

THIS DEED is made the 10th day of May 2005
BETWEEN

- 1 **THE RYEDALE DISTRICT COUNCIL** whose principal office is at Ryedale House Malton in the County of North Yorkshire YO17 7HH ("the Council")
- 2 **OWEN JOHN PEARSON & STUART BARRIE PEARSON** of Hill Top Farm, Main Street, Harome, York YO62 5JF ("the Owner")
- 3 ~~BARCLAYS BANK PLC~~ Registered office 54 Lombard Street, London EC3P 3AH ("the Mortgagee")

DEFINITIONS

In this Agreement the following expressions shall have the following meanings:-

- "the Affordable Housing Units" Means the Affordable Rented Dwellings and the Discount Sale Unit
- "the Affordable Rented Dwellings" Means the three 2 bed dwellings to be constructed pursuant to Part 2 of the Third Schedule of this Agreement.
- "Affordable Rent" means a rent which is comparable to the average rent charged in the Ryedale District Council administrative area by Registered Social Landlords for properties of an equivalent type, age and floor area and which sum shall be agreed for lettings between the Housing Services Manager and the Registered Social Landlord and thereafter any increases or decreases in accordance with the Registered Social Landlords rent setting policy and the Housing Corporation guidance at the time.
- "Council Solicitor" means the Council Solicitor for the time being for Ryedale District Council or such other Officer as may from time to time be primarily responsible for the provision of legal advice to the Council.
- "Development Control" Means the Development Control Manager for

“Manager”	Ryedale District Council or such other Officer as may from time to time be nominated by him.
“Discount Sale Unit”	Means the dwelling to be constructed pursuant to Part 3 of the Third Schedule to this agreement
“Eligible Occupiers”	means a person or household identified in accordance with the provisions of the Fifth Schedule to this Agreement
“Eligible Occupiers Estate Interest”	means the estate interest of an Eligible Occupier in any Discount for Sale Dwelling arising out of the grant by the Housing Association of a derivative interest (whether by way of lease or underlease or otherwise as may be approved in writing by the Council (such approval not to be unreasonably withheld or delayed) in such Discount for Sale Dwelling
“Housing Association’s Estate Interest”	means the estate interest of the Housing Association in any Discount for Sale Dwelling arising out of the disposition by the Developer of such Discount for Sale Dwelling’
“Open Market Dwellings”	Means dwellings erected on the Property excluding the Affordable Housing Units
“Open Market Value”	means the value determined in accordance with the provisions of Part 4 of the Third Schedule.
“The Housing Association”	Means the Yorkshire Housing Association or an alternative Registered Social Landlord registered in accordance with Part 1 Chapter 1 of the Housing Act 1996 (or as redefined by any amendment, replacement or re-enactment of such Act) and registered by the Housing

“Housing Services
Manager”

Corporation under the Provisions of Chapter 1
Part 1 of the Housing Act 1996 and approved
in writing by the Housing Services Manager.
Means the Housing Services Manager of
Ryedale District Council or such other Officer
as may from time to time be nominated by
him.

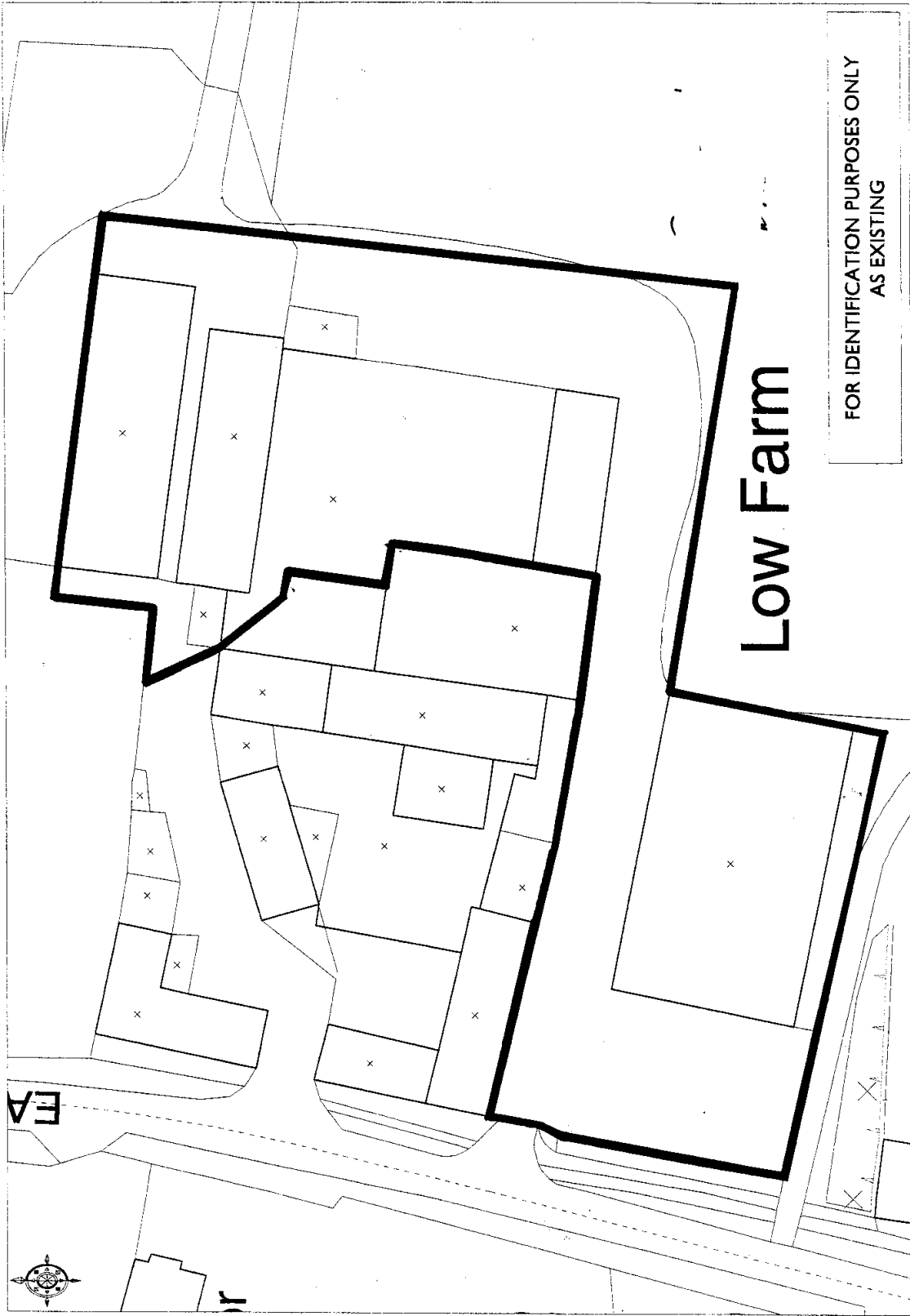
RECITALS

- (1) The Council is the Local Planning Authority for the purposes of this Agreement for the area within which the property described in the First Schedule (“the Property”) is situated
- (2) The Owner is the owner in fee simple in possession of the Property shown for the purposes of identification edged in Red. on Plan 1 (subject as hereinafter mentioned but otherwise) free from encumbrances
- (3) The Mortgagee is mortgagee of the Property under ~~Legal Mortgages~~ dated the 27 day of February 1981 ~~made between the Owner of the one part and the Mortgagee of the other part~~
- (4) The Owner has applied to the Council for permission to develop the Property in the manner and for the uses set out in Second Schedule hereto (“the Proposed Development”).
- (5) The Council is satisfied that the performance by the Owner of the covenants herein will remove certain arguments against or objections to the Proposed Development which would without the execution of this Agreement have led to the refusal of consent for the Planning Application and has therefore resolved to grant planning permission for the proposed Development in accordance with the Planning Permission in the form of the draft annexed in Part 2 of the Second Schedule (“the Planning Permission”)
- (6) The Owner has agreed to enter into this Agreement with the Council and be bound by and observe and perform the covenants agreements conditions and stipulations hereinafter contained and on his part to be observed and performed conditional upon the Council granting the Planning Permission
- (7) ~~The Mortgagee has agreed to join herein in manner hereinafter appearing~~

NOW THIS DEED WITNESSES as follows:-

- 1 **THIS** Agreement is made pursuant to Section 106 of the Town & Country Planning Act 1990 as amended (“the 1990 Act”) Section 111 of the Local Government Act 1972 and all other powers the parties hereunto enabling and the covenants in this Agreement are planning obligations for the purpose of the 1990 Act which are enforceable by the Council
- 2 **THE** Owner ~~and the Mortgagee~~ covenant with the Council that:
 - 2.1 the Property shall be permanently subject to the restrictions and provisions regulating the Proposed Development and use thereof specified in the Third Schedule hereto and
 - 2.2 that in relation to the Property the works and other matters specified in the Third Schedule shall be carried out in accordance with that Schedule
- 3 **IT** is agreed and declared as follows:-
 - 3.1 The expressions “the Council” and “the Owner” and “the Mortgagee” shall include their respective successors in title and assigns
 - 3.2 The Owner hereby agrees to carry out the Proposed Development in strict conformity with the Planning Permission and to use the Property and all erections to be made thereon in strict accordance with this Agreement and not otherwise
 - 3.3 For the purpose of such parts of this Agreement as may be subject to the Rule Against Perpetuities that part of the Agreement shall remain in force for the period of eighty years from the date hereof
 - 3.4 The Owner shall on execution of this Agreement pay to the Council a fee to cover the Council’s legal costs
 - 3.5 The Owner shall indemnify and keep indemnified the Council against all damages costs charges losses demands expenses or action sustained by the Council arising from any breach of this Agreement by the Owner
 - 3.6 ~~The Mortgagee consents to the Owner entering into this Agreement to the intent that the Property shall hereafter always be subject to the terms of the Agreement PROVIDED THAT the Mortgagee shall only be liable for any breach occurring by reason of any act default or omission in respect of any provisions of this Agreement~~

LOW FARM, SWINTON.

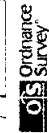


Low Farm

FOR IDENTIFICATION PURPOSES ONLY
AS EXISTING



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Ordnance Survey

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RYEDALE DISTRICT COUNCIL

TOWN & COUNTRY PLANNING ACT 1990

**OUTLINE APPLICATION FOR PERMISSION TO CARRY OUT
DEVELOPMENT**

**RYEDALE DISTRICT COUNCIL, THE LOCAL PLANNING AUTHORITY, HAS
CONSIDERED THIS APPLICATION AND HAS DECIDED THAT IT SHOULD BE
APPROVED SUBJECT TO THE CONDITIONS STATED BELOW:**

Application No: 03/00624/OUT
Proposal: Erection of 14 dwellings and formation of new access
at: Low Farm East Street Swinton Malton North Yorkshire YO17 0SH
for: C K Pearson & Sons
Decision Date: 9 February 2005

CONDITIONS AND ASSOCIATED REASONS

The proposed development is in accord with the following development plan policies and there are no other material considerations that outweigh those listed development plan policies:

North Yorkshire County Structure Plan - Policy H4 - Development in settlements
Ryedale Local Plan - Policy H7 - Residential development within settlements
Ryedale Local Plan - Policy H14 - Public open space in residential developments
Ryedale Local Plan - Policy H16 - Gardens of new dwellings which extend beyond the Development Limits
Ryedale Local Plan - Policy H19 - Affordable housing on large non-allocated sites
Ryedale Local Plan - Policy T3 - Access to the local highway network
Ryedale Local Plan - Policy T7 - Parking
Ryedale Local Plan - Policy U1 - Off-site sewerage infrastructure
Ryedale Local Plan - Policy U3 - Surface water run-off
Ryedale Local Plan - Policy U4 - Sewage disposal

01 Application for approval of reserved matters shall be made to the Local Planning Authority not later than 8 February 2008.

The development hereby permitted shall be begun on or before whichever is the later of the following dates:-

(i) 8 February 2010

C K Pearson & Sons
C/o Anthony Oldale Associates
Memorial Cottage
Coneysthorpe
York
YO60 7DD

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(ii) The expiration of two years from the final approval of the reserved matters or (in the case of approval on different dates) the final approval of the last such matters approved.

Reason:- To ensure compliance with Sections 91 to 95 and Section 56 of the Town & Country Planning Act 1990.

02 No development shall take place without the prior written approval of the Local Planning Authority of all details of the following matters:-

(i) the design and external appearance of every building, including a schedule of external materials to be used

Reason:- To safeguard the rights of control by the Local Planning Authority in respect of the reserved matters.

03 Before the development hereby permitted is commenced, or such longer period as may be agreed in writing with the Local Planning Authority, details and samples of the materials to be used on the exterior of the building the subject of this permission shall be submitted to and approved in writing by the Local Planning Authority.(NB Pursuant to this condition the applicant is asked to complete and return the attached proforma before the development commences so that materials can be agreed and the requirements of the condition discharged)

Reason:- To ensure a satisfactory external appearance and to satisfy the requirements of Policy H7A (ii) of the Ryedale Local Plan

04 Prior to the commencement of the development hereby permitted, the developer shall construct on site for the written approval of the Local Planning Authority, a one metre square free standing panel of the external walling to be used in the construction of building. The panel so constructed shall be retained only until the development has been completed

Reason: To ensure a satisfactory external appearance and to satisfy the requirements of Policy H7A (ii) of the Ryedale Local Plan

05 Before the commencement of the development hereby permitted, or such longer period as may be agreed in writing with the Local Planning Authority, full details of the materials and design of all means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. Thereafter these shall be erected prior to the occupation of any dwelling to which they relate.

Reason:- To ensure that the development does not prejudice the enjoyment by the neighbouring occupiers of their properties or the appearance of the locality, as required by Policy H15 of the Ryedale Local Plan.

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- 06 Prior to the commencement of the development, details of all windows, doors and garage doors, including means of opening, depth of reveal and external finish shall be submitted to and approved in writing by the Local Planning Authority

Reason:- To ensure an appropriate appearance and to comply with the requirements of Policy H7A (ii) of the Ryedale Local Plan

- 07 Prior to the commencement of the development hereby permitted, the following drawings and details shall be submitted to, and shall have been approved in writing by the Local Planning Authority in consultation with the Local Highway Authority:-

(i) detailed plans to a scale of not less than 1:500 showing the proposed highway layout, including dimensions of carriageway, footway, verge widths and visibility splays, the proposed buildings and site layout, the proposed floor levels, driveways and the drainage and sewerage system;

(ii) longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line and channel lines of each proposed road showing the existing ground level and proposed road level, and full details of surface water drainage proposals;

(iii) a typical highway cross-section to scale of not less than 1:50 showing a specification for the types of construction proposed for carriageways and footways/footpaths and when requested cross sections along the proposed roads showing the existing and proposed ground levels;

(iv) details of the method and means of surface water disposal;

(v) details of all proposed street lighting;

(vi) drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.

No road works shall commence on site prior to the written approval of these details by the Local Planning Authority.

The development shall thereafter not be carried out otherwise than in full compliance with the approved drawings and details.

NB: In imposing the above condition it is recommended that before a detailed planning submission is made a draft layout be produced and be the subject of a discussion between the applicant, the Local Planning Authority and the Local Highway Authority in order to avoid abortive work. The agreed drawings must finally be approved by the Local Planning Authority for the purpose of this condition.

Reason:- To secure an appropriate highway construction to an adopted standard, in the interests of highway safety and the amenity and convenience of highway users, and to comply with the requirements of Policy H7A (iii) of the Ryedale Local Plan.

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- 08 No dwelling to which this planning permission relates shall be occupied unless or until the carriageway and any footway/footpath from which it gains access is constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

The carriageway and footway/footpath wearing courses and street lighting shall be completed within three months of the date of commencement of construction of the penultimate dwelling of the development or within two years of the laying of the basecourse whichever is sooner, unless otherwise agreed in writing with the Local Planning Authority.

Reason:- To ensure safe and appropriate access and egress to the property(s) in the interests of highway safety and the convenience of prospective resident(s) and to comply with the requirements of Policy H7A (iii) of the Ryedale Local Plan.

- 09 Prior to the first use of the development the vehicular access, parking and turning facilities shall be formed in accordance with the submitted drawing (Reference 02/46/15D). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:- To provide for appropriate on-site vehicle parking facilities with associated access and manoeuvring area, in the interests of highway safety and the general amenity of the development and to accord with the requirements of Policy T7 of the Ryedale Local Plan and Policy T9 of the North Yorkshire County Structure Plan (Alteration No.3) 1995.

- 10 Details of the precautions to be taken to prevent the deposit of mud on public highways by vehicles travelling from the site shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority. These precautions shall be made available before the development commences on the site and be kept available and in full working order until such time as the Local Planning Authority agrees in writing in their withdrawal.

Reason:- To provide for adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwellings and visitors to them, in the interest of safety and the general amenity of the development and to accord with the requirements of Policy T7 of the Ryedale Local Plan and Policy T9 of the North Yorkshire County Structure Plan (Alteration No.3) 1995.

- 11 The existing Public Right of Way shall be protected and kept clear of any obstruction until such time as any alternative route has been provided and confirmed under an Order made under the Town and Country Planning Act 1990.

NOTE: For information a plan of the definitive public Right of Way is enclosed. The applicant should discuss with the Highway Authority any proposals for altering the route.

Reason:- To protect the route of the Right of Way in the interests of and to protect the general amenity for the prospective users.

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- 12 The site shall be developed with separate systems of drainage for foul and surface water.
- Reason:- In the interests of satisfactory drainage and to comply with the requirements of Policies ENV21 and ENV 22 of the Ryedale Local Plan.
- 13 No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any off-site works, have been submitted to and approved in writing by the Local Planning Authority.
- Reason:- To ensure that the development can be properly drained and to comply with the requirements of Policies U1 and U4 of the Ryedale Local Plan.
- 14 Unless otherwise agreed in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to completion of approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved works for disposal and treatment of sewage.
- Reason:- To ensure that the development is properly drained and no foul or surface water discharges take place until proper provision has been made for their disposal and to comply with the requirements of Policy U1 of the Ryedale Local Plan.
- 15 Unless otherwise agreed in writing by the Local Planning Authority, no building or other obstruction shall be located over or within 3 metres of the line of the main/sewer, which crosses the site.
- Reason:- In order to allow sufficient access for maintenance and repair work at all times and to ensure that Policies U2 and U4 of the Ryedale Local Plan are not prejudiced by the development.
- 16 No development shall take place within the application site until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation submitted by the applicant and approved in writing by the Local Planning Authority.
- Reason:- The site is of archaeological interest and investigation/protection and observation of the site is required by the provisions of Policy C13 of the Ryedale Local Plan and to satisfy Policy E5 of the North Yorkshire County Structure Plan (Alteration No.3) 1995.

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NO CONSENT OR APPROVAL HEREBY GIVEN REMOVES ANY REQUIREMENT TO SERVE NOTICES OR SEEK APPROVAL FROM THE DISTRICT COUNCIL WHERE SUCH ACTION IS REQUIRED BY THE BUILDING ACT 1984 OR OF ANY OTHER STATUTORY PROVISION. NO PART OF THE PROPOSED DEVELOPMENT SHOULD BE STARTED WITHOUT COMPLYING WITH SUCH REQUIREMENTS.

DEVELOPMENT CONTROL MANAGER

C K Pearson & Sons
C/o Anthony Oldale Associates
Memorial Cottage
Coneythorpe
York
YO60 7DD

during such period (if any) as the Mortgagee is a mortgagee in possession of the Property PROVIDED ALWAYS that the successors in title to the Mortgagee shall become fully liable for any breach of this Agreement

- 3.7 In this Agreement words importing the masculine gender shall include the feminine gender and vice versa and words importing the singular number shall include the plural number and where there are two or more persons included in the expression "the Owner" covenants expressed to be made by or with the Owner shall be deemed joint and several
- 3.8 A person who is not a party to this Deed shall have no right under the Contracts (Rights of Third Parties) Act 1999 ("the Act") to enforce any of its terms but for the avoidance of doubt it is agreed that the exclusion of the application of the Act shall not prevent all or any future successors in title to any of the parties to this Deed from being able to benefit from or to enforce any of the obligations in this Deed
- 3.9 For the purpose of avoidance of doubt and subject to clause 3.11 hereof the requirements of this Agreement shall bind the Property and remain in full force and effect until formally varied by agreement of the parties or by the Secretary of State notwithstanding that the Planning Application and any plans submitted with the same shall have lapsed or shall have been amended superseded renewed or resubmitted
- 3.10 No person shall be liable for breach of a covenant contained in this agreement either prior to commencement of the Proposed Development or after it has parted with all its interest in the Property or that part of the Property in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.
- 3.11 This Agreement is a local land charge and shall be registered as such and shall come into full force and effect when the Proposed Development is commenced and not otherwise

IN WITNESS whereof the parties hereto have executed this Deed the day and year first before written

THE FIRST SCHEDULE

[the Property]

ALL THAT piece of land TOGETHER WITH buildings erected thereon situate at and known as Low Farm, East Street, Swinton, Malton, North Yorkshire shown edged in red on Plan 1

THE SECOND SCHEDULE

[Particulars of the Proposed Development]

Part 1

Erection of 14 dwellings and formation of new access.

Part2

Planning application number 03/00624/OUT

THE THIRD SCHEDULE

[The Obligations]

Part 1

1 Affordable Housing

The Owner covenants to provide four Affordable Housing Units in accordance with the provisions in Parts 1 and 2 to this schedule.

The Owner covenants:-

- 1.1 to build the Affordable Rented Dwellings in accordance with such specifications and standards as may from time to time be published by the Housing Corporation and,
 - 1.1.1 to ensure that no Open Market Dwelling is completed until the he has entered an agreement with the nominated Housing Association and approved by the Council Solicitor for the construction by him for that Housing Association of the Affordable Rented Dwellings and the transfer of these Units to the Housing Association.
 - 1.1.2 to ensure that one of the Affordable Rented Dwellings to be built on the Property is completed and available for occupation prior to the occupation of forty percent (40%) of the Open Market Dwellings

- 1.1.3 to ensure that two of the Affordable Rented Dwellings to be built on the Property are completed and available for occupation prior to the occupation of sixty six per cent (66%) of the Open Market Dwellings
- 1.1.4 to ensure that the remaining Affordable Rented Dwelling to be built on the Property is completed and available for occupation prior to the occupation of ninety five per cent (95%) of the Open Market Dwellings.
- 1.1.5 to transfer the Affordable Rented Dwellings on or before the occupation of fifty percent of the Open Market Dwellings to the Housing Association for a price of not more than £144,000 (one hundred and forty-four thousand pounds) which enables the Housing Association to charge an Affordable Rent
- 1.1.6 to ensure that it is a term of the sale of the Affordable Rented Dwellings that the Housing Association shall not dispose of or cause or permit the disposal of the Affordable Rented Dwellings other than for the purpose of providing tenancies at an Affordable Rent to Eligible Occupiers as determined by The Fifth Schedule to this Agreement
- 1.1.7 that before the Affordable Rented Dwellings are transferred pursuant to clause 1.1.5 of this schedule they are fully serviced and accessible by vehicles and pedestrians.
- 1.1.8 to supply within 14 working days from the date of the Transfer transferring the Affordable Rented Dwellings to the Housing Association a copy of that Transfer to the Council.
- 1.2 In the event that the Owner fails to transfer the Affordable Rented Dwellings to a Housing Association or alternative Registered Social Landlord pursuant to clause 1.1.5 of this schedule and the Council Solicitor is satisfied that the Owner has exhausted every avenue available to him to secure the transfer the Owner will pay to the Council a commuted sum in lieu of the provision of the Affordable Rented Dwellings calculated in accordance with the Fifth Schedule to this Agreement.

Part 2

2 Disposal of the Discount Sale Unit

The Owner covenants with the Council as follows:

- 2.1 To construct and complete at its own cost the Discount Sale Unit in accordance with standards and specifications as may from time to time be published by the Housing Corporation by the occupation of the last dwelling constructed on the Property pursuant to the Planning Permission.
- 2.2 For a period commencing six months before the estimated date for completion of the Discount Sale Unit and ending on the date two months after the completion of the Discount Sale Unit ("the Marketing Period") the Owner shall at its own cost use reasonable endeavors to market the Discount Sale Unit such marketing to include advertising promoting and administering sales of the Discount Sale Unit on behalf of the Housing Association.
- 2.3 As a result of the marketing referred to at clause 2.2 above the Owner will collate the details of persons who may subsequently be approved by the Housing Association and the Housing Services Manager as Eligible Occupiers and will forward such details to the Housing Association within 5 working days of receiving such details.
- 2.4 If the persons identified in accordance with clause 2.3 above are approved by the Housing Association the Owner shall offer to sell the Discount Sale Unit to the Housing Association.
- 2.5 The offer referred to at clause 2.4 above shall include but shall not be limited to the following terms:
 - 2.5.1 The Discount Sale Unit shall be offered for sale to the Housing Association for £75,000 or at 32.6 % of Open Market Value, whichever is the lower; and
 - 2.5.2 Contracts to be exchanged within two months of the date of acceptance of the offer by the Housing Association.
- 2.6 The Owner shall leave the offer referred to at clause 2.4 above open for acceptance by the Housing Association for a period of 28 days from the date of the offer.
- 2.7 In the event the offer referred to in clause 2.4 above is rejected by the Housing Association or is not accepted by the Housing Association

within the 28 day period provided in clause 2.6 above then the offer shall lapse and shall no longer be capable of acceptance and the terms of clause 2.9 below shall apply

- 2.8 If the Housing Association accepts the offer within the 28 day period provided by clause 2.6 above then the Owner will use reasonable endeavors to exchange contracts for the sale of the 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 a derivative estate interest from the Housing Association)
- 2.9 If after the two month period referred to at clause 2.8 above contracts have not been exchanged or the offer has lapsed in accordance with clause 2.7 above then the following shall apply:
- 2.9.1 If the Marketing Period has not expired then the provisions of clauses 2.3 to 2.8 inclusive shall be repeated to the effect that the process shall be recommenced involving a new Eligible Occupier; or
- 2.9.2 If the Marketing Period has expired then the obligations set out in clauses 2.2 to 2.8 inclusive shall cease to have effect and the provisions of clause 2.10 below shall apply in respect of affordable housing provision.
- 2.10 If after the Marketing Period has expired any outstanding offers shall continue to be progressed in accordance with clauses 2.5 to 2.8 inclusive and in the event any offers have been rejected or contracts have not been exchanged within the two months period specified in clause 2.8 for any of the Discount Sale Unit then the following shall apply:
- 2.10.1 The Owner will notify the Council in writing that the offers have been rejected or contracts have not been exchanged ("the Notification"); and

- 2.10.2 Owner shall be entitled to dispose of any of the Discount Sale Unit to which this clause applies on the open market from the date of the Notification; and
- 2.10.3 The Owner shall pay to the Council within 28 days of the date of sale on the open market of the Discount Sale Unit that has not been disposed of to the Housing Association a sum in lieu of the Discount Sale Unit that has not been disposed of and the sum shall be calculated in accordance with the provisions of the Fifth Schedule.
- 2.10.4 On payment of the sum referred to in clause 2.10.3 above the Owner shall be released from the affordable housing obligations in this clause 2 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 2.10.3 above PROVIDED ALWAYS that the provisions of clause 2.11 shall continue to apply to any of the Discount Sale Unit that have been disposed of to the Housing Association.
- 2.11 The following provisions shall only apply and regulate the future disposals of the Discount Sale Unit disposed of to the Housing Association by the Owner. The Owner shall ensure that the document transferring the Discount Sale Dwelling to the Housing Association incorporates provisions to ensure so far as the law allows that:-
- 2.11.1 Except where an Eligible Occupier has staircased to 100% (and acquired the Housing Association's interest) the Housing Association's Estate Interest in the Discount Sale Unit shall not be subsequently transferred or disposed of other than to a Registered Social Landlord particulars of which will have been previously submitted to and approved in writing by the Housing Services Manager (such approval not to be unreasonably withheld or delayed) nor assigned transferred or disposed of other than to a person or persons approved by the Council and who cannot reasonably afford to purchase a Dwelling of a similar kind generally available on the open market in the district of Ryedale;

- 2.11.2 The Eligible Occupiers' Estate Interest of the Discount Sale Unit disposed of in accordance in accordance with clauses 2.3 to 2.8 (inclusive) above shall not be assigned transferred or disposed of other than at a price not exceeding 34.8% of the Open Market Value; or in the case only of a Mortgagee in Possession up to 100% of the Open Market Value PROVIDED that the Mortgagee in Possession shall pay to the Council immediately following the disposal of the Discount Sale Dwelling any money realized over and above 34.8% of the Open Market Value and remaining after repayment of their loan.
- 2.11.3 When the Discount Sale Unit 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.
- 2.11.4 On receiving notification referred to at 2.11.3 above the Housing Association shall write to the Housing Services Manager and agree with him the criteria which potential occupiers of the Discount Sale Unit must satisfy (the Agreed Criteria). The Housing Association will then write people who satisfy the Agreed Criteria giving sales details
- 2.11.5 During the first 12 weeks that any interest in the Discount Sale Unit is offered for sale from time to time it shall not be offered other than to a person or persons residing within the district of Ryedale.
- 2.11.6 If required by the Council the Vendor shall satisfy the Council that the unit has been actively marketed for a period of at least 16 weeks to persons residing within the district of Ryedale who cannot afford to purchase a Dwelling of a similar kind generally available on the open market in the district.
- 2.11.7 In the event that any interest is offered for sale in accordance with the provisions of paragraph 2.11.5 and 2.11.6 above and on either:

- 2.11.7.1 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 the price agreed pursuant to clause 2.11.2 above such interest upon the terms that are reasonably acceptable to the Vendor; or
- 2.11.7.2 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 2.11.3 to 2.11.6 above then the Vendor may dispose of his interest in the relevant unit in accordance with 2.11.5 above to a person irrespective of his geographical area of residence who cannot afford to purchase Dwelling of a similar kind generally available on the open market in the district of Ryedale.
- 2.11.8 If despite the Vendor using reasonable endeavors cannot dispose of the relevant unit within 24 weeks of it being offered for sale and complying with the provisions of Clauses 2.11.1 to 2.11.7 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
- 2.11.9 In the event of a disposal of 100% of the Open Market Value of the relevant unit pursuant to paragraph 2.11.8 above the Vendor shall pay a commuted sum to the Council for the attention of the Housing Services Manager calculated in accordance with the provisions of Part 1 of the Fifth Schedule
- 2.11.10 In the event of a disposal of the relevant unit on the open market in accordance with clause 2.11.8 and 2.11.9 the

Discount Sale Unit shall forthwith cease to be subject to the terms of this planning obligation

2.11.11 In the event that Clause 2.11.10 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

2.11.12 For the Purpose of 2.11.9 above the Open Market Value shall take no account of any improvements made to the Discount Sale Unit (excluding decorative improvements) and the Vendor shall be entitled to retain 100% of the increase in open market value attributable for such improvements.

Part 3

3 **Determination of Open Market Value**

3.1 For the purposes of clauses 3.5.1

3.1.1 the Open Market Value shall be agreed by the Owner and the Housing Association prior to the date of the offer made pursuant to clause 2.4 above and in default of agreement determined by an independent chartered surveyor appointed by agreement between the Owner and the Housing Association

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

3.1.3 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 Owner

3.2 For the purposes of clauses 2.1 1:

3.2.1 the Open Market Value shall be agreed by the owner of the relevant unit of the Discount Sale Unit 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

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

3.2.3 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.

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

3.2.3 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.

THE FOURTH SCHEDULE

[Occupancy Criteria]

The Owner shall ensure the Affordable Rented Dwellings are occupied by persons

1. who have for a period of at least 2 years been ordinarily resident within the town of Swinton, or
2. who have been permanently employed in the village of Swinton for 2 years or more, or
3. if no such person qualifies under clauses 1 or 2 above for occupation a person ordinarily resident in one or more of the following parishes for a period of at least 2 years; Amotherby, Appleton-le-street with Easthorpe, Kirby Misperton and Broughton.
4. then any area in the District of Ryedale
5. if no such person qualifies under clause 4 above then persons who have a strong local connection with Ryedale District by one of the following means:-
 - 5.1 family association in the area of Ryedale District,
 - 5.2 any period of ordinary residence in the area of Ryedale District not immediately before the date on which any Affordable Housing Unit becomes vacant, or

5.3 through their work provide important services to Ryedale District and who need to live closer to the local community or who have employment within the area of Ryedale District

THE FIFTH SCHEDULE

[Affordable Housing Commuted Sum]

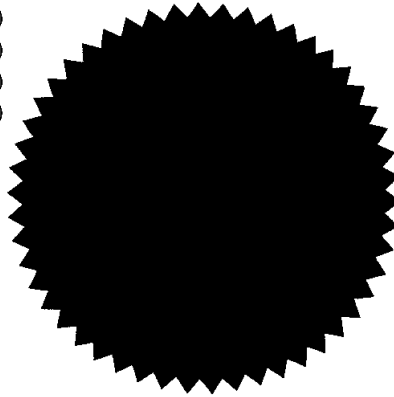
The commuted sum payable in lieu of Affordable Housing Units shall be calculated as follows:-

The Open Market Value of each of the relevant Affordable Housing Units

Minus

The purchase price of each relevant Affordable Housing Unit as stated in this Agreement which would have been paid by the Housing Association had the Affordable Housing Units been provided in accordance with the provisions of Third Schedule.

THE COMMON SEAL of THE)
RYEDALE DISTRICT COUNCIL)
was hereunto affixed and)
is authenticated by:)



Minute P. 85(1) 2004
Reg No. 5076
Initials FB

Chairman,

Council Solicitor

SIGNED AS A DEED by)
OWEN JOHN PEARSON)
in the presence of)

Witness

Address

Occupation

SIGNED AS A DEED by)
STUART BARRIE PEARSON)
in the presence of)

Witness

Address

Occupation

EXECUTED AS A DEED by)
BARCLAYS BANK PLC)
acting by a director and its secretary)

Director

Secretary

DATED 10th May 2005

THE RYEDALE DISTRICT COUNCIL

and

OWEN JOHN PEARSON AND STUART BARRIE PEARSON

and

~~**BARCLAYS PLC**~~

A G R E E M E N T

pursuant to Section 106 of the
Town and Country Planning Act 1990 as amended
and Section 111 of the Local Government Act 1972
in respect of Low Farm, East Street, Swinton, Malton in
the County of North Yorkshire

K A Winship
Council Solicitor
M A L T O N