLK COUNTY COUNCIL of County Hall Martineau Lane Norwich NR1 2SG ("hereinafter called the County Council") of the second part LOTHBURY PROPERTY TRUST COMPANY LIMITED incorporated in England with registered number 3026290 whose registered office is at Royal Bank of Scotland Company Secretariat Waterhouse Square 138 - 142 Holborn London EC1N 2TH (hereinafter called "the Owner") of the third part and ROYAL BANK OF CANADA TRUSTEES LIMITED of Le Gallais Chambers, 54 Bath Street, St. Helier, Jersey JE4 8YD (hereinafter called "the Bank") of the fourth part

(A) INTERPRETATION AND DEFINITIONS

- (1) In this Agreement unless the context otherwise requires the following expressions shall have the following meanings:-

"the Act"	the Town and Country Planning Act 1990 (as amended)
"Application"	the Section 73 Application submitted on behalf of Lothbury on 29 June 2004 under reference number 20041069
"Development"	the development of the land shown for the purposes of identification only edged red and shaded orange on Plan No 1 annexed hereto for purposes pursuant to the Permission
"Director"	the Council's Strategic Director (Community Services) or other officers of the Council acting under his hand
the "Green Lane South Works"	haunching and resurfacing works to be carried out on Green Lane South from the junction of Low Road to the junction with Smee Lane
the "Green Lane South Works Contribution"	the sum of £100,000 (one hundred thousand pounds)
"Inflation Provision"	the increase (if any) in the RICS All In Tender Price Index between the date of this Agreement and the date upon which a payment of money is made by the Owner pursuant to this Agreement
"the Land"	the land at the Broadland Business Park Thorpe St Andrew Norwich which is shown for the purposes of

PLAN NO. 1



CHIEF

CHIEF EXECUTIVE



KEY
The Application Boundary

PLANNING CONTROL
5. 2. 2009

Project
Broadland Park
Business Park
Drawing No.
Site Location Plan

Date
12/06/08

Scale
1:2500

Drawn by
JH

Project No.
13040

Drawing No.
L(PL)7001 A

Barton Willmore
Planning

20041009

	identification only edged red and shaded orange on Plan No 1
"the Permission"	the planning permission to be granted pursuant to the Application
"Plan No 1"	the plan marked Plan No 1 annexed to this Agreement
"Plan No 2"	the plan marked Plan No 2 annexed to this Agreement
"Public Transport Contribution"	the sum of £137,500 (one hundred and thirty seven thousand five hundred pounds)
the "Smee Lane and Low Road Works"	works to be carried out on Smee Lane and Low Road to mitigate "rat running" problems as identified in the ongoing Rackheath HGV cell review
the "Smee Lane and Low Road Works Contribution"	the sum of £60,000 (sixty thousand pounds)
"Travel Plan"	a plan setting out a package of measures to be adopted by the occupants of the units to be constructed within the areas outlined in red and shaded orange on Plan No 1 prepared in accordance with Schedule 3 hereto with a view to reducing commuting and work related trips

- (2) In this Agreement unless the context otherwise requires:
- (i) words importing the masculine gender shall where appropriate include the feminine gender and the neuter gender or vice versa as the case may be and words importing the singular number shall where appropriate include the plural number and vice versa
 - (ii) "party" or "parties" means a party or parties to this Agreement
 - (iii) references to any party shall include the successors in title and assigns of that party
 - (iv) where a party includes more than one person any obligations of that party shall be joint and several
 - (v) headings in this Agreement shall not form part of or affect its construction
 - (vi) references to clauses and schedule are references to clauses in and schedules to this Agreement
 - (vii) any mention herein of any Act or of any Section Regulation or Statutory Instrument shall be deemed to refer to the same source as at any time amended and where such Act Section Regulation or Statutory Instrument has been replaced consolidated or re-enacted with or without amendment such mention

shall be deemed to refer to the relevant provision of the updating consolidating or re-enacting Act or Section or Regulation or Statutory Instrument

- (B) The Council is the Local Planning Authority for the purposes of the Act for the area within which the Land is situated
- (C) The County Council is the local highway authority for the purposes of the Highways Act and is also a local planning authority for the purposes of the Act for the area within which the Land is situated
- (D) The Owner is the freehold owner of the Land with title absolute registered at the Land Registry with title numbers NK199906 and NK200967 and the Bank are the leasehold owners of part or parts of the land with title absolute registered at the Land Registry with title number NK292696
- (E) Having regard to the Development Plan and other material considerations the Council considers it expedient in the interests of the proper planning of their area that provision should be made for regulating or facilitating the Development of the Land in the manner hereinafter appearing and the Council is satisfied the Permission can only be granted subject to and upon completion of this Agreement

N O W THIS DEED WITNESSETH as follows:-

- 1.1 This Agreement and the covenants that appear hereinafter are made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and all other enabling power
- 1.2 Subject to the provisions of 1.3 hereof the covenants that appear hereinafter are planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council as Local Planning Authority and by the County Council as local highway authority against the Owner and its successors in title and assigns
- 1.3 The covenants specified in Schedule 1 insofar as they relate to the Unit Travel Plans will only be enforceable against any actual occupiers of any such unit
- 1.4 This Agreement is a Deed and may be modified or discharged in part or in total at any time after the date of this Agreement by agreement between the parties in the form of a Deed
- 1.5 This Agreement is a local land charge and upon completion shall be registered by the Council as such
- 1.6 No waiver (whether express or implied) by the Council and/or the County Council of any breach or default by the Owner in performing or observing any of the covenants which it has covenanted to perform observe or be bound by in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council and/or County Council from enforcing any of the covenants or from acting upon any subsequent breach or default in respect thereof by the Owner

- 1.7 Any provision of this Agreement which is or may be unlawful void or unenforceable shall to the extent of such unlawfulness invalidity or unenforceability be deemed severable and shall not affect any other provision of this Agreement
- 1.8 This Agreement shall be governed by the laws of England
- 1.9 No party shall be liable for any breach of the covenants restrictions or obligations contained in this Agreement after that party has parted with its interest in the Land or the part of the Land in respect of which such breach occurs provided that liability will still remain for any breach occurring prior to the parting of any party's interest in the Land or any part thereof in respect of which any such breach has taken place
- 1.10 This Agreement shall cease to have effect if the Permission has lapsed without having been implemented or has been revoked or quashed or has been modified other than at the request of the Owner
- 1.11 NOTICES
- 1.11.1 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 Agreement shall be deemed to have been validly served or given if received by facsimile delivered by hand or sent by 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 facsimile or by recorded delivery post to the address of the party concerned as nominated in sub-clause
- 1.11.2 The address for any notice or other written communication in the case of each party to this Agreement shall be as follows:-

The Council	The Strategic Director (Community Services) Thorpe Lodge Yarmouth Road Thorpe St Andrew Norwich
The County Council	The Director of Planning and Transportation Norfolk County Council County Hall Martineau Lane Norwich NR1 2SG
The Owner	The Company Secretary Lothbury Property Trust Company Limited c/o KBC Asset Management (UK) Limited, 111 Old Broad Street, London, EC2N 1BR
The Bank	The Chief Trust Officer, Le Gallais Chambers, 54 Bath Street, St. Helier, Jersey JE4 8YD

- 1.11.3 Any notice or other written communication to be given by the Council or the County Council shall be deemed to be valid and effective if on its face it is signed on behalf of the Council or the County Council by a duly authorised officer

- 1.12 Save insofar as legally or equitably permitted nothing contained or implied in this Agreement shall prejudice or affect the rights powers duties and obligations of the Council or the County Council in the exercise of their respective functions as local planning authority or local highway authority and the rights powers duties and obligations under all private and public statutes bylaws and regulations may be as fully and effectively exercised as if the Council or the County Council were not a party to this Agreement.

2. GENERAL

- 2.1 The Owner HEREBY FURTHER AGREES that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Land under the terms of the Agreement are hereby waived

- 2.2 All consideration given and payments made in accordance with the provisions of this Agreement shall be exclusive of any VAT properly payable in respect thereof and in the event of VAT becoming chargeable at any time in respect of any supply made in accordance with the terms of this Agreement then to the extent that VAT had not presently been charged in respect of that supply the person making the supply shall raise a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly

3. RIGHTS OF THIRD PARTIES

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no person who is not a party to this Agreement (other than a successor in title to one of the original parties) shall be entitled in that person's own right to enforce any provisions of this Agreement pursuant to the provisions of the said Act

4. The Owner shall on completion of this Agreement pay the Council and the County Council's reasonable legal and administrative costs incurred in the preparation negotiation and completion of this Agreement

5. DISPUTE RESOLUTION

- 5.1 The parties will attempt in good faith to resolve any dispute or claim arising out of or relating to this Agreement promptly through negotiations between the respective senior executives of the parties who have authority to settle the same
- 5.2 If the matter is not resolved through negotiation the parties will attempt in good faith to resolve the dispute or claim through an Alternative Dispute Resolution ("ADR") procedure as recommended to the parties by the Centre for Dispute Resolution
- 5.3 If the matter has not been resolved by an ADR procedure within 28 days of the initiation of such procedure or if either party will not participate in an ADR procedure the dispute may be referred by either party to arbitration for decision by a person appointed by agreement between the parties or in default of agreement by the President for the time being of the Institute of Civil Engineers who shall act as an expert and not as an arbitrator and whose decision shall be final and binding upon the parties

5.4 Nothing in this clause 5 shall apply to the recovery of a liquidated sum or prevent the parties from commencing or continuing court proceedings

6. COVENANTS

6.1 The Owner hereby covenants and undertakes with the Council and the County Council so as to bind the Land and each and every part thereof to carry out and comply with the obligations which it has covenanted to perform observe and be bound by set out in Schedule 1 to this Agreement

6.2 The Owner hereby covenants and undertakes that in the event of any delay by the Owner in making any payment required under this Agreement interest shall be payable on the amount payable at the rate of four (4) per cent above the Co-Operative Bank PLC base lending rate from time to time in force from the date that the relevant payment falls due to the date of actual payment

7. THE COUNTY COUNCIL'S OBLIGATIONS

7.1 The County Council agrees with the Owner to comply with the obligations set out in Schedule 2 to this Agreement

8. THE BANK'S OBLIGATIONS

8.1 The Bank as lessee hereby consents to the completion of this Agreement and acknowledge that from the date that this Agreement comes into effect that part or parts of the land over which it has a lease shall be bound by the restrictions and obligations contained herein

9. LIMITATION OF BANK'S LIABILITY

Notwithstanding any other provisions of this Agreement:

9.1 For the avoidance of doubt the Bank has executed this Agreement solely as trustee of Broadland Unit Trust ("Trust") and with the intention of binding the net assets of the Trust (the "Trust Assets")

9.2 The aggregate of all liabilities of the Bank under this Agreement shall at all times and for all purposes extend only to the Trust Assets.

9.3 In no circumstances shall any liability attach to or be enforced or enforceable against the assets of the Bank (held in its capacity as trustee of any other trust or in its personal capacity or in any other capacity whatsoever) other than the assets which comprise the Trust Assets

9.4 All representations, warranties, undertakings, obligations and covenants in this Agreement on the part of the Bank are made, given owed or agreed by or in relation to the Trust Assets and in the Bank's capacity as trustee of the Trust and for the avoidance of doubt shall not be construed to be made, given, owed or agreed by or in relation to the Bank in its capacity as trustee of any other trust or in its personal capacity or in any other capacity whatsoever

SCHEDULE 1

1. PARKING STANDARDS

- 1.1 With the exception of Plots 4, 5A and 8 as shown on Plan No 1 the average level of car parking provision for units to be constructed within the areas outlined in red and shaded orange on Plan No 1 will not exceed the maximum parking standards in the table in Annex D to PPG13: Transport dated 2001.

2. TRAVEL PLAN

- 2.1 Within three months of the date hereof to submit to the County Council for approval a draft Travel Plan for the Development including provision for a Transport Supervisor (the "Overarching Travel Plan")
- 2.2 Not to permit first occupation of any of the units to be constructed within the areas outlined in red and shaded orange on Plan No 1 (and occupation for these purposes will be deemed to be effected whether or not the whole of the unit is occupied but occupation shall not be deemed to be effected during the period in which fitting out are being carried out prior to occupation for business purposes) until such time as the Overarching Travel Plan and a Travel Plan in accordance with the requirements of Schedule 3 for the occupants of that unit has been prepared submitted to and approved by the County Council (a "Unit Travel Plan")
- 2.3 Once approved the occupier of such unit shall permanently implement or procure the permanent implementation of the Overarching Travel Plan and the Unit Travel Plans (or such amended Overarching or Unit Travel Plans as may be subsequently agreed between the County Council and such occupier) so that the units within the areas outlined in red and shaded orange on Plan No 1 shall at no time be occupied or used pursuant to the Planning Permission otherwise than in strict accordance with the terms of the Overarching Travel Plan and the Unit Travel Plan approved for that unit by the County Council
- 2.4 The Owner shall pay to the County Council upon completion the sum of £2,500 as a contribution to its costs of monitoring compliance with the Overarching Travel Plan

3. PAYMENTS

- 3.1 On or before the first occupation of any building constructed as part of the Development (and occupation for these purposes shall be deemed to be effected whether or not the whole of the building is occupied but occupation shall not be deemed to be effected during the period in which fitting out works are being carried out prior to occupation for business purposes) to pay to the County Council 50 percent of the Green Lane South Contribution the Public Transport Contribution and the Smee Lane and Low Road Works Contribution increased by the Inflation Provision
- 3.2 Within 28 days of the date upon which the County Council or the Council provide reasonable and sufficient evidence that not less than 85,000 square metres of floor space

within the area outlined in green on Plan No 2 (and occupation for these purposes shall be deemed to be effected whether or not the whole of the building is occupied but occupation shall not be deemed to be effected during the period in which fitting out works are being carried out prior to occupation for business purposes) is occupied the Owner will pay to the County Council fifty (50) per cent of Green Lane South Contribution the Public Transport Contribution and the Smee Lane and Low Road Works Contribution increased by the Inflation Provision

SCHEDULE 2

1. The County Council agrees that it will apply the Green Lane South Contribution the Smee Lane and Low Road Works Contribution to the Green Lane South Works and the Smee Lane and Low Road Works respectively and the Public Transport Contribution towards the provision of a bus service between the Land and Norwich City Centre and to the provision of additional bus stops raised kerbs bus shelters and real time passenger information display boards in the vicinity of the Development as determined by the County Council PROVIDED THAT following the completion of the Green Lane South Works and the Smee Lane and Low Road Works any surplus of monies from the Green Lane South Works Contribution and/or the Smee Lane and Low Road Works Contribution may be applied towards public transport serving the Development
2. The County Council undertakes to carry out the Green Lane South Works and the Smee Lane and Low Road Works within 3 years from the date of final payment to the County Council of any sum due under paragraph 3 of Schedule 1 and in the event that the County Council shall fail to do so it shall refund the Green Lane South Works Contribution (if such works have not been carried out) and/or the Smee Lane and Low Road Works Contribution (if such works have not been carried out) to the Owner

SCHEDULE 3

1. The Travel Plan shall be prepared in accordance with the County Councils "Guidance Notes for the Submission of Travel Plans" annexed hereto (or such amended Guidance Notes as may from time to time be published) and shall include provisions dealing with such aspects of the Guidance Notes as the County Council reasonably determines are relevant to the Development.
2. The Travel Plan shall address the findings of any Traffic Assessment prepared for the Development



CVB 41
CHIEF EXECUTIVE



IN WITNESS WHEREOF this Agreement has been executed and delivered as a Deed on the date first written above

THE COMMON SEAL of)
BROADLAND DISTRICT COUNCIL)
was hereunto affixed in the presence of)



CMB
CHIEF EXECUTIVE
HEAD OF CORPORATE SERVICES AND MONITORING OFFICER

THE COMMON SEAL of)
NORFOLK COUNTY COUNCIL)
was hereunto affixed in the presence of)



Keir

HEAD OF LAW

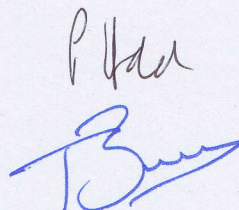
EXECUTED as a DEED for and on behalf)
of LOTHBURY PROPERTY TRUST)
COMPANY LIMITED pursuant to a Power)
of Attorney dated [14 DECEMBER 2004] by its)
Attorney: *S. J. RADFORD*)

S J Radford
Director

In the presence of:

Witness name: *ADAM SMITH*
Witness signature: *[Signature]*
Witness address: *111 OLD BROAD STREET*
LONDON
EC2N 1BR

EXECUTED as a DEED by ROYAL)
BANK OF CANADA TRUSTEES LIMITED)
acting by two Directors or a Director and)
the Company Secretary)

Two handwritten signatures in blue ink. The top signature is a cursive 'P. H. H.' and the bottom signature is a cursive 'B. H. H.'.