

Dated 12th August 2024

Broadland District Council

-and-

Norfolk County Council

-and-

1784 UK Holdings 1 Limited

-and-

Broadland Gate Land Limited

**DEED OF PLANNING OBLIGATION
UNDER SECTION 106
OF THE TOWN AND COUNTRY PLANNING
ACT 1990**
relating to land at South Of
Poppy Way, Postwick
Norfolk, NR13 5GE

THIS DEED is dated 12th day of August 2024

PARTIES:

- (1) **BROADLAND DISTRICT COUNCIL**, Horizon Business Centre, Peachman Way, Norwich NR7 0WF (referred to as "the Council")
- (2) **NORFOLK COUNTY COUNCIL**, County Hall, Martineau Lane, Norwich, Norfolk NR1 2DH (referred to as "the County")
- (3) **1784 UK HOLDINGS 1 LIMITED**, Company number 14394349, whose registered office is at 68 Grafton Way, London, United Kingdom, W1T 5DS (referred to as "the Developer")
- (4) **BROADLAND GATE LAND LIMITED**, Company number 10427256, whose registered office is at Salisbury House, Station Road, Cambridge CB1 2LA (the "Owner")

together referred to as 'the Parties'

INTRODUCTION

- (A) The Council is a local planning authority for the purposes of this deed for the area within which the Site is located.
- (B) The County is a local planning authority and the local highway authority for the County of Norfolk.
- (C) The Developer has applied for the Permission and the Council has resolved to grant the Permission provided the Parties enter into this Deed.
- (D) The Owner owns the freehold of the Site which is registered (among other land) at the Land Registry under title number NK525182 and NK465121 and held free from encumbrances other than the matters referred to below.
- (E) The Developer, with a contract to purchase the Site dated, 11 April 2023, consents to this Deed, binding its interest in the Site to the obligations herein PROVIDED THAT the Developer assumes no liability nor is required to observe or perform the planning obligations of this Deed (Save for Clause 4.1) until taking possession of the Site. Upon possession, the Developer, as a successor in title to the Owner, acknowledges being bound by the provisions of this Deed, and section 106(3) of the 1990 Act.

1. DEFINITIONS

In this Deed the following expressions have the following meanings:

Act	The Town and Country Planning Act 1990 (as amended)
Commencement	<p>The date on which a material operation as defined in Section 56(4) of the Act is first carried out, except (for the purposes of this Deed only) operations consisting of:</p> <ul style="list-style-type: none">• site clearance• demolition• archaeological investigations• ground surveys and investigations• site survey works• removal of contamination or other adverse ground conditions• erection of temporary fences and hoardings around the Site• temporary display of site notices and/or advertisements• temporary access <p>and 'Commence' and 'Commenced' will be construed accordingly</p>
Development	The Development of the Site authorised by the Permission
Building	A Building to be built on the Site as part of the Development
Index Linked	In relation to a payment to which this expression is applied by this Deed, means increased in accordance with the following formula

Amount payable = the payment specified in this Deed x (A/B) where:

- a. A is the figure for the Retail Prices Index (All Items) that applied immediately preceding the date the payment is due; and
- b. B is the figure for the Retail Prices Index (All Items) that applied when the index was last published before the date of this Deed.

(or where such index is no longer published, another index notified to the Owner by the Nominated Officer acting reasonably)

Nominated Officer

The senior officer of the Council responsible for development management or other officer of the Council notified to the Owner

Occupation

Occupation of the Site, or any part of it, for any purpose authorised by the Permission, but excluding occupation for the purposes of:

- a) construction (including for the avoidance of doubt those actions construed as Commencement)
- b) internal and external refurbishment
- c) decoration
- d) fitting-out
- e) marketing
- g) site security prior to the Site being used to

trade in accordance with the Permission and 'Occupy' and 'Occupied' will be construed accordingly

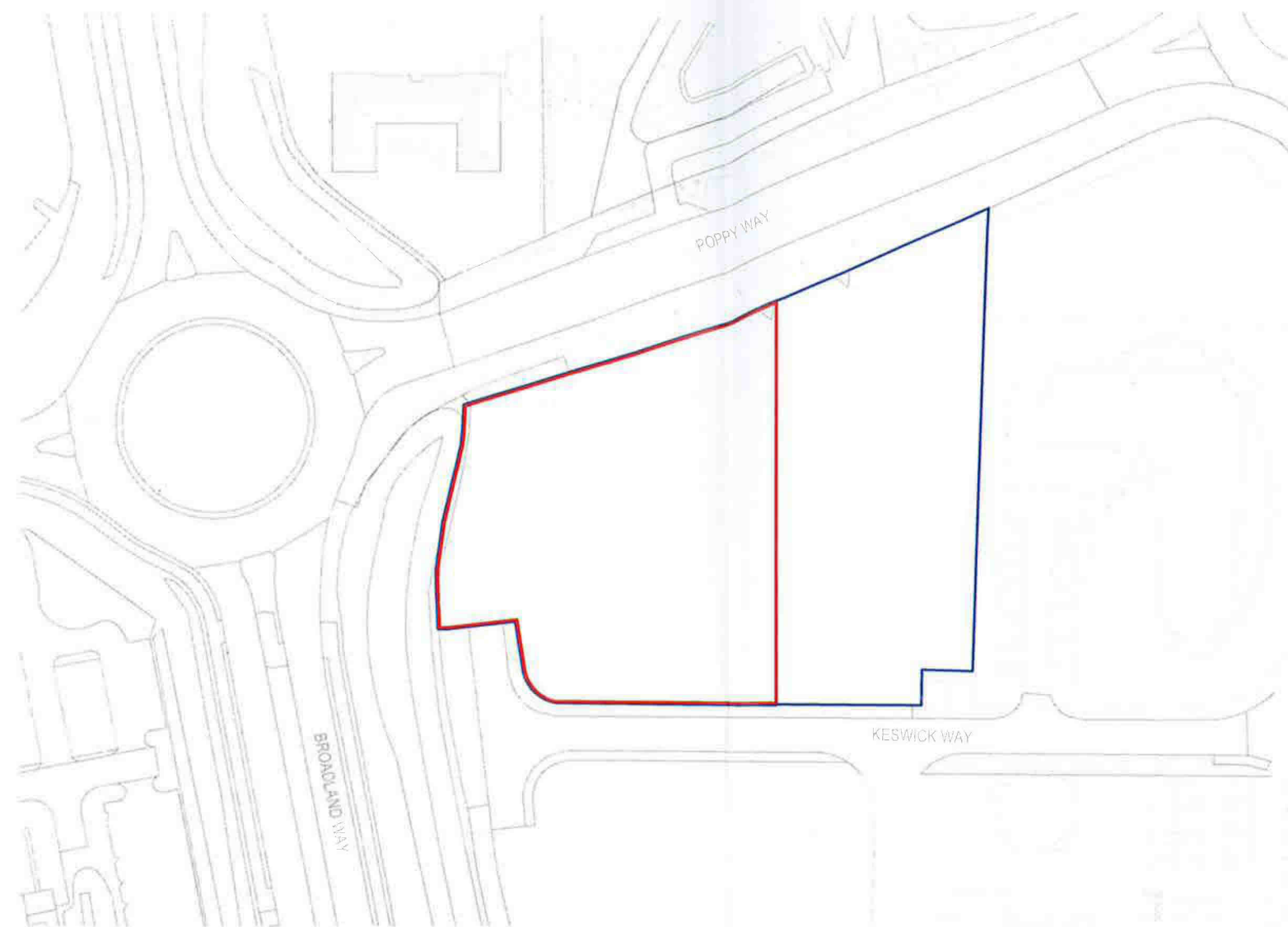
Permission

The planning permission to be granted by the Council for the development of a three storey self-storage unit (use class B8) together with associated access, parking and landscaping works and which has been

	allocated reference number 2023/3357
Plan	The plan attached to this Deed
Site	The land known as Part of Plot 1a, Broadland Gate (being the land which is to the South of Poppy Way), Postwick, Norfolk, NR13 5GE and registered at HM Land Registry under title numbers NK525182 and NK465121 shown edged red on the Plan
Trigger	The Commencement date and any trigger or threshold in this Deed linked to the taking of specified steps, payment of money, or linked to the prohibition of a specified action

2. LEGAL BASIS

- 2.1. This Deed is made pursuant to Section 106 of the Act and, to the extent that it does not contain planning obligations, under Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011, and all other enabling powers.
- 2.2. The covenants and obligations contained in this Deed create planning obligations for the purposes of section 106 of the Act enforceable by the Council and the County and relate to the Site.
- 2.3. Covenants given by more than one party can be enforced against them individually or jointly.
- 2.4. A reference to an act of Parliament includes any later modification or re-enactment, including any statutory instruments made under that act, and reference to a gender or person includes all genders or classes of person.
- 2.5. Any covenant in this Deed not to do something includes an obligation not to allow or permit it to be done.
- 2.6. References to any party to this Deed shall include successors in title to that party and to any person deriving title through or under that party and in the case of the Council and the County the successors to their respective statutory functions.
- 2.7. Representatives of the Council and County may enter the Site at any reasonable time after giving reasonable written notice to the Owner to ascertain



1:1250 @ A3 1:2500 @ A5

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Use Dimensions - DO NOT SCALE
Contractors Must Verify All Dimensions On Site Before Starting Work
This Drawing Is Copyright

— Application Boundary : 1.171ac / 0.474ha
— Ownership Boundary : 2.14ac / 0.867ha

This Drawing is Copyright							
Rev	Date	Version Description	Drm	Chk			
/	09/10/23	Planning Issue	FA	JS			
<div><div>1784 Capital Holdings</div><div>DMWR Architects</div><div>16-18 Hatton Garden First Floor LONDON EC1N 8AT t 020 7870 3779 e mail@dmwr-architects.co.uk www.dmwr.co.uk</div></div>					Client 1784 Capital Holdings	Drawing Details	North 
					Project Name Poppy Way, Norwich Poppy Way, Norwich NR13 5GE	PLANNING	Scale @ A3 1 : 1250
					Drawing Title Location Plan		Drawing Number 4004-DMWR-A-PL-0001

ISO A3 Landscape

whether the terms of this Deed are being or have been complied with provided that:

2.7.1. they do not enter any individual Building; and

2.7.2. they adhere to all reasonable health and safety requirements.

3. CONDITIONALITY

This Deed is conditional upon:

3.1. The grant of the Permission; and

3.2. The Commencement of Development,

save for the provisions of this clause and clauses 2, 5, 6, 7, 8, 9 and 10 which shall come into effect immediately on completion of this Deed.

4. COVENANTS

4.1. Subject to clause 3,

4.1.1. the Owner covenants with the Council and the County for himself and his successors in title to observe and perform the obligations and stipulations contained in this Deed.

4.1.2. the Council and the County covenant with the Owner to comply with their respective requirements contained in this Deed.

5. USE OF CONTRIBUTIONS INDEXATION AND INTEREST

5.1. The improvements referred to in this Deed for which contributions are required may at the Council's absolute discretion be commenced or provided (in whole or in part) at any time after the date of this Deed even if payment of the relevant contribution may not have become due.

5.2. If the improvements have been commenced or provided prior to the due date for payment of the relevant contribution then the payment will be regarded as a reimbursement of the costs incurred in providing the improvement.

5.3. Nothing in this Deed binds the Owner to pay;

5.3.1. any contribution before the date on which it is due under the Schedules,
or

5.3.2. any contribution at all if the relevant due date is not reached, or

5.3.3. any greater contribution than provided in the relevant Schedule.

5.4. The Council are entitled to use all interest accrued on each contribution

specified in the Schedules from the date of actual payment of the contribution until the date when the contribution is spent.

- 5.5. The contributions specified in the Schedules are to be Index Linked.
- 5.6. In the event of any delay in paying the contributions specified in the Schedules then from the due date of payment:
 - 5.6.1. the contributions are a debt due to the Council and are recoverable by action by the Council; and
 - 5.6.2. are liable to interest calculated on a daily basis at a rate of 4 percent over the bank rate as set by the Bank of England in force from time to time from the due date for payment until the actual date of payment.
- 5.7. All payments under this Deed are exclusive of value added tax (VAT) and any VAT due must also be paid upon the provision of a valid VAT invoice addressed to the paying party.
- 5.8. Any money from time to time held by the Council in respect of any payment made to the Council by the Owner under the provisions of this Deed will in any event become the absolute property of the Council and will not be subject to return by the Council to the party who made that payment if that party:
 - 5.8.1. becomes bankrupt or has a winding-up petition or a petition for an administration order presented against it, or
 - 5.8.2. passes a winding-up resolution or an administrative receiver or a receiver and manager is appointed in respect of the property (or any part thereof) belonging to that party, or
 - 5.8.3. enters into any arrangement scheme compromise moratorium or composition with its creditors or any of them but shall continue to be held by the Council under the terms of this Deed.
- 5.9. The Council may spend part of each contribution specified in the Schedules on reasonable legal costs and disbursements which are supplemental to or incurred in connection with the spending of the said contribution in accordance with the relevant Schedule.

6. OTHER PROVISIONS

- 6.1. No person will be liable for any breach of this Deed if he no longer has an interest in the Site (unless the breach occurred before he disposed of his interest).

- 6.2. The Owner confirms that he is the owner of the Site with full power to enter into this Deed and that there is no person or body with an interest in the Site whose consent is necessary to make this Deed binding on all interests in the Site.
- 6.3. The covenants, restrictions and requirements contained in this Deed shall not be enforceable against:
 - 6.3.1. any statutory undertaker or other person who acquires any part of the Site or an interest in it for the purposes of the supply of electricity gas water telecommunications or highways in connection with the Development of the Site.
- 6.4. On completion the Developer will pay the Council's and the County's reasonable legal costs in connection with this Deed.
- 6.5. No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 6.6. If any provision of this Deed is held to be invalid, illegal or unenforceable it will not affect the remaining provisions.
- 6.7. No waiver, express or implied, by the Council or County of any breach or failure to perform or observe any of the covenants, terms or conditions of this Deed constitutes a continuing waiver, nor prevents the Council or the County from enforcing any of the provisions in this Deed.
- 6.8. If the Permission is quashed revoked or expires before Commencement then, save for clause 6.4, this Deed will cease to have effect (insofar only as it has not already been complied with).
- 6.9. Subject to clause 6.10, nothing in this deed prohibits or limits the right to develop any part of the Site in accordance with a planning permission (other than the Permission) granted after the date of this Deed.
- 6.10. If the Permission is subject to an application under Section 73 of the Act for the removal or amendment of any condition attached to the Permission then the obligations in this deed shall also apply to the new planning permission resulting from such application if so agreed by the Council the County (acting in its absolute discretion).
- 6.11. This Deed is registrable as a local land charge.
- 6.12. Following the performance and satisfaction of all the obligations contained in this Deed the Council will, upon the written request of the Owner, cancel all relevant entries contained in the Register of Local Land Charges.

- 6.13. An agreement, approval, consent or expression of satisfaction required by the Owner from the Council under the terms of this deed must be given in writing and shall not be unreasonably withheld or delayed.
- 6.14. The provisions of this Deed (other than this clause which takes immediate effect) will be of no effect until this deed has been dated.
- 6.15. Nothing contained or implied in this Deed will fetter, prejudice or affect the rights, discretions, powers, duties and obligations of the Council or the County in the exercise of any of their functions as local authority.

7. DISPUTES

- 7.1. If any dispute is not resolved between the Parties, any of the Parties may refer it for determination by an expert. The expert will be appointed by agreement between the parties or, in default of agreement, by the President for the time being of the Royal Institution of Chartered Surveyors and the expert's decision shall be final and binding.
- 7.2. The expert is to be replaced by a fresh appointee in the event that he becomes at any time unable or unwilling for any reason to proceed to discharge his functions. The fresh appointee is to be appointed in the manner prescribed in this clause.
- 7.3. The expert is to make his decision within 6 weeks of being appointed.
- 7.4. The costs of appointing the expert are to be shared equally by the parties to the dispute except where the expert takes the view that one party has acted unreasonably. In that case the expert has binding discretion as to apportionment of the costs.
- 7.5. Nothing in this clause will apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings.

8. NOTIFICATIONS

- 8.1. Any notice or written communication given under this Deed is validly given if hand delivered or sent by recorded delivery post to the address set out at the beginning of this Deed, unless written notification of another address has been received.
- 8.2. The Owner will notify the Nominated Officer and the County in writing of the relevant

- 8.2.1. anticipated Triggers seven days in advance of each anticipated date,
- 8.2.2. actual Triggers within seven days of each actual date.
- 8.3. If the Owner disposes of his interest in all or part of the Site he will notify the Nominated Officer and the County within 7 days of the name and address of the new owner and sufficient details to identify the Site or part of the Site.

9. COUNTERPARTS

This Deed may be executed (whether in wet-ink signature, physically affixed seal, electronically affixed seal and/or signature, or otherwise) in any number of counterparts, each of which when executed and delivered shall be an original, and such counterparts taken together shall constitute one and the same Deed.

10. JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and Wales.

SCHEDULE 1

Highways Contribution

In this Schedule (and elsewhere in this Deed where the context permits) the following words and phrases shall have the following meaning:

"Financial Contribution" means the sum of £26,145.38 (twenty-six thousand one hundred and forty-five pounds and thirty-eight pence) Index Linked payable to the County in respect of the transport related mitigation required to address the transport impacts of the Development

The Owner covenants with the Council and the County as follows:

1. to pay the Financial Contribution to the County prior to the Occupation of the Development.

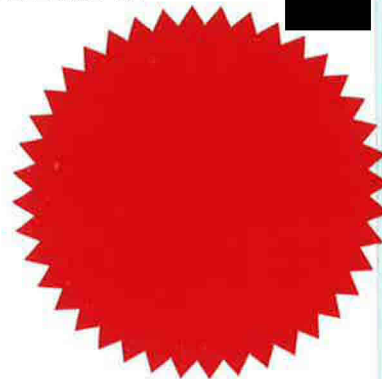
The County covenants with the Owner as follows:

2. to hold the Financial Contribution paid to it under the provisions of this Deed in an interest-bearing account and used for the purpose for which it was paid ("the Approved Purpose"); and
3. upon a reasonable written request by the Developer, the County shall provide evidence showing a breakdown of how the Financial Contribution has been used towards the Approved Purpose. This evidence will be provided within a reasonable time following the request.

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

THE COMMON SEAL OF
Broadland District Council
was affixed hereto in the presence of:

)
)
)



and this deed has been duly and properly executed in accordance with the constitution of Broadland District Council

THE COMMON SEAL OF
NORFOLK COUNTY COUNCIL
was affixed hereto in the presence of:

)
)
)

.....

authorised to sign for and on behalf of
the Director of Legal Services (nplaw) and Monitoring Officer
and this deed has been duly and properly executed
in accordance with the constitution of Norfolk County Council]

**EXECUTED as a DEED by
BROADLAND GATE LAND
LIMITED** acting by

a director in the presence of:

Witness' Signature:

Witness' Name:

Witness' Address:

**EXECUTED as a DEED by
1784 UK HOLDINGS 1
LIMITED** acting by

a director in the presence of:

Witness' Signature:

Witness' Name:

Witness' Address: