

THIS DEED is made the 12<sup>th</sup> day of December 2001

BY:

TAY HOMES (NORTHERN) LIMITED ("The Developer") (Company registration number 2708575) of 55 Call Lane, Leeds, LS1 7BT

And

WILLIAM HODGSON & SONS (MOTORS) LIMITED ("The Landowner") (Company registration number 1348245) of West End Kirkstall Lane Leeds

WHEREAS

1. THE RYEDALE DISTRICT COUNCIL ("the Authority") is the Local Planning Authority for the purposes of the Planning Act and for the area within which the land is situated and is the authority by whom the obligations hereby created are enforceable.
2. The Landowner is the owner of the freehold in the land described in Schedule 1 hereto free from all encumbrances ("the land").
3. The Developer has applied to the Authority for planning permission under reference 01/00028/FUL to construct 31 dwellings upon the land.
4. The Authority has refused to grant planning permission for the 31 dwellings and the Developer has appealed against that refusal to the Secretary of State for Transport Local government and the Regions under reference APP/Y2736/A/01/1071739.
5. In the event that planning permission is granted in accordance with the Developer's appeal, both the Developer and the landowner agree and undertake with the Authority in manner hereinafter appearing in order to facilitate the provision of open space and the provision of low cost affordable housing.

NOW THIS DEED WITNESSES as follows:-

1. In this deed the following words and expressions shall have the meaning ascribed to them below:-
  - 1.1 "Commencement Date" means the date upon which a material operation in relation to development in respect of the grant of the planning permission (as defined by Section 56(2) of the Planning Act) but not including the demolition of existing buildings site clearance or decontamination) is carried out upon the land.
  - 1.2 "The grant of planning permission" means the consent issued by the Secretary of State pursuant to the Developer's appeal.
  - 1.3 "Planning Act" means the Town & Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991).
  - 1.4 "The off site commuted sum" means the sum of £15,000.
  - 1.5 The on site commuted sum is £30,000.

- 1.6 "Affordable housing" shall mean the six dwellings on the land being plots numbered 23-28 on the attached drawing number 2813/10 Revision F to be provided on a shared equity basis by a Registered Social Landlord and which will be made available to people whose income is insufficient to enable them to afford housing locally on the open market.
2. This Deed is made pursuant to Section 106 of the Planning Act and the covenants contained herein shall bind the land and shall be enforceable against the Developer and the Landowner and all persons deriving title by through or under them in respect of their interest in the land or in any part thereof as a planning obligation as if the same were the original covenanting party to this Deed and in the event that this covenant is determined or construed not to be a planning obligation it is entered into pursuant to the powers within Section 111 of the Local Government Act 1972.
3. Neither the Developer nor the Landowner shall be bound by any covenant or obligation contained in this Deed after the Developer and/or the Landowner or either of them have parted with the entirety of their interest in the land but without prejudice to any breach or liability existing or arising prior to parting with such interest.
4. The planning obligation contained within this Deed will not take effect until the Commencement Date.
5. The owner and the Developer hereby covenant to perform the obligations contained in Schedule 2.

## **SCHEDULE 1**

### **Description of the Land**

ALL THAT land and premises known as West End Garage, Westfields, Kirkbymoorside, York, YO62 6AG and more particularly delineated outlined in red upon the plan attached to this Deed.

## **SCHEDULE 2**

### **The Planning Obligation**

1. If within a period of six months after the Commencement Date the Authority shall request that the Developer should pay the off site commuted sum then the Developer will pay the Sum to the Authority within 28 days thereafter.
2. If within a period of six months after the Commencement Date the Authority shall request that the Developer should pay the on site commuted sum then the Developer will pay the Sum to the Authority within 28 days thereafter.
3. Not to allow or permit the occupation of more than 16 dwellings on the land until the Developer has provided four two bed flats and two three bed houses upon the land as affordable housing in conjunction with a Registered Social Landlord upon the basis of shared equity for occupation by persons:
  - (a) who have for a period of at least 2 years been ordinarily resident within the town of Kirkbymoorside, or

- (b) who have been permanently employed in the town of Kirkbymoorside for 2 years or more, or
- (c) then any area in the District of Ryedale.

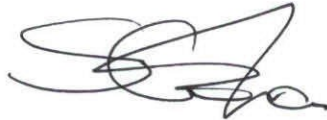
And will ensure that thereafter such accommodation is maintained in perpetuity as affordable housing.

- 4. The affordable housing on the land comprising plots numbered 23-28 on the attached drawing number 2813/10 Revision F shall not be used for any purpose other than for affordable housing for occupation by persons satisfying the criteria specified in Clause 3 above.



THE COMMON SEAL of Tay Homes  
(Northern) Limited was hereunto affixed

In the presence of:-

*D. Ellison.*



THE COMMON SEAL of William  
Hodgson & Sons (Motors) Limited  
was hereunto affixed

DATED

23 FEBRUARY

2004

**DEED OF VARIATION**

Relating to

Land at Kirbymoorside

MADE BETWEEN

(1) RYEDALE DISTRICT COUNCIL

And

(2) BARRATT HOMES LIMITED

**K|H**

**KEEBLE HAWSON**  
SOLICITORS

Protection House  
16-17 East Parade  
Leeds  
LS1 1BR

**JMD/SC/B2473/131**

THIS DEED is made 23 FEBRUARY .

2004

**BETWEEN:**

- (1) **RYEDALE DISTRICT COUNCIL** of Council Offices, Malton, North Yorkshire (“the Council”)
- (2) **BARRATT HOMES LIMITED** of Wingrove Housed, Ponteland Road, Newcastle upon Tyne, NE5 3DP (Company registration number 3018173) (“the Developer”)

**NOW THIS DEED WITNESSES** as follows: -

**1. DEFINITIONS AND INTERPRETATIONS**

In this deed: -

- 1.1 The Agreement means an Agreement dated 12 December 2001 made between (1) Tay Homes (Northern) Limited and (2) William Hodgson & Sons (Motors) Limited
- 1.2 The Property means the Property known as land at Kirbymoorside, York as registered at HM Land Registry under title number: NYK268816
- 1.3 The clause headings do not form part of this deed and shall not be taken into account in its construction or interpretation.
- 1.4 “the Four Affordable Rented Dwellings” means the four two-bedroomed apartments to be constructed pursuant to the Planning Permission in the area shown edged in red on Plan 02:3327:02 Rev. M and being Plots 25 to 28 inclusive and to be made available at Affordable Rent to persons agreed in advance by the Officer.
- 1.5 “the Two Discount Sale Dwellings” means the two Three-bedroomed houses to be constructed pursuant to the Planning Permission shown on Plan 02:3327:02 Rev. M and being marked as Plots 24 and 29.
- 1.6 “the Two Discount Sale Dwelling Land” means the land on which the Two Discount Sale Dwellings are constructed.

- 1.7 “Affordable Rent” means a rent which is comparable to the average rents charged in the Council’s administrative area by Registered Social Landlords for properties of an equivalent type age and floor area to the Four Affordable Rented Dwellings and which sum shall be agreed for lettings between the Director and the Housing Association or Alternative Housing Association (whichever has taken the transfer of the Four Affordable Rented Dwellings) and thereafter any increases or decreases shall be in accordance with the Housing Associations’ or Alternative Housing Associations’ rent setting policy and the Housing Corporations’ guidance at the time.
- 1.8 “the Alternative Housing Associations” means a number of registered social landlords the number of which will be proposed by the Developer and may be approved by the Council (such approval not to be unreasonably withheld or delayed) and the registered social landlords shall then be nominated in accordance with the provisions of clauses 3 hereof.
- 1.9 “the Officer” means the Housing Manager of the Council for the time being or such other officer of the Council nominated to carry out an equivalent function
- 1.10 “Eligible Occupier” means a person or household identified and approved in accordance with the provisions of clause 3 or 4 and the allocations policy or criteria from time to time of the Housing Association and agreed with the Officer
- 1.11 “the Housing Association” means any Registered Social Landlord as may be proposed by the Developer and approved the Council (such approval not to be unreasonably withheld or delayed)
- 1.12 “Registered Social Landlord” means a Registered Social Landlord as defined by the Housing Act 1996 (or as re-defined by any amendment of such Act) and registered by the Housing Corporation under the provisions of Chapter 1 Part 1 of the Housing Act 1996 and approved by the Director of Community Services of the Council

1.13 "Open Market Value" means the price at which the sale of an interest in property as profit housing would have been completed unconditionally for cash consideration on the date of valuation assuming:

1.13.1 a willing seller and

1.13.2 that prior to the date of valuation there had been a reasonable period (having regard to the nature of the property and the state of the market) for the proper marketing of the interest for the agreement of the price and the terms and for the completion of the sale and

1.13.3 that the state of the market level of values and other circumstances were on any earlier assumed date of contracts the same as on the date of valuation and

1.13.4 that no account is taken of any additional bid by a prospective purchaser with a special interest and

1.13.5 that both parties to the transaction had acted knowledgeably prudently and without compulsion

and shall be determined in accordance with the provision of clause 5 hereof

1.14 "Open Market Dwellings" means dwellings erected on the Land pursuant to the Planning Permission excluding the Four Affordable Rent Dwellings and Two Discount Sale Dwellings

## 2. **RECITALS**

2.1 This deed is supplemental to the Agreement

2.2 The parties desire to alter the terms of the Agreement as mentioned below.

## 3. **VARIATION**

It is mutually agreed that the Agreement shall be varied as follows: -

3.1 By inclusion of the definitions at clause 1.4 to 1.14 inclusive in clause 1 of the Agreement.

3.2 Clause 1.6 shall be deleted from the Agreement and the following clause added as a new clause 1.6 as though it had been contained in the Agreement at the date of execution:

“Affordable Housing” means the 4 apartments and 2 houses being plots numbered 24-29 plan 02:3327:02 Rev M.

3.3 Paragraph 3 in Schedule 2 shall be deleted and the following added as a new paragraph 3, 4 and 5 to the Agreement as though they had been contained in the Agreement at the date of execution:

“Disposal of the Four Affordable Rented Dwellings

3.1 The Developer covenants with the Council as follows:

3.1.1 To build the Four Affordable Rented Dwellings and offer to transfer them to the Housing Association on or before the occupation of the 16<sup>th</sup> Open Market Dwelling for a price of not more than £148,000

3.1.2 The Developer will leave the offer open for acceptance by the Housing Association for a period of 28 days and will during that period use reasonable endeavours to agree with the Housing Association the terms other than the price PROVIDED ALWAYS that it will be a term of the sale of the Four Affordable Rented Dwellings that the Housing Association shall not dispose of or cause or permit the disposal of the Four Affordable Rent Dwellings other than for the purpose of providing tenancies at an Affordable Rent to persons approved in advance in writing by the Officer

3.1.3 If the offer is accepted by the Housing Association within the 28 day period provided by clause 3.1.2 above then the Developer will use reasonable endeavours to exchange



contracts for the sale of the Four Affordable Rented Dwellings within a period of 3 months from the date of deliver of a full set of contract papers and evidence of title to the Housing Associations' Solicitors

3.1.4 If the offer has been rejected or has not been accepted or contracts have not been exchanged with the Housing Association within the period referred to at clause 3.1.3 above for the sale of the Four Affordable Rented Dwellings the Developer will in writing notify the Council to that effect with an explanation as to why such exchange of contracts has not been secured or the offer was not accepted and will propose the Alternative Housing Association for the Council's approval (such approval not to be unreasonably withheld or delayed)

3.1.5 Within 10 working days of the Council receiving from the Developer the notification pursuant to clause 3.1.4 above the Council will notify the Developer in writing of its approval to the Alternative Housing Associations proposed by the Developer or will nominate Alternative Housing Associations to whom the Developer shall make an offer of sale of the Four Affordable Rented Dwellings ("the Council's Notification") PROVIDED ALWAYS that if the Council does not notify the Developer within the 10 working days it shall be deemed that the Council has approved the Developer's proposed Alternative Housing Associations

3.1.6 On receipt of the Council's Notification or deemed notification pursuant to clause 3.1.5 above the Developer shall within 7 working days:

3.1.6.1 withdraw the offer made to the Housing Association pursuant to clause 3.1.2 above; and

3.1.6.2 shall market the Four Affordable Rented Dwellings to all of the Alternative Housing

Associations at its own cost for a period of 28 days such marketing to identify if any of the Alternative Housing Associations are interested in purchasing the Four Affordable Rented Dwellings

3.1.7 After the 28 days referred to at clause 3.1.6.2 above if any of the Alternative Housing Associations have expressed an interest in purchasing the Four Affordable Rented Dwellings in writing to the Developer then:

3.1.7.1 if only one of the Alternative Housing Associations expresses an interest in purchasing the Four Affordable Rented Dwellings the Developer shall make an offer to that Alternative Housing Association; and

3.1.7.2 in the event there are two or more Alternative Housing Associations that have expressed an interest in purchasing the Four Affordable Rented Dwellings the Developer shall be entitled at its absolute discretion to determine which of the interested Alternative Housing Associations it will make an offer to; and

3.1.7.3 the Developer will make an offer to sell the Four Affordable Rented Dwellings on the same terms as set out in clause 3.1.2 above to the Alternative Housing Association identified pursuant to clauses 3.1.7.1 and 3.1.7.2 above and the provisions of clause 3.1.2 and 3.1.3 above shall apply and be read as if they referred to the Alternative Housing Association

3.1.8 If the offer has been rejected or has not been accepted or after the period referred to at clause 3.1.2 above contracts have not

been exchanged with the Alternative Housing Association for the sale of the Four Affordable Rented Dwellings the Developer will in writing notify the Council to that effect with an explanation as to why such exchange of contracts has not been secured or the offer was not accepted AND FURTHER the Developer shall be entitled to withdraw the offer and the obligations to clauses 3.1.1 to 3.1.7 inclusive shall cease to have effect and the provisions of clause 3.1.10 shall apply.

3.1.9 In the event that none of the Alternative Housing Associations express an interest within the 28 day period pursuant to clause 3.1.6.2 above the Developer will in writing notify the Council of this situation and the provisions of clauses 3.1.1 to 3.1.7 shall cease to have effect and clause 3.1.10 shall apply as regards the Four Affordable Rented Dwellings

3.1.10 In the event of the circumstances set out in clauses 3.1.8 or 3.1.9 applying the Developers shall be entitled to dispose of the Four Affordable Rented Dwellings on the open market subject to the provisions set out below in this clause 3.1.10:

3.1.10.1 the Developer shall pay a commuted sum to the Council within 28 days of the date of sale of the Four Affordable Rented Dwellings on the open market in lieu of the provision of the Four Affordable Rented Dwellings which shall be calculated on the amount of the Social Housing Grant necessary to secure an affordable rented home of an equivalent type and size on another site which grant for the avoidance of doubt shall be calculated at normal grant levels from regional Total Cost Indicator tables provided on an annual basis by the Housing Corporation or such equivalent grant calculation current at the time and supported by the Housing Corporation.

3.1.10.2 On payment of the sum referred to in clause 3.1.10.1 the Developer shall be released from all obligations in this clause 3 relating to affordable housing provision on the Land

3.1.11 Notwithstanding any of the provisions herein contained none of the covenants or obligations contained in this Agreement shall apply to a disposal of any of the Four Affordable Rented Dwellings being required by:

- (a) any statutory provisions now or hereafter in force
- (b) The Housing Corporation

3.1.12 In the event the Four Affordable Rented Dwellings are disposed of to either the Housing Association or an Alternative Housing Association the following provisions shall continue to apply:

3.1.12.1 if a mortgage, chargee or a receiver of the Four Affordable Rented Dwellings exercises any power of sale or takes any enforcement action under the terms of its charge or mortgage so that such mortgagee or chargee or receiver appointed by its wishes to realise its security by a sale or other disposition (of whatever description) of the Housing Association's interest in the Four Affordable Rented Dwellings (or any part or parts of them) then such mortgagee chargee or receiver ("the Seller") shall use all its reasonable endeavours to effect the sale or other disposition of the Four Affordable Rented Dwellings (or any part or parts of it) upon the following terms:

3.1.12.1.1 to market the Four Affordable Rented Dwellings (or relevant part or parts of it) exclusively to be Registered Social

Landlords as shall be approved by the Council's Housing Manager for a minimum period of 13 weeks and;

3.1.12.1.2 provided that the Seller shall not be obliged to effect a sale of the Four Affordable Rented Dwellings at less than the Price (as hereinafter defined) and upon other terms that are not reasonably acceptable to the Seller, to use reasonable endeavours to enter into within the period of thirteen weeks referred to in clause 3.1.12.1.1. above a binding agreement for the sale of the Four Affordable Rented Dwellings at or exceeding the Price and upon the terms which are reasonably acceptable to the Seller to a Registered Social Landlord ("the Buyer") which has made an unconditional offer provided that such agreement includes an obligation to complete the transaction within a further thirteen weeks after the expiry of the period of 13 weeks referred to in clause 3.1.12.1.1. above and;

3.1.12.1.3 upon the commencement of marketing the Four Affordable Rented Dwellings to notify the Officer of the commencement of the same and send with such notice a copy of this agreement referring to this provision;

3.1.12.1.4 in this Schedule "Price" shall mean the value of the Four Affordable Rented Dwellings as specified by the Seller in its notice served on the Council pursuant to clause 3.1.12.1.2 above otherwise (or if such value is challenged by the Council) determined by an independent chartered surveyor of not fewer than ten years' experience agreed between the Seller and the Council (or appointed on the application of the Seller or the Council by the President for the time being of the Royal Institution of Chartered Surveyors if the parties cannot agree) not more than four weeks after the Seller has specified the value in accordance with the Royal Institute of Chartered Surveyors Appraisal and Valuation Manual (current at the date of marketing the property) Existing Use Value Social Housing;

3.1.12.1.5 the approval of the Council as required by clause 3.1.12.1.1 above shall not be unreasonably withheld or delayed provided that upon any buyer declaring an interest to purchase the Four Affordable Rented Dwellings and the Seller notifying the Officer in writing of the identity of such Buyer the Council must respond within 10 working days of receipt of such notice

confirming whether it approves such buyer for the purpose of this clause and the following provisions shall apply:

3.1.12.1.6 if the Council does not approve the Buyer then within 10 working days specified for a response to the notice in clause 3.1.12.1.5 above it shall specify in writing the adequate reasons for such refusal;

3.1.12.1.7 if no reasons or inadequate reasons are given in the notice referred to above within the said period of time then the Council will be deemed to have approved the Buyer

3.1.12.1.8 the process for approval referred to in this clause shall be repeated as many times as necessary and time shall be of the essence;

3.1.12.2 In the event of a purchase of Four Affordable Rented Dwellings being effected in accordance with clause 3.1.12.1 above the Buyer shall be subject to the obligations in respect of Affordable Rented Dwellings set out in this Deed as if reference to the Buyer were references to the Owner

3.1.12.3 If despite the Seller using reasonable endeavours the Seller cannot dispose of the Four Affordable Rented Dwellings (or relevant part or parts of them) to a Buyer after having complied with the terms of clause 3.1.12.1 above the Seller shall be

at liberty to dispose of the Four Affordable Rented Dwellings on the open market upon such terms as it thinks fit and the Seller the Four Affordable Rented Dwellings and any owner thereof of any interest therein including any lessee successor in title assignee or otherwise shall forthwith cease to be subject to the terms of this planning obligation.

3.1.12.4 In the event that clause 3.1.12.3 becomes effective then the Council will upon written request supply promptly to any interested party confirmation of the effect and events of the above and will on written request promptly remove any entry in the Local Land Charges Register and any other entry in any other register open to public inspection.

3.1.12.5 In exercising its rights under this clause 3.1.12 a Seller shall be entitled to seek to dispose of individual dwellings within the definition of "Four Affordable Rented Dwellings" and the provisions of this clause shall apply to the individual dwelling or dwellings identified by the Seller

3.1.13 Service of any notice under this clause 3 upon the Council shall be served upon the Officer or such other person as the Council shall nominate in writing from time to time

#### 4. **DISPOSAL OF THE TWO DISCOUNT SALE DWELLINGS**

The Developer covenants with the Council as follows:



- 4.1 To construct and complete at its own cost the Two Discount Sale Dwellings on the Land by the occupation of last dwelling constructed on the Land pursuant to the planning permission.
- 4.2 For a period commencing six months before the estimated date for completion of the Two Discount Sale Dwellings and ending on the date two months after the completion of the Two Discount Sale Dwellings ("the Marketing Period") the Developer shall at its own cost use reasonable endeavours promoting and administering sales of each of the Two Discount Sale Dwellings on behalf of the Housing Association.
- 4.3 As a result of the marketing referred to at clause 4.2 above the Developer will collate the details of persons who may subsequently be approved by the Housing Association and the Officer as Eligible Occupiers and will forward such details to the Housing Association within 5 working days of receiving such details.
- 4.4 If the person identified in accordance with clause 4.3 above are approved by the Housing Association the Developer shall offer to sell individually the Two Discount Sale Dwellings to the Housing Association.
- 4.5 The offer referred to at clause 4.4 above shall include but shall not be limited to the following terms:
  - 4.5.1 Each of the Two Discount Sale Dwellings shall be offered for sale to the Housing Association for £75,000.00 or at 64% of Open Market Value, whichever is the lower; and
  - 4.5.2 Contracts be exchanged within two months of the date of acceptance of the offer by the Housing Association
- 4.6 The Developer shall leave the offer referred to at clause 4.4 above open for acceptance by the Housing Association for a period of 28 days from the date of the offer.

- 4.7 In the event of the offer referred to in clause 4.4 above is rejected by the Housing Association or is not accepted by the Housing Association within the 28 day period provided in clause 4.6 above then the offer shall lapse and shall no longer be capable of acceptance and the terms of clause 4.9 below shall apply.
- 4.8 If the Housing Association accepts the offer within the 28 day period provided by clause 4.6 above then the Developer will use reasonable endeavours to exchange contracts for the sale of the individual unit that was the subject of the offer with the Housing Association within a period of two months from the date of acceptance of the offer by the Housing Association PROVIDED ALWAYS that exchange of contracts with the Housing Association shall take place simultaneously with the exchange of contracts between the Housing Association and the Eligible Occupier (who shall acquire the leasehold interest from the Housing Association)
- 4.9 If after the two month period referred to at clause 4.8 above contract have not been exchanged or the offer has lapsed in accordance with clause 4.7 above then the following shall apply:
- 4.9.1 if the Marketing Period has not expired then the provisions of clause 4.3 to 4.8 inclusive shall be repeated to the effect that the process shall be recommended involving a new Eligible Occupier; or
- 4.9.2 if the Marketing Period has expired then the obligations set out in clause 4.2 to 4.8 inclusive shall cease to have effect and the provisions of clause 4.10 below shall apply in respect of affordable housing provision.
- 4.10 If after the Marketing Period has expired any outstanding offers shall continue to be progressed in accordance with clause 4.5 to 4.8 inclusive and in the event any offers have been rejected or contracts have not been exchanged within the two months period specified in clause 4.8

for any of the Two Discount Sale Dwellings then the following shall apply:

- 4.10.1 the Developer will notify the Council in writing that the offers have been rejected or contracts have not been exchanged (“the Notification”); and
- 4.10.2 Developer shall be entitled to dispose of any of the Two Discount Sale Dwellings to which this clause applies on the open market from the date of the Notification; and
- 4.10.3 the Developer shall pay to the Council within 28 days of the date of sale on the open market of any of the Two Discount Sale Dwellings that have not been disposed of to the Housing Association a sum in lieu of the provision of any of the individual units of the Two Discount Sale Dwellings that have not been disposed of and the sum shall be calculated on the amount of Social Housing Grant necessary to secure an affordable rented home of an equivalent type and size on another site which grant for the avoidance of doubt shall be calculated at normal grant levels from Regional Total Cost Indicator tables provided on an annual basis by the Housing Corporation or such equivalent grant calculation current at the time and supported by the Housing Corporation.
- 4.10.4 on payment of the sum referred to in clause 4.10.3 above the Developer shall be released from the affordable housing obligations in this clause 4 in their entirety in so far as they relate to the relevant unit in respect of which a commuted sum has been paid pursuant to clause 4.10.3 above PROVIDED ALWAYS that the provisions of clause 4.11 shall continue to apply to any of the Two Discount Sale Dwellings that have been disposed of to the Housing Association

4.11 The following provisions shall only apply and regulate the future disposals of any of the Two Discount Sale Dwellings disposed of to the Housing Association by the Developer:

4.11.1 the freehold interest in any of the Two Discount Sale Dwellings shall not be subsequently transferred or disposed of other than to a Residential Social Landlord particulars of which will have been previously submitted and approved in writing to the Officer (such approval not to be unreasonably withheld or delayed) nor assigned transferred or disposed of other than to a person or person approved by the Council and who cannot reasonably afford to purchase dwellings of a similar kind generally available on the open market in the district of Ryedale

4.11.2 the leasehold interest of any of the Two Discount Sale Dwellings disposed of in accordance with clauses 4.3 to 4.8 above shall not subsequently be assigned transferred or disposed of other than at the price not exceeding 64% of the Open Market Value;

4.11.3 when either of the Two Discount Sale Dwellings becomes available for resale the person seeking to re-sell ("the Vendor") will write to the Housing Association informing it and inviting the Housing Association to market the property to the Vendor

4.11.4 on receiving notification referred to at 4.11.3 above the Housing Association shall write to the Officer and agree with him the criteria which potential occupiers of the Two Discount Sale Dwellings must satisfy (the Agreed Criteria). The Housing Association will then write to people who satisfy the Agreed Criteria giving sales details

4.11.5 during the first 12 weeks that any interest in any of the Two Discount Sale Dwellings is offered for sale from time to time it

shall not be offered other to a person or persons residing within the district of Ryedale

4.11.6 if required by the Council the Vendor shall satisfy the council that the relevant unit has been actively marketed for a period of at least 17 weeks to persons residing within the district of Ryedale who cannot afford to purchase dwellings of a similar kind generally available on the open market in the district

4.11.7 in the event that any interest is offered for the sale in accordance with the provisions of paragraph 4.11.5 and 4.11.6 above and on either:

4.11.7.1 the expiration of the period of 12 weeks there is no buyer who has made an offer to purchase the interest in the relevant unit at a price not exceeding 64% of the Open Market Value of such interest upon the terms that are reasonably acceptable to the Vendor; or

4.11.7.2 if there is such a person who is prepared to proceed on that basis who has not entered into a contract to purchase and which has not been completed at that price upon terms that are reasonably acceptable to the Vendor within 12 weeks of the relevant unit having been placed on the open market for sale pursuant to the provisions of 4.11.3 to 4.11.6 above then the Vendor may dispose of his interest in the relevant unit in accordance with 4.11.5 above to a person irrespective of his geographical area of residence who cannot afford to purchase dwellings of a similar kind generally available on the open market in the district of Ryedale

4.11.8 if despite the Vendor using reasonable endeavours cannot dispose of the relevant unit within 24 weeks of it being offered for sale and complying with the provisions of clause 4.11.1 to 4.11.7 inclusive above then the Vendor shall be at liberty to dispose of the relevant unit on the open market upon such terms as it thinks fit

4.11.9 in the event of a disposal of the relevant unit pursuant to clause 4.11.8 the Vendor shall pay a sum to the Council for the attention of the Officer representing 36% of the open market value of the relevant unit

4.11.10 in the event of a disposal of the relevant unit on the open market in accordance with clause 4.11.8 and 4.11.9 the Discount Sale Dwelling shall forthwith cease to be subject to the terms of this planning obligation

4.11.11 in the event that clause 4.11.10 becomes effective the Council (or its successor) will upon written request supply to any interested party confirmation of the effect and events of the above and will remove the entry in the Local Land Charges Register and any other entry in any other register open to public inspection

4.11.12 for the purposes of 4.11.9 above the open market value shall take no account of any improvements made to the Discount Sale Dwelling (excluding decorative improvements) and the Vendor shall be entitled to retain 100% of the increase in open market value attributable for such improvements.

## **5. DETERMINATION OF OPEN MARKET VALUE**

5.1 For the purposes of clause 4.5.1:

5.1.1 the Open Market Value shall be agreed by the Developer and the Housing Association prior to the date of the offer made

pursuant to clause 4.4 above and in default of agreement determined by an independent chartered surveyor appointed by agreement between the Developer and the Housing Association

5.1.2 in the absence of agreement the surveyor shall be appointed by the President of the Royal Institute of Chartered Surveyors

5.1.3 the surveyor shall act as an expert and his decision shall be final and binding and in the absence of a determination by the surveyor his fees shall be borne by the Developer

5.2 For the purposes of clauses 4.1.1:

5.2.1 the Open Market Value shall be agreed by the owner of the relevant unit of the Two Discount Sale Dwellings and the Housing Association prior to the disposal of the relevant unit and in default of agreement determined by an independent chartered surveyor appointed by agreement between the owner and the Housing Association

5.2.2 in the absence of agreement the surveyor shall be appointed by the President of the Royal Institution of Chartered Surveyors

5.2.3 the surveyor shall act as an expert and his decision shall be final and binding and in the absence of a determination by the surveyor his fees shall be borne by the parties in equal shares”

3.4 Paragraph 4 of Schedule 2 shall be deleted in the Agreement at the date of execution.

#### 4. **CONFIRMATION OF THE AGREEMENT**

Save as modified by this deed the Agreement shall continue in full force and affect in all respects.

**IN WITNESS** whereof the parties have thereto executed this deed.

THE COMMON SEAL of Ryedale District Council was hereunto affixed in the presence of

Minute 934/82  
Reg No. 5000  
10/10/03 JB



)  
)  
)  
Authorised Signatory

CHAIRMAN.

*[Handwritten signature]*

CHIEF EXECUTIVE

*[Handwritten signature: H.W. Mosley]*

Signed as a Deed by J Reed and P Newman as the Attorneys and in the name of Barratt Homes Limited in exercise of the Power conferred on them by a Power of Attorney dated 1st July 2003 in the presence of:

)  
)  
)  
Director

*[Handwritten signature]*

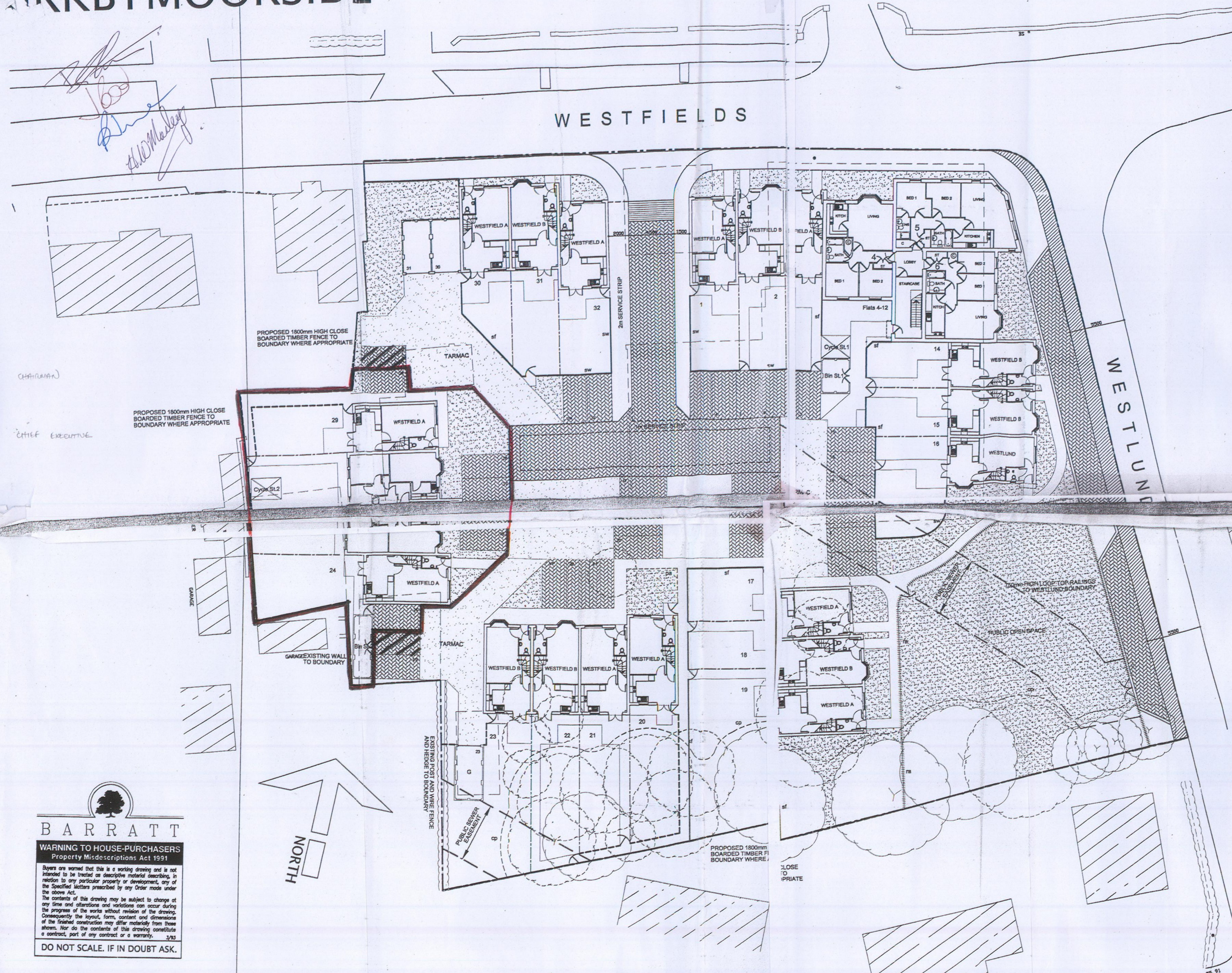
W. Mozley  
Barratt Park  
Secretary

*[Handwritten signature]*

Director/Secretary



## WESTFIELDS



### KEY

- sw 1800 High Screen Wall
- sf 1800 High Screen Fence
- 1800 High close boarded timber fence
- 1200 High close boarded timber fence
- 750mm high Loop Top Railings
- 750mm high Timber Pailing Fence
- 750mm high Post & Rail Fence
- 750mm high Dwarf Brick Wall
- Chestnut Pailing Protective Fencing
- 2m Service Strip
- Gates
- Existing Trees
- Trees to be removed

NOTE:  
FOR LANDSCAPING PROPOSALS PLEASE REFER TO  
'POPPELWELL ASSOCIATES' DRAWING No. 1374/2

REV	DATE	AMENDMENTS	BY	CHKD
K	28/03/03	Block 1 - 18 movement alterations to parking bays along Westlund		SL
J	25/03/03	Western boundary amended		SL
I	07/03/03	Landscaping removed from site layout drwg		SL
H	27/02/03	Trees to be removed amended to match landscaping drawing		SL
G	25/02/03	Plots & parking re-numbered to omit 13. Plots 30 & 31 handed to match Downes Illingworth planning drawing		SL
F	10/02/03	Alterations to rear access to plot 21		SL
E	06/01/03	Alterations to flats 4-12		SL
D	02/12/02	Alterations to site layout following meeting with client		SL
C	25/11/02	Service strip added following comments from highways		SL
B	15/11/02	Alterations to plots 23-28		SL
A	31.10.02	Alterations to layout following comments from Planner		SL

**BARRATT**  
 WARNING TO HOUSE-PURCHASERS  
 Property Misdescriptions Act 1991  
 Buyers are warned that this is a working drawing and is not intended to be treated as descriptive material describing, in relation to any particular property or development, any of the Specified Matters prescribed by any Order made under the above Act.  
 The contents of this drawing may be subject to change at any time and alterations and variations can occur during the progress of the works without revision of the drawing. Consequently the layout, form, content and dimensions of the finished construction may differ materially from those shown. None of the contents of this drawing constitute a contract, part of any contract or a warranty.  
 DO NOT SCALE. IF IN DOUBT ASK.

# PROPOSED SITE LAYOUT

**John R. Paley Associates**  
 Architectural Design Consultants and Chartered Town Planners  
 International House, Trinity Business Park, Wakefield, WF2 8EF  
 Telephone: 01924 383322 Fax: 01924 384382 Email: info@jrpassoc.co.uk

CLIENT  
**BARRATT YORK**

PROJECT  
**KIRKBYMOORSIDE  
 PROPOSED SITE LAYOUT**

drawn SL date SEPT 2002 checked by date  
 scale 1:200 drawing no 02:3327:02 rev M

DO NOT SCALE. ALL DRAWINGS TO BE CHECKED ON SITE

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