

**David Butt**

---

**From:** Carole Watson [carole.watson@ryedale.gov.uk]  
**Sent:** 31 August 2007 15:01  
**To:** David Butt (E-mail); Karen Hood (E-mail); Kerry Clements (E-mail); Kim Robertshaw (E-mail); Jill Thompson (E-mail); Julian Rudd (E-mail); Jane Hall (E-mail); Shirley Wilson (E-mail); David Wiseman (E-mail)  
**Subject:** S106 Agreement - Deansbury Homes West Street Swinton



S106 - Swinton -  
Deansbury Hom...

Dear Colleagues

Section 106 Agreement - West Street Swinton Application Number:  
06/00868/MUL  
Ryedale District Council (1) George Roland Hull and Elizabeth Hull (2)  
Deansbury Homes Limited (3)

The above Section 106 Agreement was completed on the 30 August 2007 and I attach a copy of the Agreement for your records.

Please could the Planning Department monitor the development and ensure that the covenants are complied with. The trigger points are contained in the Third Schedule.

Also please could you advise either myself or Fiona when the commuted sum of £12,500 for the enhancement and provision of open space has been received .

Thank you.

Carole

**THIS DEED** is made the 30<sup>th</sup> day of August 2007  
**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 **GEORGE ROLAND HULL and ELIZABETH HULL** of Oak Farm Appleton-Le-Street, Malton, North Yorkshire YO17 0PG ("the Owner")
- 3 **DEANSBURY HOMES LIMITED** Registered Office 40 Long Street, Easingwold, York, YO61 3HT ("the Developer")

**DEFINITIONS**

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

"Affordable Rented Dwellings"

means the two three bed dwellings constructed in accordance with the provisions of the part 1 of Fourth Schedule to this Agreement

"Affordable Rent"

means a rent which is comparable to the rents charged in the Ryedale District Council administrative area by Registered Social Landlords for properties of an equivalent type, age and floor area and location and which sum shall be agreed for lettings between the Housing Services Manager and the Owner or Developer and thereafter any increases or decreases in accordance with the Housing Corporation guidance at the time.

"Chargee"

"Chargee" shall mean any mortgagee or chargee of the Developer or any owner of a Discount for Sale Dwelling or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925

“Nominated Tenant”	means a person or household identified in accordance with the provisions of the Seventh Schedule to this Agreement
“the Discount for Sale Dwellings”	Means the two no 1 bedroom dwellings to be constructed on the Discount for Sale Dwellings Land pursuant to Part 2 of the Fourth Schedule of this Agreement and “Discount for Sale Dwelling” shall be construed accordingly
“Discount for Sale Dwelling Assurance”	Means an assurances relating to the disposal of any Discount for Sale Dwelling (whether by way of transfer or the grant of lease or otherwise) by the Owner or the Developer to an Eligible Purchaser and “Discount for Sale Dwelling Assurances” shall be construed accordingly
“Eligible Purchaser”	Means those persons identified in accordance with and who satisfy the criteria set out in the Fifth Schedule to this agreement and who require to purchase accommodation PROVIDED also that such persons cannot ordinarily afford to purchase the Discount for Sale Dwelling or an equivalent property in the District of Ryedale at Open Market Value
“Eligible Purchaser’s Estate Interest”	Means the estate or interest of an Eligible Purchaser in any Discount for Sale Dwelling arising out of the grant by the Owner or the Company 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
“Open Market Dwellings”	means dwellings erected on the Property excluding the Affordable Rented Dwellings and the Discount for Sale Dwellings.

“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 or carry out the functions at the date hereof carried out by him

“Assured Tenancy”

means a tenancy within the terms of the Housing Act 1988 as amended.

“Compliance Fee”

means the fee paid by the Owner in accordance with Clauses 1.1.6 and 1.1.7 of the Fourth Schedule.

#### **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 (subject as hereinafter mentioned but otherwise) free from encumbrances
- (3) The Developer has applied to the Council for permission (“the Planning Application”) to develop the Property in the manner and for the uses set out in Second Schedule hereto (“the Proposed Development”)
- (4) The Council is satisfied that the performance by the Owner and the Developer 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
- (5) The Owner and the Developer 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

**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 IT is agreed and declared as follows:-

2.1 The expressions "the Council" "the Owner" and "the Developer" shall include their respective successors in title and assigns

2.2 The Owner and the Developer covenant with the Council that the Property shall be permanently subject to the restrictions and provisions regulating the Proposed Development and use thereof specified in the Schedules hereto

2.3 The Owner and the Developer hereby agree to carry out the Proposed Development in strict conformity with the plans and specifications and particulars submitted in connection with the Planning Application and to use the Property and all erections to be made thereon in strict accordance with this Agreement and not otherwise

2.4 For the purpose of such parts of this Agreement as may be subject to the Rule Against Perpetuities such parts of the Agreement shall remain in force for the period of eighty years from the date hereof

2.5 The Developer shall on execution of this Agreement pay to the Council a fee of £200 plus VAT to cover the Council's legal costs

2.6 The Owner and the Developer 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 and or the Developer

2.7 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" or "the Developer" covenants expressed to be made by or with the Owner or the Developer shall be deemed joint and several

2.8 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

2.9 For the purpose of avoidance of doubt and subject to clause 2.11 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

2.10 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

2.11 If the Planning Permission granted pursuant to the Planning Application shall expire before the Proposed Development is commenced or shall at any time be revoked this Agreement shall forthwith be annulled and cease to have any effect and the Council shall immediately remove any entry relating to this Agreement from the Register of Local Land Charges

2.12 No person shall be liable for any breach of the covenants restrictions or obligations contained in this Agreement occurring after he has parted with his interest in the Site or part of the Site in respect of the Site in respect of which that breach occurs

2.13 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Property in accordance with a Planning Permission (other than one relating to the Proposed Development) granted (whether or not on Appeal) after the date of this Agreement

**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 land off West Street, Swinton, Malton, North Yorkshire, shown edged in red on the attached plan

**THE SECOND SCHEDULE**  
[Particulars of the Proposed Development]

Erection of 1 no four-bedroom dwelling with attached double garage, 6 no three-bedroom semi-detached dwellings with single garages (Plot1 no garage), 2 no three-bedroom dwellings and 2 no. one-bed flats together with alteration to vehicular access (revised details to refusal 06/00398/MFUL dated 07 06.2006)

**THE THIRD SCHEDULE**  
[Negative Obligations]

**COMMUTED SUM**

1. The Owner and the Developer covenant with the Council not to commence construction of more than 6 of the dwellings on the Property until the sum of Twelve Thousand Five Hundred pounds (£12,500) has been paid to the Council for enhancing and providing open space in the vicinity of the Property.
- 2 The Owner and the Developer covenant with the Council not to permit the occupation of more than 5 of the Open Market Dwellings constructed on the Property pursuant to the Planning Permission until the Owner and the Developer have constructed and completed and made available at their own cost the Discount for Sale Dwellings and the Affordable Rented Dwellings on the Property

## THE FOURTH SCHEDULE

[Positive Obligations]

### AFFORDABLE HOUSING

#### PART 1

##### Affordable rented dwellings

- 1 The Owner and the Developer covenant to provide the Affordable Rented Dwellings in accordance with the provisions of this schedule
- 1.1 The Owner and the Developer covenant:-
  - 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 that the Owner and the Developer shall not permit the Affordable Rented Dwellings to be occupied other than by a Nominated Tenant pursuant to an Assured Tenancy at an Affordable Rent.
    - 1.1.2 that the Affordable Rented Dwellings are fully serviced and accessible by vehicles and pedestrians prior to occupation by the Nominated Tenant.
    - 1.1.3 that they will comply with the Nomination Process set out in the Seventh Schedule to this Agreement for the first and any subsequent letting of the Affordable Rented Dwellings.
    - 1.1.4 to give the Council not less than twenty working days notice in writing of the availability of the Affordable Rented Dwellings for occupation for the first letting and then any subsequent letting of the Affordable Rented Dwellings and at the same time supply to the Council for the attention of the Housing Services Manager a copy of the proposed tenancy agreement which the Nominated Tenant will be required to enter into for approval by the Housing Services Manager.
    - 1.1.5 to give to the Council a copy of any notice served on the Nominated Tenant by the Owner or the Developer seeking possession under the terms of the Housing Act 1988, within



seven working days of the date of service of the notice on the Nominated Tenant

1.1.6 to supply within 14 working days from the date of the letting of the Affordable Rented Dwellings to the Nominated Tenants a certified copy of the tenancy agreement to the Council, together with the sum of £50.00 plus VAT as the Compliance Fee

1.1.7 to pay to the Council on the date of each anniversary of the date of each first tenancy agreement the sum of £50.00 plus VAT as the Compliance Fee for the following year.

## Part 2

### **Disposal of the Discount for Sale Dwellings**

2 The Owner and the Developer covenants with the Council as follows:

2.1 For a period commencing at least six months before the estimated date for completion of the Discount for Sale Dwellings and ending on the date three months after the completion of the Discount for Sale Dwellings ("the Marketing Period") the Owner and the Developer shall use reasonable endeavours to market the Discount for Sale Dwellings for sale such marketing to include advertising promoting and administering sales of each of the Discount for Sale Dwellings

2.2 As a result of the marketing referred to at paragraph 2.1 above the Owner and the Developer will collate the details of any persons who may apply and who may subsequently be approved by the Housing Services Manager as Eligible Purchasers and will forward such details to the Housing Services Manager within 5 working days of receiving such details.

2.3 If the person or persons identified in accordance with paragraph 2.2 above are approved by the Housing Services Manager and shall produce a certified mortgage offer in principle from a lender known to accept discount for sale units/shared ownership or similar as security the Owner and Developer shall offer to sell a Discount for Sale Dwelling to the Eligible Purchaser.

- 2.4 The offer referred to at paragraph 2.3 above shall include but shall not be limited to the following terms:
- 2.4.1 Each of the Discount for Sale Dwellings shall be offered for sale to the Eligible Purchaser at a price not exceeding £55,000 (Fifty-Five Thousand Pounds).
- 2.4.2 Contracts to be exchanged within three calendar months of acceptance of the offer by the Eligible Purchaser or, if later, the date on which a full package of contract documentation and title information is delivered by the Owner's or Developer's solicitor to the Eligible Purchaser ("the Title Delivery Date")
- 2.5 The Owner and Developer shall leave the or (as appropriate) each offer referred to at paragraph 2.3 above open for acceptance by the Eligible Purchaser for a period of two calendar month from the date of such offer.
- 2.6 In the event that an offer referred to in paragraph 2.3 above is rejected by the Eligible Purchaser or is not accepted in writing by the Eligible Purchaser within the two month period provided in paragraph 2.5 above then such offer shall lapse and shall no longer be capable of acceptance and the terms of paragraph 2.8 below shall apply
- 2.7 If the Eligible Purchaser accepts the offer within the two month period provided by paragraph 2.5 above then the Owner and the Developer will use reasonable endeavours to exchange contracts for the sale of the relevant Discount for Sale Dwelling or (as appropriate) those Discount for Sale Dwellings being the subject of the offer with the Eligible Purchaser within a period of three months from the date of acceptance of the offer by the Eligible Purchaser or the Title Delivery Date whichever is the later
- 2.8 If after the three months period referred to at paragraph 2.7 above contracts have not been exchanged or the offer has lapsed in accordance with paragraph 2.6 above then the following shall apply:
- 2.8.1 If the Marketing Period has not expired then the provisions of paragraphs 2.2 to 2.7 inclusive shall be repeated to the effect that the process shall be recommenced involving (if applicable) a new Eligible Purchaser; or

2.8.2 If the Marketing Period has expired then the obligations set out in paragraphs 2.1 to 2.7 inclusive above shall cease to have effect and the provisions of paragraph 2.9 below shall apply in respect of affordable housing provision.

2.9 If after the Marketing Period has expired any outstanding offers shall continue to be progressed in accordance with paragraphs 2.4 to 2.7 inclusive above and in the event that any offer or (as appropriate) offers has or have been rejected or contracts have not been exchanged within the three month period specified in paragraph 2.7 for the sale of any of the Discount for Sale Dwellings then the following shall apply:

2.9.1 the Owner and the Developer will notify the Housing Services Manager in writing that the offers have been rejected or contracts have not been exchanged ("the Notification") PROVIDED that the Housing Services Manager is satisfied that the Owner has exhausted all possible means to dispose of the Discount for Sale Dwelling in accordance with the provisions set out above; then

2.9.2 the Owner or the Developer shall be at liberty to dispose of the relevant unit on the open market upon such terms as he thinks fit; and

2.9.3 the Owner and the Developer shall pay to the Council within 28 days of the date of sale on the open market of any of the Discount for Sale Dwellings that have not been disposed of to an Eligible Purchaser a sum in lieu of such Discount for Sale Dwellings that have not been disposed of and the sum shall be calculated in accordance with the provisions of Part 1 of the Sixth Schedule and shall be utilized by the Council for affordable housing provision in accordance with the provisions of Part 2 of the Sixth Schedule

2.9.4 On payment of the sum referred to in paragraph 2.9.3 above the Owner and Developer shall be released from the affordable housing obligations in this paragraph 1 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 paragraph 2.9.4 above PROVIDED ALWAYS that the provisions of paragraph 2.10 shall continue to

apply to any of the Discount for Sale Dwellings that have been disposed of to the Eligible Purchaser .

2.10 The following provisions shall apply and regulate the disposals of any of the Discount for Sale Dwellings to the Eligible Purchaser by the Owner or the Developer and any future disposals of the Discount for Sale Dwellings by a subsequent Eligible Purchaser. The Owner and Developer shall ensure that the document transferring the Discount for Sale Dwellings to the Eligible Purchaser incorporates provisions to ensure so far as the law allows that:

2.10.1 The Eligible Purchasers' Estate Interest in any of the Discount for Sale Dwellings disposed of in accordance with paragraphs 2.2 to 2.7 (inclusive) above shall not be assigned transferred or disposed of other than at a price to be agreed by the Housing Services Manager being the lower of either £55,000 (Fifty-Five Thousand Pounds) or 50% of the Open Market Value of the Discount for Sale Dwelling;

2.10.2 When the Discount for Sale Dwellings becomes available for resale the person seeking to re-sell ("the Vendor") will write to the Housing Services Manager informing him of the resale and agree with him the criteria which potential occupiers of the Discount for Sale Dwellings must satisfy ("the Agreed Criteria") The Vendor will thereafter write to such people (if any) nominated by the Housing Services Manager who satisfy the Eligibility's criteria set out in Schedule 5 hereof giving sales details

2.10.3 The Discount for Sale Dwellings offered for sale from time to time shall not be offered other than to a person or persons residing within the district of Ryedale

2.10.4 If required by the Council the Vendor shall satisfy the Council that the unit has been actively marketed 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.

2.10.5 In the event that any interest is offered for sale in accordance with the provisions of paragraphs 2.10.3 and 2.10.4 above and on either:

2.10.5.1 the expiration of a period of 12 Months there is no buyer who has made an offer to purchase the interest in the relevant unit at a price not exceeding the percentage of Open Market Value that the Vendor paid for the Property when he acquired it upon terms that are reasonably acceptable to the Vendor; or

2.10.5.2 if there is such a person who is prepared to proceed on that basis who has not entered into a contract to purchase upon terms that are reasonably acceptable to the Vendor within 12 Months of the relevant unit having been placed on the open market for sale pursuant to the provisions of paragraphs 2.10.3 to 2.10.5 (inclusive) above then the Vendor may dispose of his interest in the relevant unit to a person irrespective of his geographical area of residence who cannot afford to purchase a Dwelling of a similar kind generally available on the open market in the District of Ryedale Provided the Vendor obtains the confirmation of Housing Services Manager that such person satisfies the Eligibility Criteria as set out at Schedule 5 (save as to geographical area of residence)

2.10.6 If despite the Vendor using reasonable endeavours he/she cannot dispose of the relevant unit within 18 Months of it being offered for sale and complying with the provisions of paragraphs 2.10.1 to 2.10.5 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

2.10.7 In the event of a disposal of 100% of the Open Market Value of the relevant unit pursuant to paragraph 2.10.6 above the Vendor shall pay a commuted sum to the Council for the

attention of the Housing Services Manager calculated in accordance with Part 1 of the Sixth Schedule

2.10.8 In the event of a disposal of the relevant unit on the open market in accordance with paragraphs 2.10.6 and 2.10.7 above such Discount for Sale Dwelling shall forthwith cease to be subject to the terms of this planning obligation

2.10.9 In the event that paragraph 2.10.8 above 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

2.10.10 For the purposes of this Agreement the Open Market Value shall take no account of any improvements made to the Discount for Sale Dwellings (excluding decorative improvements) and the Vendor shall be entitled to retain 100% of the increase in open market value attributable for such improvements.

2.11 For the avoidance of doubt the obligation on the Owner and Developer contained in paragraph 2.10 shall be deemed to be satisfied upon the Owner and Developer furnishing the Council with certified copies of the Discount for Sale Dwelling Assurances

2.12 In the event of a sale of a Discount for Sale Dwelling by a mortgagee in possession the Chargee shall prior to seeking to dispose of a Discount for Sale Dwelling pursuant to any default under the terms of its mortgage or charge give not less than 3 month's prior written notice to the Housing Services Manager of its intention to dispose and :-

2.12.1 in the event that the Housing Services Manager responds within 3 months from receipt of the notice indicating that arrangements for the transfer of the Discount for Sale Dwelling can be made in such a way as to safeguard it as a Discount for Sale Dwelling then the Chargee shall co-operate with such arrangements and use its best endeavours to secure such transfer

2.12.2 if the Housing Services Manager does not serve its response to the notice served under Clause 2.12.1 within 3 months then the Chargee shall be entitled to dispose free of the restrictions set out in Clause 2.10 above

2.12.3 if the Housing Services Manager or any other person cannot within 3 months of the date of service of its response under Clause 2.12.1 secure such transfer then provided that the Chargee shall have complied with its obligations under Clause 2.12.1 the Chargee shall be entitled to dispose free of the restrictions set out in Clause 2.10 PROVIDED that in the event of a disposal of 100% of the Open Market Value of the relevant unit pursuant to this paragraph 2.12 the Chargee shall pay to the Council immediately following the disposal of the Discount Sale Dwelling any money realised over and above the 50 % of the Open Market Value and remaining after repayment of their loan and deduction of any other monies properly due to such Chargee under the terms of their legal charge

PROVIDED THAT at all times rights and obligations in his Clause 2.12 shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage

#### Part 3

### 3 Determination of Open Market Value

3.1 For the purposes of paragraph 2.9.3 of this Schedule above

3.1.1 the Open Market Value shall be agreed by the Owner and Developer and the Council and in default of agreement determined by an independent chartered surveyor appointed by agreement between the Owner and the Developer and the Council whose fees shall lie in the said surveyor's award or in the absence of such award be borne equally between the parties

3.1.2 in the absence of agreement as to appointment the surveyor shall (upon the application of either party) 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
- 3.2 For the purposes of paragraph 2.10.1 of this Schedule above:
- 3.2.1 the Open Market Value shall be agreed by the owner of the relevant unit of the Discount for Sale Dwellings and the Housing Services Manager 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 Services Manager
- 3.2.2 in the absence of agreement as to appointment the surveyor shall (upon the application of either party) 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 owner of the relevant unit
- 3.3 In determining Open Market Value for the purposes of paragraphs 3.1 and 3.2 above the surveyor shall be concerned to establish the estimated amount for which the property in question should exchange on the date of valuation between a willing buyer and a willing seller in an arms length transaction after proper marketing where in the parties had each acted knowledgeably prudently and without compulsion and disregarding the provisions of this Agreement in so far as they have the effect of limiting the value of the Discount for Sale Dwellings.

#### **THE FIFTH SCHEDULE**

##### **Eligibility Criteria**

Purchase by persons:

1. who have for a period of at least 2 years been ordinarily resident within the village of Swinton
2. who have been permanently employed in the village of Swinton for 2 years or more, or
3. if no such person qualifies under paragraphs 1 or 2 above for occupation a person ordinarily resident in one or more of the following



- parishes Amotherby, Appleton-le-Street, Broughton, Barton-le-Street, Malton or Kirbymisperton for a period of at least 2 years;
4. then any area in the District of Ryedale
  - 5 if no such person qualifies under paragraph 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 SIXTH SCHEDULE**

##### Part 1

##### **Affordable Housing Commuted Sum**

- 1 The commuted sum payable in lieu of any Discount for Sale Dwellings shall be calculated as follows:-

The Open Market Value of the relevant Discount for Sale Dwelling

minus

The purchase price of such relevant Discount for Sale Dwelling as stated in Part 2 of the Fourth Schedule to this Agreement which would have been paid by the Eligible Purchaser had the Discount for Sale Dwelling been provided in accordance with the provisions of Part 2 of the Fourth Schedule.

Part 2

**Affordable Housing Provision.**

- 2 The Council covenants that
  - 2.1 the Affordable Housing Commuted Sum will be used on a broad range of schemes and initiatives, linked to housing needs which may include but not be limited to the following
    - 2.1.1 support for housing associations for both the development and acquisition of affordable housing including facilitating any necessary works of improvement or repair.
    - 2.1.2 support for specific initiatives to regenerate the existing housing stock eg Empty Property Grants and Houses in Multiple Occupation Grants which give the Council tenancy nomination rights for qualifying individuals.
    - 2.1.3 support for specific schemes which are developed to meet an identified need eg the lack of suitable temporary accommodation for homeless families or a scheme to meet the accommodation needs of young single people
- 3 that in the event that all or part of the Affordable Housing Commuted Sum has not been committed by the Council as detailed above within 5 years from the date on which it is received by the Housing Services Manager the Council will re-pay to the Owner and Developer the amount (if any) of the Affordable Housing Commuted Sum which has not been committed provided that the Owner and Developer will not be entitled to claim any interest on such returned sum
- 4 it will provide to the Owner and Developer a certificate prepared by the Housing Services Manager detailing how the Affordable Housing Commuted Sum has been spent on the initiatives detailed in this Schedule

**THE SEVENTH SCHEDULE  
NOMINATION PROCESS.**

- 1      Within seven days of receipt of a notice from the Owner and Developer served pursuant to Clause 1.14 of The Fourth Schedule to this Agreement the Council will approach and advise prospective tenants and not less than 14 days prior to Each Affordable Rented Dwelling becoming available for occupation the Council will advise the Owner and Developer in writing of the details of up to three prospective tenants.
- 2      The Owner and Developer may select a tenant and should carry out any reference checks which he feels necessary to appoint a Nominated Tenant.
- 3      Within seven working days of appointing a tenant the Owner and Developer must advise the Housing Services Manager in writing of the name of the Nominated Tenant
- 4      The Owner and Developer will require no more than one months rent as a deposit and one months rent in advance from the Nominated Tenant
- 5      Any costs incurred by the Owner and Developer in carrying out reference checks or otherwise on prospective tenants must be borne by the Owner and Developer
- 6      In the event of the Owner and Developer finding all of the prospective tenants nominated by the Council unsuitable, reasonable grounds for making such a decision should be forwarded in writing to the Housing Services Manager. The final decision as to the suitability of prospective tenants shall rest with the Council and the Owner and Developer shall abide by that decision
- 7      Twice in any calendar year the Council will carry out a compliance check on the Affordable Rented Dwellings to ensure that it is being occupied in accordance with the terms of this Agreement

**THE EIGHTH SCHEDULE**  
**[Draft Planning Permission]**

1 The development hereby permitted shall be begun on or before .

Reason:- To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

2 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.

2 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.

3 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

3 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.

4 Before there is any access or egress by construction vehicles between the highway and the application site, the approved access with the public highway (as shown on Drawing Reference ) shall be constructed to base macadam course level for a distance of \*\*\*\* metres into the site, including the repair of any damage to the existing roads, footways and verges during construction. The road and footway shall be brought up to wearing course level within two months of the commencement of the development unless approved otherwise in writing. All the works of the construction of the road and footway shall be in accordance with the specification of the Local Highway Authority (as set out in \*\*\*\*)

4 Reason:- To avoid damage to the highway during initial site access and to secure the prompt implementation of appropriate remedial works, in the interests of both vehicle and pedestrian safety and the visual amenity of the area and to comply with the requirements of Policy H7A (iii) of the Ryedale Local Plan.

5 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 ). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times

5 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 I7 of the Ryedale Local Plan and Policy I9 of the North Yorkshire County Structure Plan (Alteration No.3) 1995.

6 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.

6 Reason:- In the interests of highway safety and to comply with the requirements of Policy T7 of the Ryedale Local Plan.

7 Prior to the commencement of the development details of shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.

7 Reason:- In the interests of highway safety and to comply with the requirements of Policy T7 of the Ryedale Local Plan.

8 Prior to shall be constructed in accordance with the details approved in writing by the Local Planning Authority.

NOTE: You are advised that a separate Agreement will be required from the Local Highway Authority in order to carry out works within the public highway. You should contact the Local Highway Authority to determine the requirements of this Agreement at an early stage.

8 Reason:- In the interests of highway safety and to comply with the requirements of Policy T7 of the Ryedale Local Plan.

9 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.

10 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

11 Before the development hereby permitted commences, details of the ground surfacing materials shall be submitted to and approved in writing by the Local Planning Authority.

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

12 Before the development hereby permitted is commenced, details of the boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary scheme shall be carried out in its entirety within 6 months of the commencement of the development or such longer period as may be agreed in writing with the Local Planning Authority.

12 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.

13 Before any part of the development hereby approved commences, plans showing details of landscaping and planting schemes shall be submitted to and approved in writing by the Local Planning Authority. The schemes shall provide for the planting of trees and shrubs and show areas to be grass seeded or turfed where appropriate to the development. The submitted plans and/or accompanying schedules shall indicate numbers, species, heights on planting, and positions of all trees and shrubs including existing items to be retained. All planting, seeding and/or turfing comprised in the above scheme shall be carried out in the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of five years from being planted, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To enhance the appearance of the development hereby approved and to comply with the requirements of Policy ENV7 of the Ryedale Local Plan

14 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

15 The site shall be developed with separate systems of drainage for foul and surface water.

15 Reason:- In the interests of the satisfactory drainage of the site and to comply with Policy U4 of the Ryedale Local Plan.

16 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

16 Reason:- To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system and to comply with the requirements of Policy U1 and U3 of the Ryedale Local Plan.

17 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.

17 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

18 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.

18 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

19 No development shall commence until a written statement has been submitted and approved in writing by the Local Planning Authority with the following site specific information:-

- a) details of the history, land use, age of building;
  - b) details of any known spillage or leakage of any poisonous, noxious or polluting substances;
  - c) details of any fuel or chemical storage, either above or below ground;
- and
- d) details of any water buried on the site.

In the event of any potential contamination being identified or suspected, the Local Planning Authority may require further information and investigation before development commences.



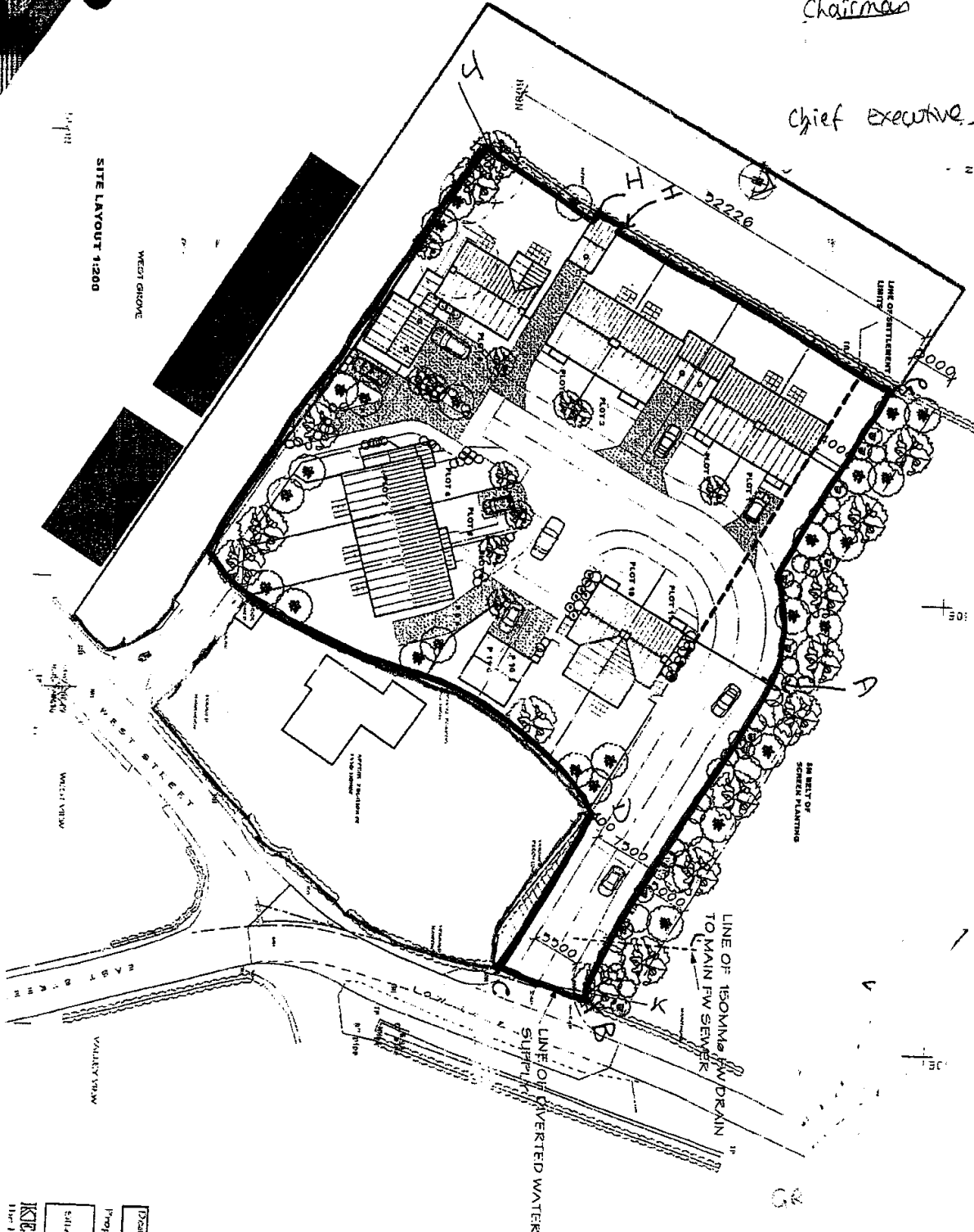
Reason:- In the interests of residential amenity and in order to satisfy Policy ENV26 of the Ryedale Local Plan.

20 The development hereby permitted shall be carried out in accordance with the plans as submitted and as amended on .

Reason:- For the avoidance of doubt and to ensure the satisfactory development of the site in accordance with the approved plans

11/5/07  
Chairman

Chief Executive



SITE LAYOUT 1:200

WEST GROVE

WEST STREET  
WEST GROVE  
WEST DRIVE

EAST STREET  
VALLEY SWAY

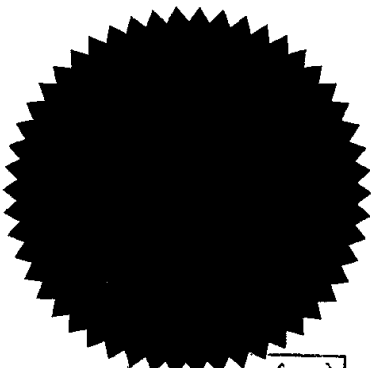
LINE OF 150MM MAIN DRAIN TO MAIN FW SEWER

LINE OF INVERTED WATER SUPPLY

BELT OF SCREEN PLANTING

Prepared by: [Name]  
Checked by: [Name]  
Designed by: [Name]  
**KEVIN GILIN**  
Site Layout

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



Chairman

CHIEF EXECUTIVE  
~~Council Solicitor~~

Minutes P.56(2006)  
Reg No. 611  
Initials *CLW*

Signed as a DEED by )  
GEORGE ROLAND HULL )  
in the presence of )

witness sign x  
witness name  
witness address  
witness occupation

*G Rapp*  
*P RAPP*  
*39 WEST ST*  
*SWINTON*  
*MALTON*  
*YO17 6SP*  
*RETIRED*

Signed as a DEED by )  
ELIZABETH HULL )  
in the presence of )

witness sign x  
witness name  
witness address  
witness occupation

*G Rapp*  
*P RAPP*  
*39 WEST ST*  
*SWINTON*  
*YO17 6SP*  
*RETIRED*

Signed by )  
a Director and its Secretary )  
DEANSBURY HOMES LIMITED )

Director

Secretary

DATED 30<sup>th</sup> August 2007

**THE RYEDALE DISTRICT COUNCIL**

and

**GEORGE ROLAND HULL and ELIZABETH HULL**

and

**DEANSBURY HOMES LIMITED**

**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 land at West Street, Swinton, Malton in  
the County of North Yorkshire

K A Winship  
Council Solicitor  
MALTON