

DATED *26th October*

2007

BROADLAND DISTRICT COUNCIL

- AND -

NORFOLK COUNTY COUNCIL

- AND -

RICHARD THOMAS POINTER

- AND -

BARCLAYS BANK PLC

PLANNING OBLIGATION BY WAY OF
A G R E E M E N T

Pursuant to Section 106 of the Town
and Country Planning Act 1990
relating to the development of land
at Five Berries Farm
Brick Kiln Road Hevingham Norfolk

Head of Law
Norfolk County Council
County Hall
Norwich
NR1 2DH

THIS AGREEMENT is made the 26th day of October 2007
BETWEEN 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 2DH (hereinafter called "The County Council")
and RICHARD THOMAS POINTER of Five Berries Farm Brick Kiln Road
Hevingham Norfolk (hereinafter called "The Owner") of the third part and
BARCLAYS BANK PLC of Barclays Loan Servicing Centre PO Box 299
Birmingham B1 3PF (hereinafter called "The Bank") of the fourth part

(A) INTERPRETATION AND DEFINITIONS

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

"the Act"	means the Town and Country Planning Act 1990 (as amended)
"Application"	means the application for planning permission for the development submitted on the 7 October 2004 under reference number 20041593
"Development"	means the retention of a poultry processing unit and improvements to Holt Road/Brick Kiln Road junction pursuant to the Permission
"Director"	means the Council's Strategic Director (Community Services) or other officers of the Council acting under his hand

"Highway Improvement Works"	means the highway improvement works shown indicatively on Drawing No. 9/5/04/1593/DWG-001 annexed hereto which are to comprise improvement works to Brick Kiln Road by formalising and surfacing existing passing places between the Land and the junction with the B1149 Holt Road
"Highway Improvement Works Estimated Costs"	means the sum of £10,000 (as increased by the Inflation Provision) being the estimated costs to be incurred by the County Council in supervising and carrying out and completing or procuring the carrying out and completion of the Highway Improvement Works and the Junction Improvement Works
"Inflation Provision"	means the increase (if any) in the Road Construction Tender Price published by the Department of Trade and Industry (or in the event that it ceases to be published such other index as the County Council shall reasonably determine) between the 5 th January 2005 and the date upon which a payment of money is made pursuant to this Agreement
"Junction Improvement Works"	means road re-alignment incorporating build outs, carriageway widening and visibility improvements at the junction of Holt Road and Brick Kiln Road as shown indicatively on

Drawing No. 124-2000-05 Revision A annexed hereto

"Permission" means the planning permission granted pursuant to the Application together with any renewal or modification thereof

"Permitted Route" means that route shown by maroon hatching on Plan No. 2 which route for the avoidance of doubt requires vehicles to approach and exit the Land via the junction of the C281 Brick Kiln Road and the B1149 Holt Road which will require vehicles to turn right onto the Land and left when exiting the Land

"Poultry" means chickens turkeys ducks pheasants partridges or other such birds or fowl

"Plan No 1" means the plan marked No 1 annexed hereto

"Plan No 2" means the plan marked No 2 annexed hereto

"Planning Conditions" means those conditions of the Permission

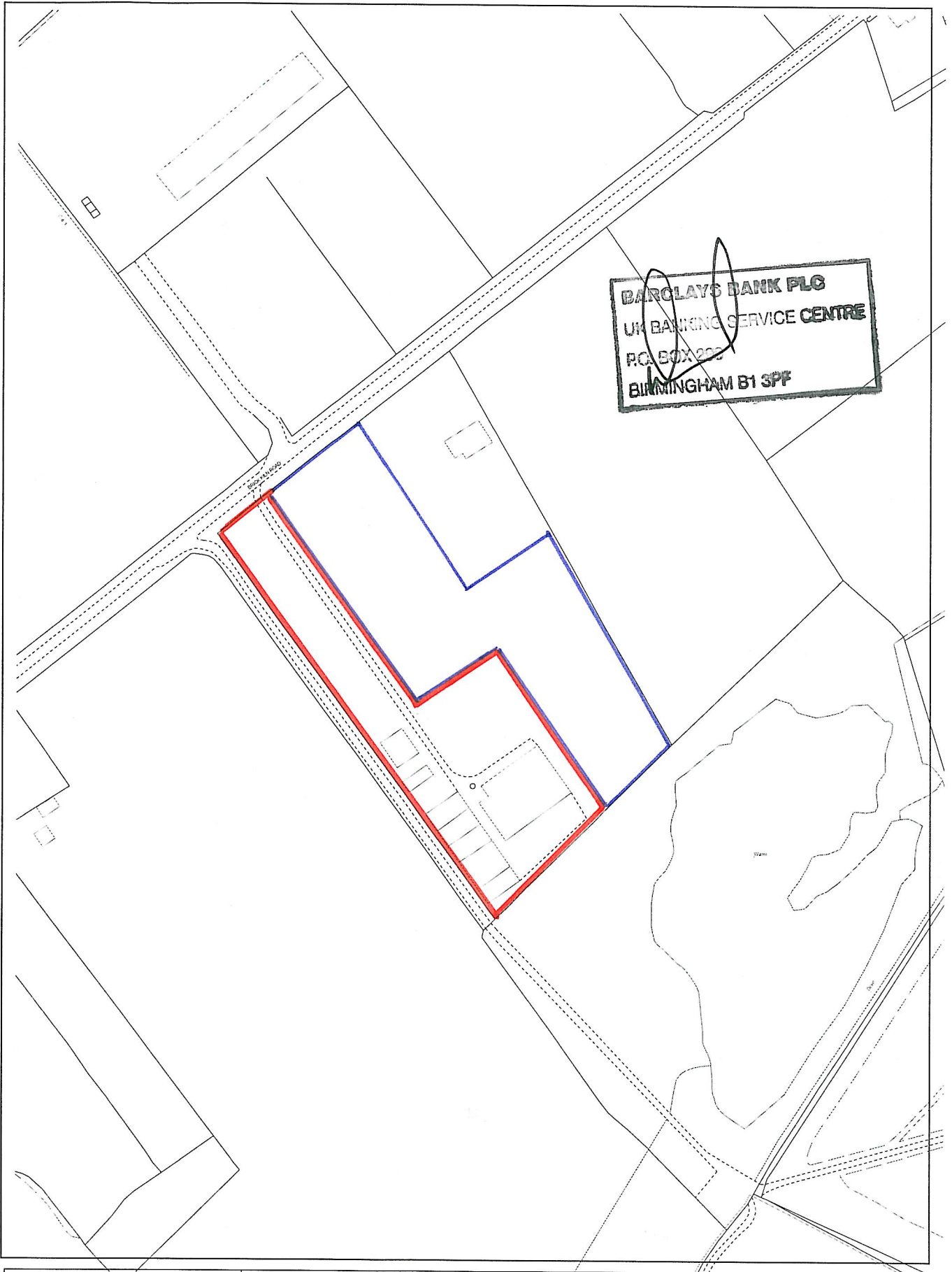
"Site" means the land the subject of the Application outlined in red on Plan No 1

(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

PLAN 1



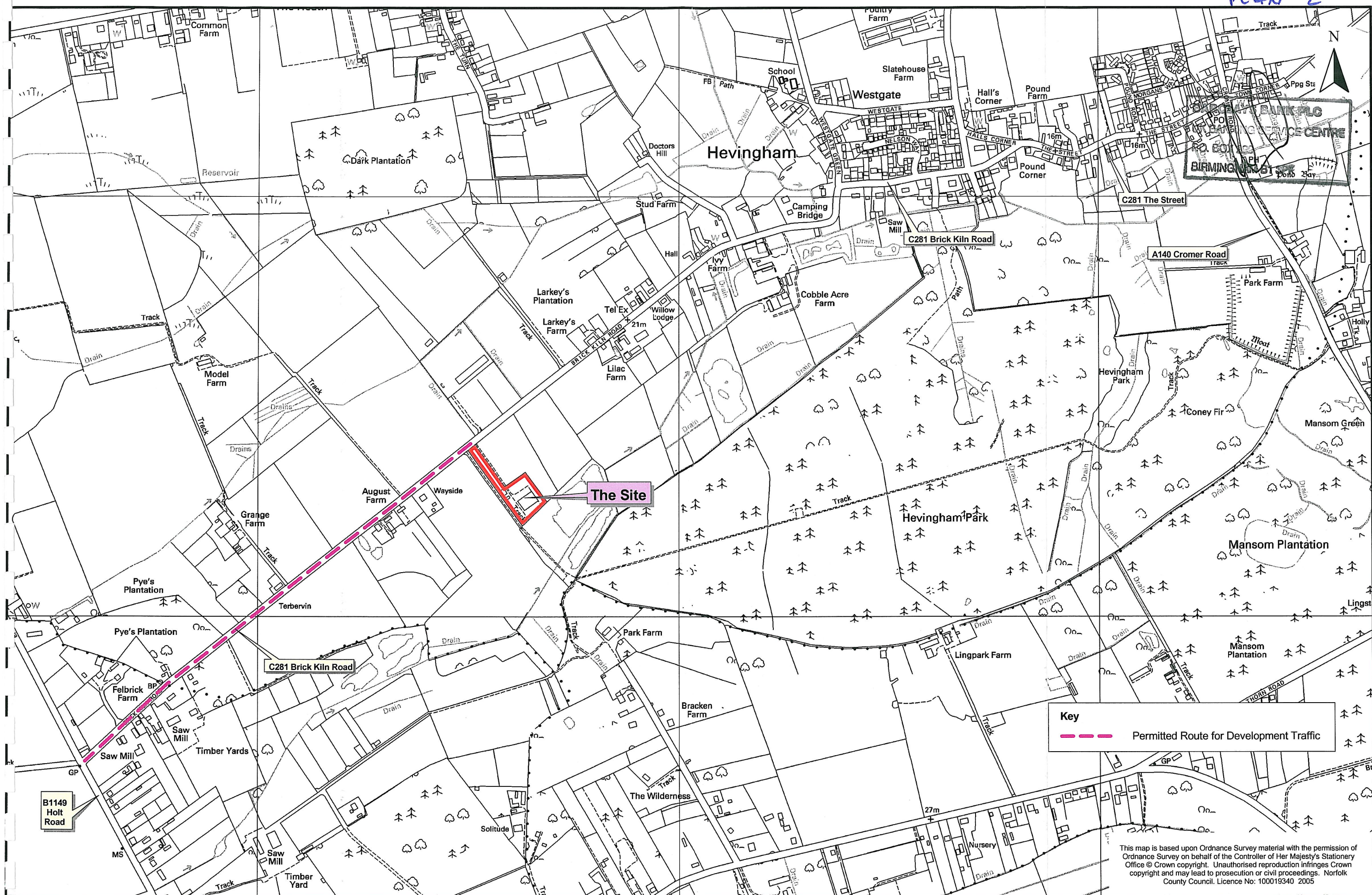
Application No: 20041593

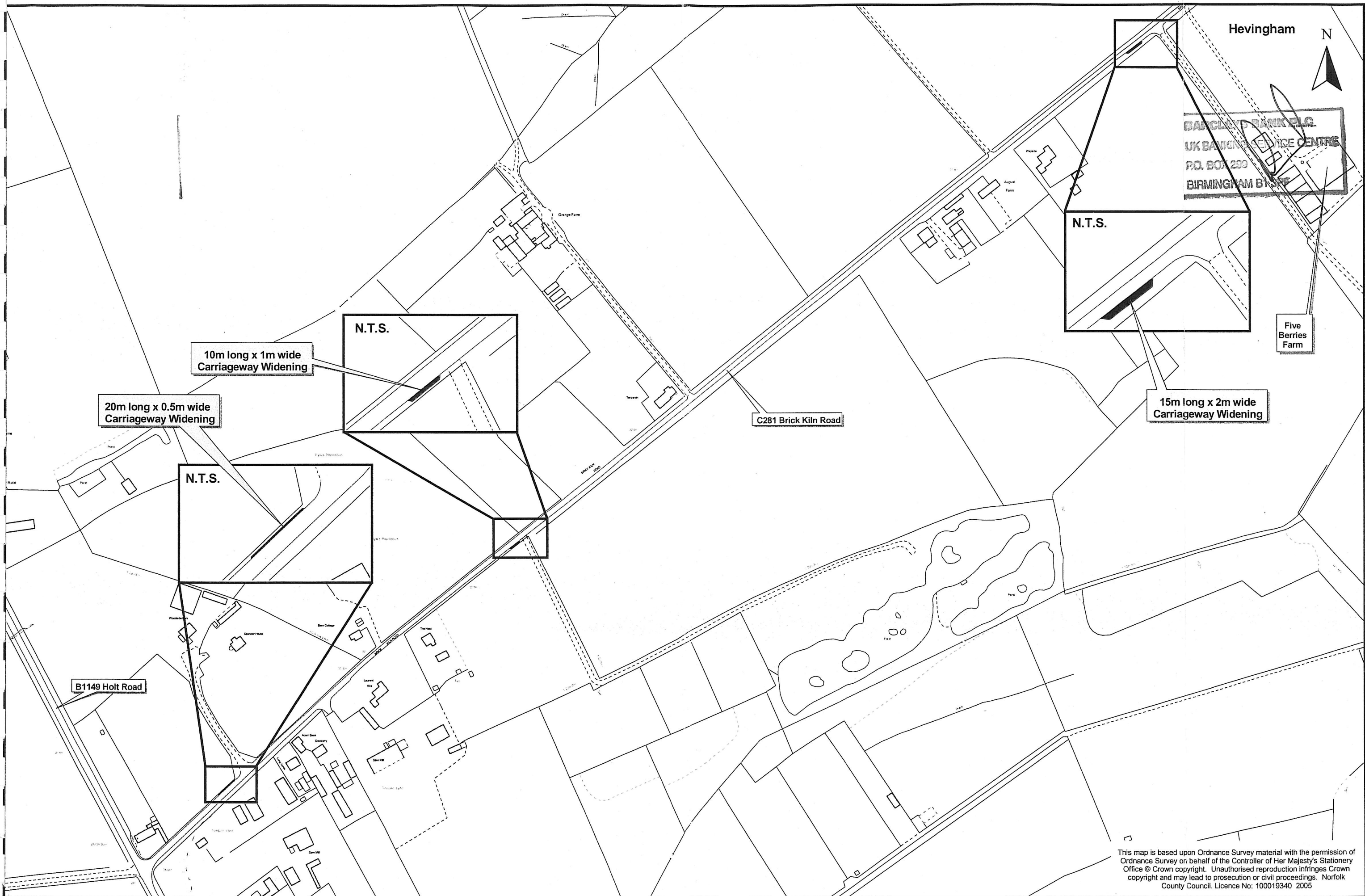
Five Berries Farm, Brick Kiln Road
Hevingham.

Scale:
1:2500
Date:
15-Mar-05

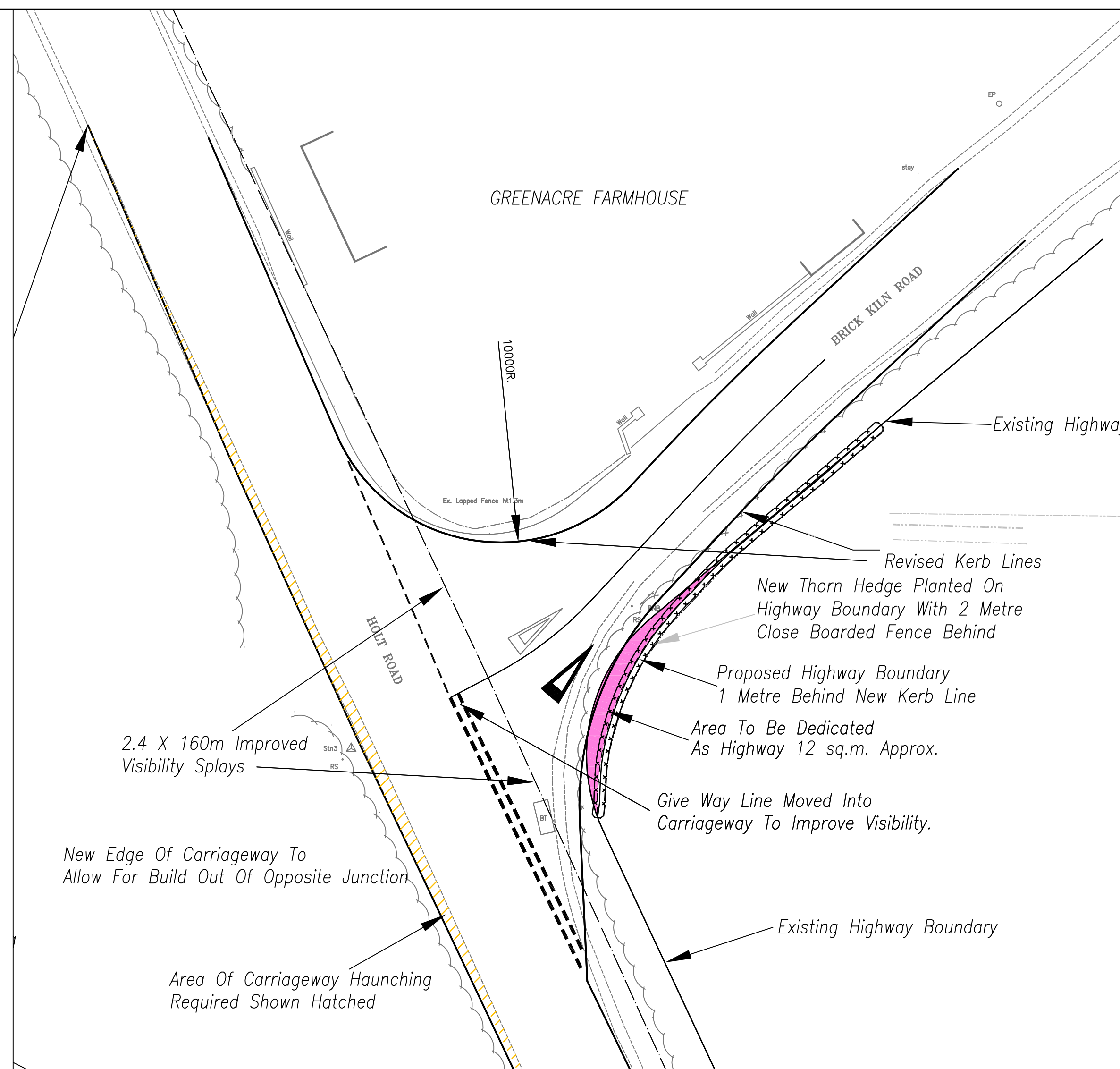


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Drg. No. 124/2000/05	Rev. B
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SCHEDULE 1 to S. 106 AGREEMENT ^m

THIS AGREEMENT is made the _____ day of ~~2004~~ 20
BETWEEN NORFOLK COUNTY COUNCIL of County Hall Martineau Lane Norwich
Norfolk (the "County Council") (1) and _____ whose registered office is
(the "Owner") (2)

RECITALS:-

- (1) The County Council is the highway authority in respect of _____ ("the Roads")
- (2) The Owner wishes to develop the land edged red on the attached plan (the "Land") for the purposes of [insert description of development] and in connection therewith has requested the County Council to carry out the works specified in the Schedule 1 (the "Works") on the Roads in exercise of their powers under Section 278 of the Highways Act 1980 (the "1980 Act")
- (3) The County Council are willing to construct the Works subject to the terms of this Agreement and are satisfied that this Agreement will be of benefit to the public
- (4) The Works afford an access or other facility to the development of the Land by authorised by the _____ Council under reference

AGREEMENT:-

1 Owners Obligations

Payment for Works and costs

1.1 The Owner shall pay to the County Council:-

1.1.1 prior to the letting of the contract for the Works a sum equivalent to the target cost of the Works ("the Target Cost") for the Works together with an element for contingencies to be determined by the County Council acting reasonably

1.1.2 a sum to cover the actual staff costs (plus overheads) associated with the carrying out of the Works reasonably and properly incurred which costs shall include:-

1.1.3 planning supervisor duties including preparation of the Health and Safety files

1.1.4 resident engineer duties in supervising the Works

- 1.1.5 a sum to cover the costs reasonably incurred by the County Council associated with the making and implementation of any traffic regulation orders determined by the County Council as required in connection with the Works ("TROs")]
- 1.1.6 in the event that the actual cost of the Works is more than the Target Cost the balance of the actual cost
- 1.1.7 on completion of this Agreement the sum of £ as a contribution to the maintenance cost of the Works
- 1.1.8 the cost of any compensation properly paid by the County Council under Parts I and II of the Land Compensation Act 1973 or Regulations made thereunder as a result of the carrying out of or use of the Works
- 1.1.9 any damages for nuisance or negligence or claims under the Human Rights Act 1998 properly paid or met by the County Council as a result of the carrying out of the Works
- 1.1.10 together in each case with all fees costs and expenses reasonably and properly incurred by the County Council in connection therewith
- 1.1.11 on completion of this Agreement the County Councils reasonable legal costs on this agreement
- 1.1.12 on completion of this agreement an administrative fee of £
- 1.2 The sums set out in Clauses 1.2 [1.3] 1.4 and 1.6 shall be as certified by the County Council acting reasonably and the sums in clauses 1.2 [1.3] 1.4 and 1.6 shall be paid within 30 days of receipt of an invoice from the County Council

2 The Owner hereby further agrees:-

Access

- 2.1 to permit the County Council and their Contractors reasonable access at all times to the Land for the purpose of performing their obligations under this Agreement

New Highway

- 2.2 to deduce title to the County Council prior to the commencement of the Works in respect of the land shown coloured pink on the plan annexed hereto and marked "Dedication Plan" (the "Dedication Land")
- 2.3 that on commencement of the Works the Dedication Land shall become dedicated to the public as highway

Easements

- 2.4 to enter into the deed of grant at schedule 3

Works Liaison

- 2.5 to liaise and co-operate with the County Council regarding the provision of services so as to facilitate the construction of the Works

Health and Safety

- 2.6 to make available to the County Council its Health & Safety file so far as it relates to the Works

Council Obligations

- 3 The County Council agrees:-

3.1.1 Works

3.1.2 Subject to compliance by the Owner with its obligations in this Agreement that it will construct the Works [and promote the TROs]

OR

3.1.3 Subject to compliance by the Owner with its obligations in this Agreement and subject to the making of the TROs it will construct the Works and it will promote the TROs

3.1.3.1 adoption of new highway

- 3.2 Upon the date that all parts of the Works shall be substantially complete as certified by the County Council the Land dedicated as public highway pursuant to clause 2.2 shall be maintainable at the public expense

Contract Surplus

- 3.3 that in the event that the Target Cost exceeds the actual cost it will repay the difference to the Owner together with any interest accrued thereon

Final Account

- 3.4 to supply to the Owner a final account within 3 months after the end of the 12 month maintenance period following practical completion of the Works

Other Agreed Matters

Arbitration

- 3.5 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
- 3.6 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
- 3.7 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 shall be referred 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
- 3.8 Nothing in clauses 4.1 to 4.3 shall apply to the recovery of a liquidated sum or prevent the parties from commencing or continuing court proceedings

Late Payment

- 3.9 All sums payable by the Owner under this Agreement shall carry interest at the rate of 4% above the base rate of the Co Operative Bank PLC from the date due until payment

Third Parties

- 3.10 The parties do not intend that any term of this Agreement shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement

SCHEDULE 1


- 1 The formation, laying out and construction of as shown on Drawing Nos. attached or such other Drawings as may be approved by the County Council.
- 2 The reinstatement resurfacing re-grading re-seeding or where necessary the construction in full or in part of the existing highway disturbed by the carrying out of the Works described above all as reasonably required by the County Council.
- 3 The provision and laying of all road markings reasonably required by the County Council.
- 4 The re-siting or provision erection and connection of all street lighting columns where required including services for both temporary and permanent arrangements in connection with the works.
- 5 The re-siting or provision and erection of all traffic signs reasonably required by the County Council including services for both temporary and permanent arrangements in connection with the works.
- 6 All statutory undertakers' diversion works and the making good of any damage caused to any statutory undertakers' installation as a result of carrying out the Works.
- 7 The execution of any additional works or works of amendment as may be required following the completion by the County Council of a Stage 3 Road Safety Audit in respect of the Works in accordance with the Institute of Highways and Transportation Guidelines for the Safety Audit of Highways published in November 1996 and the Department of Transport Safety and Traffic Department Standard HD 19/94 and Advice Note HA 42/94 or any similar procedures from time to time in force.
- 8 All necessary ancillary highway works.

~~SCHEDULE 2~~

~~Deed of Grant~~

cm

- (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 a Local Planning Authority for the purposes of the 1990 Act for the area within which the Land is situated
- (C) The County Council is a Local Planning Authority for the purposes of the 1990 Act and is the local Highway Authority within the meaning of the Highways Act 1980 for the area within which the Land is situated
- (D) The Owner is the freehold owner of land situated and known as land at Five Berries Farm Brick Kiln Road Hevingham in the County of Norfolk for the purpose of identification only edged red and edged blue on Plan No 1 annexed hereto (hereinafter called the "Land") and registered at HM Land


Registry under title No NK ²²⁴⁵²¹~~2244521~~ and is the freehold owner of land shown coloured pink on drawing No. 124-2000-05 Revision A annexed hereto

- (E) The Bank has a Legal Charge over the Land
- (F) The Owner has submitted the Application
- (G) Having regard to the Development Plan and other material considerations the Council considers it expedient in the interests of the proper planning of its area that provision should be made for regulating or facilitating the Development of the Site 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 any other enabling power
- 1.2 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
- 1.3 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
- 1.4 This Agreement is a local land charge and upon completion shall be registered by the Council as such
- 1.5 No waiver (whether express or implied) by the Council or by the County Council of any breach or default by the Owner in performing or observing any of the covenants in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council or the County Council from

enforcing any of the covenants or from acting upon any subsequent breach or default in respect thereof

1.6 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

1.7 This Agreement shall be governed by the laws of England

1.8 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

1.9 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

1.10 NOTICES

1.10.1 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

1.10.2 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 Norfolk
The County Council	The Director of Planning & Transportation County Hall Martineau Lane Norwich NR1 2DH
The Owner	Richard Thomas Pointer of Five Berries Farm Brick Kiln Road Hevingham Norfolk
The Bank	Barclays Loan Servicing Centre PO Box 299 Birmingham B1 3PF

1.10.3 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

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 Contract (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 OBLIGATIONS

- 4.1 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 set out in this Agreement

THE PERMITTED ROUTE

- 4.2 The Owner hereby covenants that all vehicles operated by the Owner or his employees in connection with the Development or otherwise under the direct control of the Owner approach and leave the Land via the Permitted Route
- 4.3 In relation to suppliers vehicles or other vehicles (including those used for the removal of waste products) entering and exiting the Land in connection with the Development not under the direct control of the Owner the Owner shall use all reasonable endeavours to ensure that such vehicles approach and leave the Site via the Permitted Route which reasonable endeavours shall

- 4.3.1 require the Owner to incorporate in all contracts with their respective employees and suppliers in connection with the Development a requirement that their vehicles approach and leave the Site via the Permitted Route
- 4.3.2 require the Owner to communicate in writing with persons whose vehicles from time to time regularly visit the Site for purposes connected with the Development informing them of the Permitted Route and requesting that their vehicles follow it at all times when visiting the Site. Such method and frequency of communication to be determined by the Owner and disclosed to the County Council as requested or at the County Councils discretion as shall be as reasonably determined by the County Council
- 4.3.3 require the Owner on receiving information that any driver of a vehicle referred to in clauses 4.2 and 4.3 above shall have taken any route to or from the Site other than the Permitted Route to take all necessary and lawful action possible against the driver of that vehicle to ensure future compliance
- 4.3.4 will be breached if an employee of the Owner uses a route other than the Permitted Route
- 4.4 The Owner hereby covenants to affix and display and maintain on the Site such signs approved by the County Council in writing as to wording locations numbers size and legend and as shall be required from time to time by the County Council (including any modifications, additions or subtractions to those first or subsequently approved by the County Council) which signs direct vehicles associated with the Development to follow the Permitted Route

POULTRY

- 4.5 The Owner hereby covenants not to keep any live Poultry on the Land other than live Poultry brought to the Land within the previous twenty-four hour period for the purpose of slaughter and processing
- 4.5.1 The Owner hereby covenants that no more than twenty eight thousand (28,000) Poultry shall be delivered to or removed from the Site in any one week from Monday to Sunday inclusive whether or not having been plucked gutted frozen packed or otherwise processed and no more than twenty eight thousand (28,000) Poultry will be plucked gutted frozen packed or otherwise processed on the Site in any one week from Monday to Sunday inclusive excluding the two weeks prior to 25 December each year
- 4.5.2 The Owner shall make available for inspection all records and information reasonably required by the Council to establish compliance with clause 4.5.1 at all reasonable times and shall provide copies of such records or information free of charge

HIGHWAYS WORKS

- 4.6.1 As soon as reasonably possible following the grant of the Permission the Owner shall enter into an agreement pursuant to Section 278 of the Highways Act 1980 (substantially in the form annexed hereto at Schedule 1) for the carrying out of the Junction Improvement Works
- 4.6.2 The Owner shall pay to the County Council within fourteen days of the grant of the Permission the Highway Improvement Works Estimated Costs
- 4.6.3 The Owner shall pay interest at 4% above the base rate of the Co-operative Bank PLC on any part of the Highway Improvement Works Estimated Costs not paid within fourteen days of the date upon which it becomes due in accordance with this Agreement.

4.7 In consideration of the County Council taking over and maintaining the land shown coloured pink on drawing No 124-2000-05 Revision A annexed hereto as part of the public highway the Owner with full title guarantee hereby dedicates and gives up the land shown coloured pink on the said drawing free of charge

5. THE COUNTY COUNCIL'S OBLIGATIONS

5.1 The County Council undertakes with the Owner that the Highway Improvement Works Estimated Costs shall be applied to the Highway Improvement Works

5.2 The County Council hereby confirms that it will repay to the Owner any amount by which the Highway Improvement Works Estimated Costs exceed the actual costs of the carrying out and completion of the Highway Improvement Works

6. THE BANK

6.1 The Bank hereby consents to the completion of this Agreement and acknowledges that from the date of this Agreement the Land shall be bound by the restrictions and obligations contained herein

7. LEGAL COSTS

7.1 Prior to the completion of this Agreement the Owner will pay the Council's and the County Council's reasonable and proper legal costs (together with VAT if appropriate) in respect of the drafting and negotiation of this Agreement

BY THIS POWER OF ATTORNEY by way of deed dated 20 June 2007, we, BARCLAYS BANK PLC of 1 Churchill Place, London, E14 5HP (the "Bank") hereby appoints for a period of one year from the date of this deed

Peter Wade
Specialist Support Manager
Barclays Bank PLC
UK Banking Service Centre
Camden House East
Summer Row
Birmingham
B1 3PF

as its true and lawful attorney (the "Attorney") for and on behalf of the Bank (but without prejudice to or in any way limiting the actual or ostensible authority of the said Attorney, to do and execute the following acts and deeds

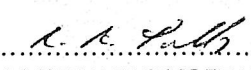
1. To sign all forms of written documents except acceptances and endorsements of bills of exchange.
2. To accept and endorse bills of exchange jointly with some other person duly authorised by the Bank for that purpose.
3. To sign, execute and deliver all deeds including, without limitation, guarantees, bonds, deeds of easement and indemnities, deeds regulating the priority of mortgages, releases, discharges, transfers of mortgages, reconveyances and re-assignments of real or personal property, mortgaged, charged or assigned by way of security to the Bank.
4. To make any declaration, affidavit or proof of any debt due or claimed to be due to the Bank in any proceedings taken or hereafter to be taken by or against any person, firm or company under any act for the time being in force in relation to the bankruptcy, insolvency or liquidation of debtors, firms or companies of whatever nature.

This Power of Attorney replaces any previous Power of Attorney issued to the Attorney save for any specific power issued.

This Power of Attorney shall be construed under and governed by the laws of England and Wales, to the jurisdiction of whose courts do hereby submit.

In witness whereof, this Power of Attorney has been executed as a deed on the date first written above.

The Common Seal of
Barclays Bank PLC
Was hereunto affixed in the
Execution of this Deed in the presence of


.....
ASSISTANT SECRETARY
Authorised Sealing Officer

I certify that this is a true
and complete copy of the
original

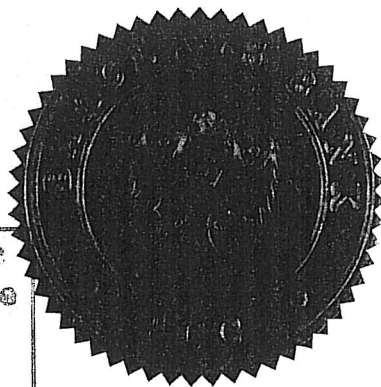


FOR BARCLAYS BANK PLC

Name Hilary Carr

Job Title Bank Clerk

Date 22/06/07.



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)



S854

Confidential

Head of Corporate Services and Monitoring Officer

SIGNED as a DEED by)
RICHARD THOMAS POINTER)
in the presence of:-)

RTP
Perry

G PERRY. POULTRY BUTCHER
STANMORE
DOLLS LANE
BRADWELL
CT YARMOUTH

SIGNED as a DEED by)
BARCLAYS BANK PLC)

Signed as a deed
By Peter Wade
as Attorney for and
on behalf of
Barclays Bank PLC
in the presence of
Katharine Harker
Name

[Signature]
[Signature]
Signature



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



Victor [Signature]

Head of Law