

08/00845/FUL

DATED 27th March 2009

THE RYEDALE DISTRICT COUNCIL (1)

BROADACRES HOUSING ASSOCIATION (2)

AGREEMENT

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 Westgate Farm, Westgate, Rillington, Malton, North Yorkshire

K A Winship
Council Solicitor
MALTON



THIS DEED is made the 27th day of March 2009
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 **BROADACRES HOUSING ASSOCIATION LIMITED** Registered Office, Mount View Standard Way Northallerton DL6 2YD ("the Owner")

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 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")
- (4) 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
- (5) 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

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 covenants 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 Third Schedule hereto

4 IT is agreed and declared as follows:-

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

4.2 The Owner hereby agrees 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

4.3 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

4.4 The Owner shall on execution of this Agreement pay to the Council a fee of £300 plus VAT to cover the Council's legal costs

4.5 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

4.6 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

4.7 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

4.8 For the purpose of avoidance of doubt and subject to clause 4.9 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

4.9 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 land at Westgate Farm, Westgate, Rillington, Malton, North Yorkshire shown for the purposes of identification edged in red on the Plan annexed to this Agreement

THE SECOND SCHEDULE
[Particulars of the Proposed Development]

Erection of 5 no. three bedroom dwellings and 4 no. two bedroom dwellings in accordance with Planning Application 08/00845/FUL

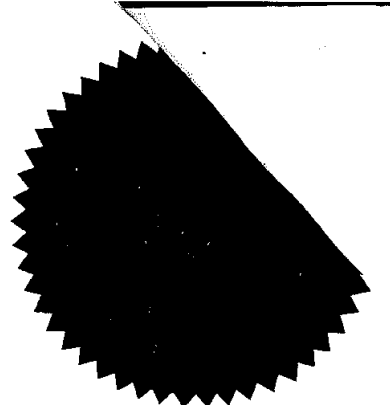
THE THIRD SCHEDULE
[Negative Obligations]

The Owner covenants with the Council not to construct more than 50% of the dwellings on the Property unless and until the sum of £9,000 (nine thousand pounds) has been paid to the Council for the purposes of providing or enhancing open space within the vicinity of the Property (the Open Space Commuted Sum)

THE FOURTH SCHEDULE
[The Council's Covenants]

The Council covenants with the Owner that it will repay to the Owner such amount (if any) of the Open Space Commuted Sum payment made by the Owner to the Council under this Deed which has not been expended in accordance with the provisions of this Deed within Five (5) years of the date of receipt by the Council of such payment. The date of receipt to be certified by the Council's Section 151 Officer

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



Chairman

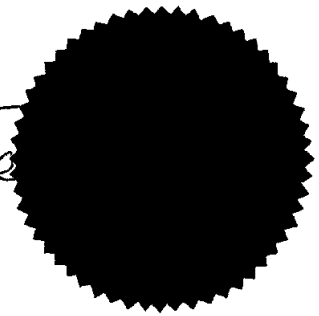
Council Solicitor

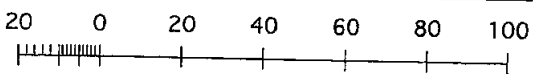
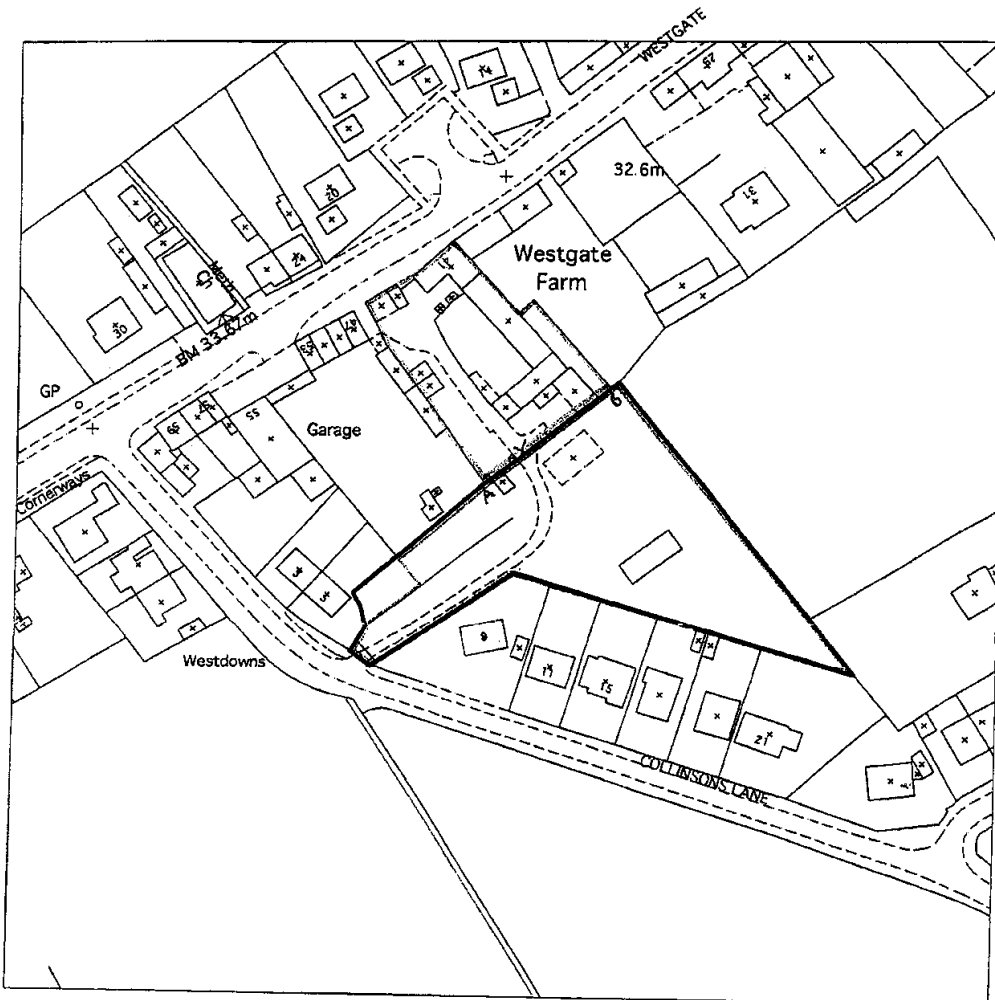
Minute P188/2008
Reg No 6196
17/03/09 ew

THE COMMON SEAL of)
BROADACRES HOUSING)
ASSOCIATION)
was hereunto affixed in the)
presence of:)

Authorised Signatory

Authorised Signatory





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Chairman
[Signature]
 Council Solicitor
[Signature]

bramhall blenkarn RIBA #

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Job: Collinsons Lane Rillington

Client: CoHo / Home Housing Association

Drawing: **OS Plan**

Scale: 1:1000 @ A3

Drawn/Date RB 22.04.08	Job no. 0051	Drawing no. Loc	Revision -
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