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- email: planning.admin@ashfield.gov.uk
- telephone: 01623 457 388

Dated: 21st August 2017

- (1) ANDREW HANKIN and ELYSE CLARE HANKIN
 - (2) E-ON UK PLC
 - (3) BARCLAYS BANK PLC
 - (4) ASHFIELD DISTRICT COUNCIL
-

DEED

under Section 106 and 106A of the Town and Country Planning Act 1990
relating to a car park on land at Willow Drive Annesley

THIS DEED is made on 25th August

2017

BETWEEN

- (1) **ANDREW HANKIN and ELYSE CLARE HANKIN** both of 105 Church Lane, Underwood, Nottinghamshire NG16 5FR ("the Owners");
- (2) **E-ON UK PLC** (Company Registration Number 2366970) whose registered office is situate at Westwood Way, Westwood Business Park, Coventry, CV4 8LG ("the Lessee");
- (3) **BARCLAYS BANK PLC** (Company Registration Number 1026167) whose registered office is situate at 1 Churchill Place, London, E14 5HP ("the Chargee"); and
- (4) **ASHFIELD DISTRICT COUNCIL** of Urban Road, Kirkby in Ashfield, Nottinghamshire, NG17 8DA ("the Council").

RECITALS

- (A) The Council is the local planning authority pursuant to Section 1 of the Act for the area in which the Site is situated.
- (B) The Council is also a Principal Council within the meaning of the Local Government Act 1972.
- (C) On 12 November 2014 Ashfield District Council (1) Andrew Hankin and Elyse Clare Hankin (2) and E-ON UK Plc (3) entered into the Original Agreement which regulates development pursuant to the Planning Permission.
- (D) The Lessee has the benefit of a lease over the Site dated 22 July 2016.
- (E) The Chargee has the benefit of a charge over part of the Site which is shown edged blue on the Land Registry title plan to title number NT465268 and shown edged blue on the Land Registry title plan to title number NT425685 dated 29 April 2016.
- (F) The Planning Permission was granted on 12 November 2014.
- (G) The Owners and the Lessee have submitted the Variation Application which when granted will permit the permanent use of the Site as a car park.
- (H) The Council has resolved to grant the Variation Planning Permission subject to the completion of this Deed.
- (I) The Parties have agreed to enter into this Deed to secure that the obligations in the Original Agreement will apply to the Variation Planning Permission and continue to bind the Site and the Adjacent Land.

NOW THIS DEED WITNESSES as follows:

1. Definitions and Interpretation

- 1.1 For the purposes of this Deed (including for the avoidance of doubt the recitals above) the definitions set out in the Original Agreement will apply unless the context requires otherwise and in addition the following additional expressions shall have the following meanings:-

"Original Agreement"

the agreement between Ashfield District Council (1) Andrew Hankin and Elyse Clare Hankin (2) and E-ON UK Plc (3) entered into pursuant to section 106 of the Act and dated 12 November 2014;

"Parties"	the parties to this Deed;
"Variation Application"	the application for the removal of condition 1 of the Planning Permission to allow permanent use of the car park and registered under reference V/2017/0022;
"Variation Planning Permission"	the planning permission to be issued pursuant to the Variation Application a draft of which is appended to this agreement at Appendix 1;

- 1.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 1.3 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 interchangeable in that manner.
- 1.4 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 against each individually unless there is an express provision otherwise.
- 1.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permission and directions for the time being made, issued or given under that Act or deriving validity from it.
2. **Legal Basis**
 - 2.1 This Agreement is 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 acts with the intention that it binds the Owners' interests in the Site and the Adjacent Land.
 - 2.2 The obligations and covenants by the Owners contained in this Deed are planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council except where an obligation is expressed as a covenant made solely with the Council in which case such obligation shall be enforceable only by that authority.
 - 2.3 The covenants made herein on the part of the Council shall be enforceable against the Council and any statutory successor to it as planning authority.
 - 2.4 Nothing contained or implied in this Deed shall prejudice or affect the rights, powers, duties and obligations of the Council in the exercise of its function and its rights, powers, duties and obligations under all public private statutes, byelaws and regulations may be as fully and effectively exercised as if they were not a party to this Deed.
 - 2.5 The covenants given by the Owners and the Lessee contained herein are made with the intent that the covenants will bind their respective interests in the Site and the Adjacent Land and be binding on and enforceable against those deriving title through and under them PROVIDED THAT without prejudice to the enforcement of covenants against those deriving title through or under the Owners no person shall be liable for any breach or non-performance of the covenants contained herein or for the performance of any obligations which arise from the carrying out of the Development on and in respect of any land which he is no longer seized save in respect of any prior subsisting breach.

- 2.6 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 Variation Planning Permission) granted (whether or not on appeal) after the date of this Deed.

3. **Conditionality**

- 3.1 The provisions in this Deed are conditional upon the implementation of the Variation Planning Permission following the grant of the Variation Planning Permission.

4. **The Owners' Obligations**

- 4.1 The Owners covenant with the Council that they will comply with the terms covenants and their obligations set out in the Original Agreement as varied by clause 6 of this Deed as if in the Original Agreement:-

4.1.1 each reference to the Planning Permission incorporates reference to the Variation Planning Permission; and

4.1.2 each reference to the Development incorporates reference to the development as permitted by the Variation Planning Permission.

5. **The Lessee's Obligations**

- 5.1 The Lessee covenants with the Council that it will comply with the terms covenants and its obligations set out in the Original Agreement as varied by clause 6 of this Deed as if in the Original Agreement:-

5.1.1 each reference to the Planning Permission incorporates reference to the Variation Planning Permission; and

5.1.2 each reference to the Development incorporates reference to the development as permitted by the Variation Planning Permission.

- 5.2 Prior to or on the completion of this Deed the Lessee shall pay the Council's reasonable legal costs incurred by the Council in connection with the negotiation and completion of this Deed up to a maximum of £2,750.

6. **Variation to the Original Agreement**

- 6.1 The Original Agreement is varied as follows:

- 6.1.1 The definition of Adjacent Land is deleted and replaced with:

"Adjacent Land"

means the land designated Davis Bottom Grassland Local Wildlife Site 2/212 shown edged green on the Plan

- 6.1.2 The definition of "Lifetime of the Development" is deleted and replaced with:

"Lifetime of the Development"

of

the

means the period of time in which the Development is carried out and the Site is used under the Variation Planning Permission

- 6.1.3 The Plan is replaced with the plan attached to this Deed.

- 6.1.4 Clause 5 is deleted and replaced with:

5. The Lessee covenants with the Council to comply with the obligations set out in the First Schedule and further covenants not to sub-lease the Site during the Lifetime of the Development PROVIDED THAT such liability shall only arise from the date that it acquired a leasehold interest in the Site and for the avoidance of doubt the Lessee shall not be liable for any breach of the terms of this Agreement occurring before it acquired such leasehold interest in the Site.

7. Chargee's Consent

- 7.1 The Chargee hereby acknowledges and declares that this Deed has been entered into by the Owners with its consent and that the Site and Adjacent Land shall be bound by the obligations contained herein and that their interests in the Site and Adjacent Land shall take effect subject to this Deed.
- 7.2 The Chargee shall have no liability under this Deed unless and until they take possession of the Site and/or Adjacent Land in which case they will be bound by the obligations as owners of the Site and/or the Adjacent Land.

8. Miscellaneous

- 8.1 No provisions of this Deed shall be enforceable under the Contracts (Rights of third Parties) Act 1999.
- 8.2 The expressions "the Owners", "the Lessee" and "the Chargee" shall include those deriving title through and under it in respect of the Site and the expression "the Council" includes any successor to its functions as local planning authority.
- 8.3 Any covenant by the Owners to do an act or thing may be deemed to include an obligation to procure that the act or thing is done and any covenant by the Owners not to do any 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 where knowledge or the actions of the other person is reasonably inferred.
- 8.4 It is hereby agreed that any steps taken pursuant to the Original Agreement in satisfaction of the obligations therein shall be deemed to have been taken for the purposes of this Deed and mutatis mutandis.
- 8.5 The Council shall procure that this Deed shall be registered as a local land charge in the register of local land charges.
- 8.6 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 provision of this Agreement.

9. Waiver

- 9.1 No waiver (whether expressed or implied) by the Council or 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 Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

10. Jurisdiction

- 10.1 This Deed is governed by and interpreted in accordance with the laws of England.

11. Delivery

- 11.1 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 and delivered as a deed.

In witness whereof the parties hereto have executed this Deed and it is delivered on the day and year first before written

SIGNED as a **DEED** by)
ANDREW HANKIN in the presence of:)

Witness Signature:

Witness Name:

James Williamson

Witness Address:

Witness Occupation:

Lawyer

SIGNED as a **DEED** by)
ELYSE CLARE HANKIN in the presence of:)

Witness Signature:

Witness Name:

James Williamson

Witness Address:

Witness Occupation:

Lawyer

EXECUTED as a **DEED** on behalf of)
E-ON UK PLC in the presence of:)

Director:

Signature:

Director/Secretary:

SIGNED AS A DEED BY
Insert Name.....

By this POWER OF ATTORNEY made by deed on 18 May 2017 (the "Deed"), we, Barclays Bank PLC, a company incorporated in United Kingdom and registered in England (registered number 1026167), whose registered office is situate at 1 Churchill Place, London, E14 5HP (the "Company") APPOINTS:

Michelle Gittus
Collateral Controls Manager
Credit Product Operations
One Snowhill
Queensway
Birmingham
B4 6GN

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

FOR BARCLAYS BANK PLC

Name Sandra Verma

Job Title ANALYST 3

Date 24.07.17

as our true and lawful attorney (the "Attorney") for and in our name and on our behalf (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 and execute all forms of written documents, other than acceptances and endorsements of bills of exchange; and/or
2. to accept and endorse bills of exchange jointly with some other person duly authorised by the Company for that purpose; and/or
3. to sign, execute and deliver all deeds including, without limitation, guarantees, bonds, deeds of easements and indemnities, deeds regulating the priority of mortgages, releases, discharges, transfers of mortgages, re-conveyances and reassignments of real or personal property, mortgaged, charged or assigned by way of security to the Company; and/or
4. to make any declaration, statement, affidavit or proof of any debt due or claimed to be due to the Company 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,

relating to work done in the ordinary course of business of Credit Product Operations.

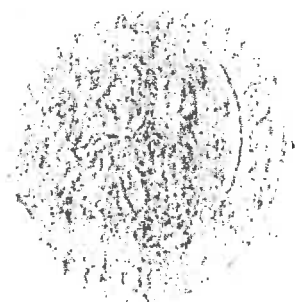
This Deed shall remain in force for twelve consecutive calendar months from the date of this Deed.

This Deed shall be governed and construed in accordance with the laws of England and Wales, to the jurisdiction of whose courts the Company submits by executing this Deed and the Attorney submits by purporting to act under its terms.

This Deed has been, and has been witnessed as, duly executed and delivered on the day and year first written above.

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

Assistant Secretary
Authorised Sealing Officer



QRC	INITIALS	DATE
	SV 19/3	

[Redacted Signature]

Signature..... Michelle Cirkos

as Attorney of **BARCLAYS BANK PLC**
in the presence of:-

Insert Name: SARITA VERMA

Signature..... [Redacted Signature]

[Redacted Signature]

THE COMMON SEAL OF
ASHFIELD DISTRICT COUNCIL
was affixed in the presence of:)
)
)

Authorised Signatory





TOWN AND COUNTRY PLANNING ACT 1990

Town and Country Planning (General Permitted Development) (England) Order 2015
Town and Country Planning (Development Management Procedure) (England) Order 2015
Town and Country Planning (Control of Advertisements) (England) Regulations 2007
Town and Country Planning (Tree Preservation) England Regulations 2012
Planning (Listed Buildings and Conservation Areas Act 1990
Planning (Hazardous Substances) Act 1990
Planning and Compensation Act 1991

Approval Notice

Application to Remove/Vary a Condition

Approval has been granted by Ashfield District Council for the development referred to below providing it is carried out in accordance with the application and plans submitted. The approval is subject to the conditions set out on the attached sheet.

Application Details

Planning Reference Number: **V/2017/0022**

Location of Development: **Land at Willow Drive
Sherwood Business Park
Annesley
Nottinghamshire
NG15 0DP**

Description of Development: **Remove Condition 1 of Planning Permission
V/2013/0669 to Allow Permanent Use of Car Park**

Applicant Name: **Mr A Hankin & Mrs EC Hankin & EON Plc**

Date: _____

Address: Council Offices, Urban Road, Kirkby-in-Ashfield, Nottingham. NG17 8DA
Tel: 01623 450000 **Fax:** 01623 457585
www.ashfield.gov.uk

CONDITIONS:

1. Should the hereby approved car park cease to be used, the site shall be re-instated to its former condition unless a further planning application with regard to the development has been submitted to and approved by the Local Planning Authority.
2. The hereby approved development shall be carried out in accordance with the submitted Sherwood Park Travel Plan (Version 1.1) received 20th February 2017, unless otherwise agreed in writing by the Local Planning Authority.
3. This permission shall be read in accordance with the following plans:-

Site Location Plan 1: 1250

Proposed car park layout, drawing number 2013.4902.02

All received 15th December 2016

The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.

4. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
5. The development shall be carried out in accordance with the approved lighting scheme and maintained and retained as such for the life of the development.
6. The approved bus service scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing.
7. The development shall be carried out in accordance with the approved surface water drainage details.
8. The development shall remain in accordance with the approved surface materials details unless otherwise the Local Planning Authority gives written approval to any variation.
9. The boundary treatment shall remain in accordance with the approved details.
10. The CCTV security system shall remain in accordance with the approved details.

REASONS:

1. To enable the Local Planning Authority to assess the impact of the development on the locality and this permission is granted because of very special circumstances put forward in this application.
2. In the interests of encouraging sustainable forms of travel.
3. To define the terms of this permission and for the avoidance of doubt.
4. To ensure the satisfactory overall appearance of the completed development and to help assimilate the new development into its surroundings.
5. In the interests of visual amenity of the Green Belt and to protect wildlife adjacent to the site.
6. To ensure the car park is reasonably accessible for employees to the employment units.
7. To ensure the development is adequately drained.
8. To ensure the satisfactory appearance of the completed development.
9. To ensure the satisfactory appearance of the completed development.

10. To protect and safeguard the visual amenity of the area.

INFORMATIVES

1. The applicant/developer is strongly advised to ensure compliance with all planning conditions, if any, attached to the decision. Failure to do so could result in LEGAL action being taken by the Ashfield District Council at an appropriate time, to ensure full compliance. If you require any guidance or clarification with regard to the terms of any planning conditions then do not hesitate to contact the Development & Building Control Section of the Authority on Mansfield (01623 450000).
2. This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act 1990 and dated <<...>>.

For further detail on the decision please see the application report by contacting the Development Section on 01623 457388.

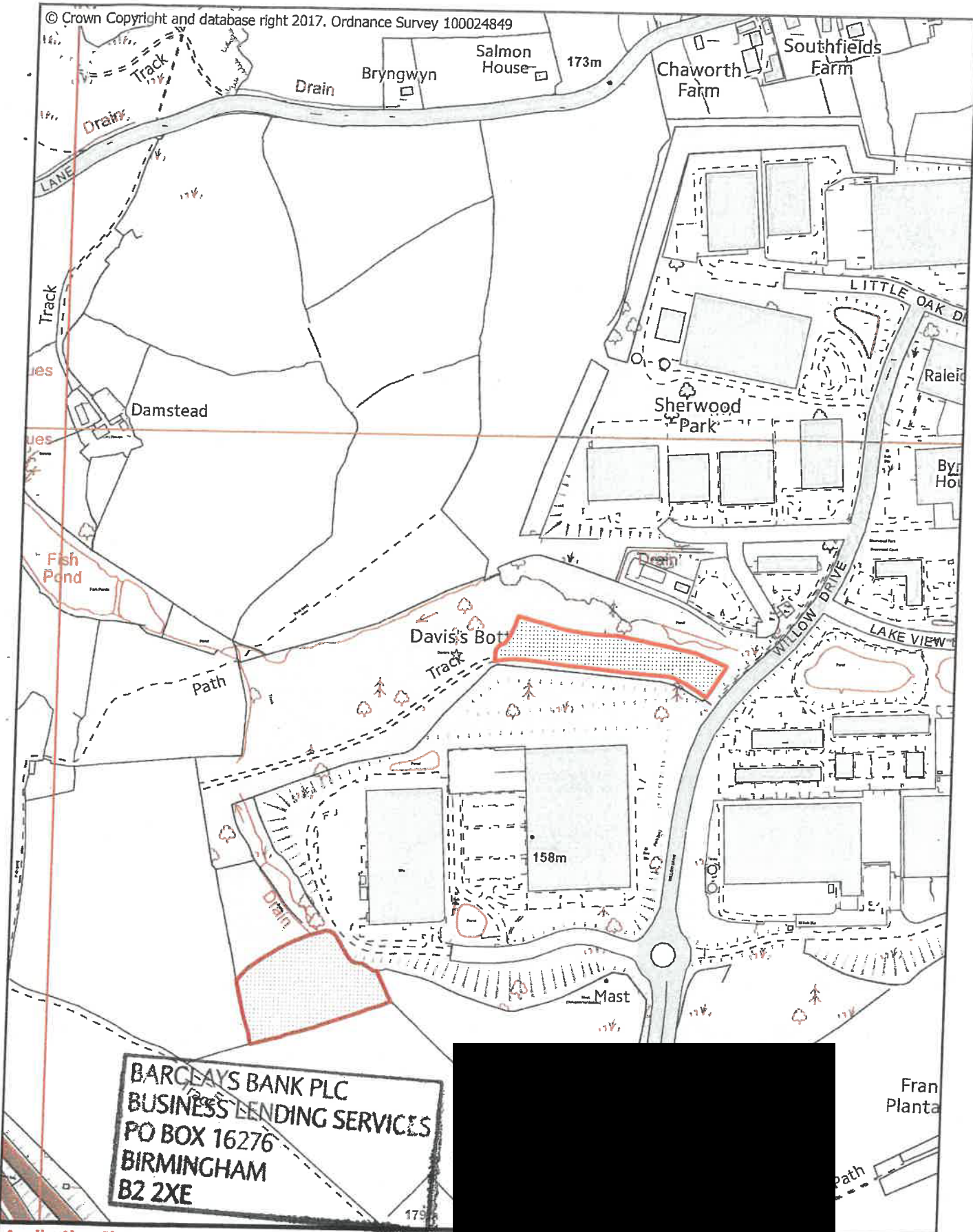
REASONS FOR APPROVAL

The decision to grant permission has been taken having regard to the policies and proposals in the Ashfield Local Plan Review (2002) and all relevant material considerations, including Supplementary Planning Guidance:

PROACTIVE WORKING

The processing of this application has been undertaken in accordance with the requirements of the National Planning Policy Framework (Core Planning Principles).

.....
Robert Mitchell
Chief Executive



Application Site
Area Covered by Management Plan

Ashfield District Council
Urban Road
Kirkby in Ashfield
Nottingham NG17 8DA

Map sheet: SK4952

09 Jun 2017



Scale: 1 to 50

