

08/1158

DATED 26th October 2009

THE RYEDALE DISTRICT COUNCIL

and

YORKSHIRE HOUSING LIMITED

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 to the south of Station Road, Nawton, York in
the County of North Yorkshire

K A Winship
Council Solicitor
MALTON

THIS DEED is made the 26th day of October 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 **YORKSHIRE HOUSING LIMITED**, Registered Office Yorkshire House, 6 Innovation Close, Heslington, York YO10 5ZF ("the Owner")

DEFINITIONS

Affordable Rented

Dwellings

means the ten dwellings constructed in accordance with planning application 08/1158/MFUL, each dwelling to be held on an Assured Tenancy at 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 and thereafter any increases or decreases in accordance with the Tenants Services Agency guidance at the time.

Eligible Occupiers

means a person or household identified in accordance with the provisions of the Fourth Schedule to this Agreement

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

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 Save that these restrictions and provisions shall not be binding on a mortgagee or chargee or a receiver appointed by a mortgagee or chargee or any successors in title to such mortgagee, chargee or receiver

3 **IT** is agreed and declared as follows:-

3.1 The expressions "the Council" and "the Owner" 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 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

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 of £200 plus VAT 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 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

3.7 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

3.8 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

3.9 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 to the south of Station Road, Nawton, York

THE SECOND SCHEDULE
[Particulars of the Proposed Development]

Erection of 6 no. semi-detached three bedroom dwellings, 1 no. two bedroom dwelling and terrace of 3 no. two bedroom dwellings with parking, access and public open space

THE THIRD SCHEDULE
[Negative Obligations]

The Owner covenants with the Council that the Property will be used only for the purpose of providing Affordable Rented Dwellings for occupation only by Eligible Occupiers.

THE FOURTH SCHEDULE
[Eligibility Criteria]

1 Occupation by persons where the applicant or the applicant's partner satisfy the following conditions on submission of an application to the Owner to occupy an Affordable Rented Dwelling

- 1.1 who have for a period of at least three years immediately prior to their application to occupy been ordinarily resident within the parishes of Nawton or Beadlam; or if no such person qualifies pursuant to this paragraph 1.1 then;
- 1.2 who have been permanently employed in the parishes of Nawton or Beadlam for 3 years or more immediately prior to their application to occupy; or if no such person qualifies pursuant to this paragraph 1.2 then;
- 1.3 who are former residents of the parishes of Nawton or Beadlam with at least 3 years continuous residency in either parish in the last 10 years whose case is accepted in writing by the Housing Service Manager as having a need to return to the villages of Nawton or Beadlam. If both the Housing Services Manager does not respond to a

statement of need submitted pursuant to this clause 1.3 by or on behalf of an Applicant, within ten working days of receiving such statement or request, the Housing Services Manager shall be deemed to be satisfied with that statement and have evidenced that satisfaction in writing, or if no such person qualifies pursuant to this clause 1.3 then;

- 1.4 who has been ordinarily resident in one or more of the following parishes, Wombledon, Welburn, Kirkbymoorside, Fadmoor, Helmsley, Pockley, Harome, Bransdale and Nunnington for a continuous period of at least 3 years; or if no such person qualifies pursuant to this clause 1.4 then;
 - 1.5 who have a close family connection (parents, children or siblings) who have been ordinarily resident within the parishes of Nawton or Beadlam for at least five years immediately prior to the application being made and whose case is accepted in writing by the Housing Services Manager as having a need to return to the parishes of Nawton or Beadlam. If the Housing Services Manager does not respond to a statement of need submitted pursuant to this clause 1.5 by or on behalf of an Applicant, within ten working days of receiving such statement or request, the Housing Services Manager shall be deemed to be satisfied with that statement and have evidenced that satisfaction in writing.
- 2 If no such person qualifies under 1.1 to 1.5 and provided the Housing Services Manager is satisfied that the dwelling has been marketed for a period of at least four weeks in a manner which would attract any potential occupants who meet the Eligibility Criteria then "Ryedale" may be substituted for the parishes of Nawton and Beadlam in the above criteria
 - 3 For the purposes of paragraph 1.2 above 'permanently employed' means the main or sole employment being for more than 30 hours per week
 - 4 The Owner will consult the Housing Services Manager prior to the letting of any Affordable Rented Dwelling in order to verify that the applicant satisfies the criteria in clause 1 above and will not grant any occupation or changes to occupation of any of the Affordable Rented Dwellings without the prior written approval of the Housing Services Manager. If the Housing Services Manager does not respond to a request by the Owner for approval of a new occupant or of a change of occupant within ten working days of receiving such request, then consent shall be deemed to have been given.

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

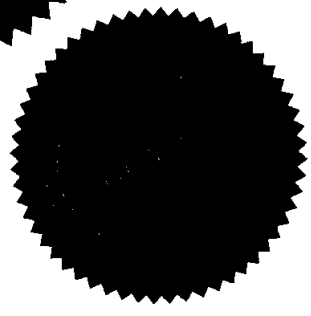
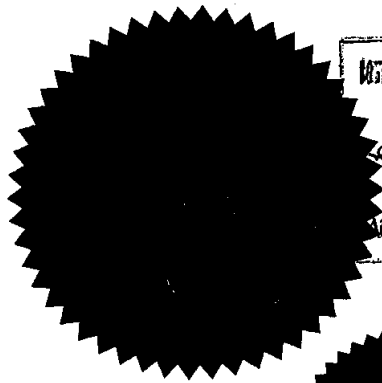
Derek Keal

Chairman

K. A. Winstanley

Council Solicitor

Minute P-209/2008
Reg No. 6232
Minute CW



THE COMMON SEAL of
YORKSHIRE HOUSING LIMITED
was hereunto affixed in the
presence of:)
)
)

Yorkshire Housing
3655
08

Authorised Signatory

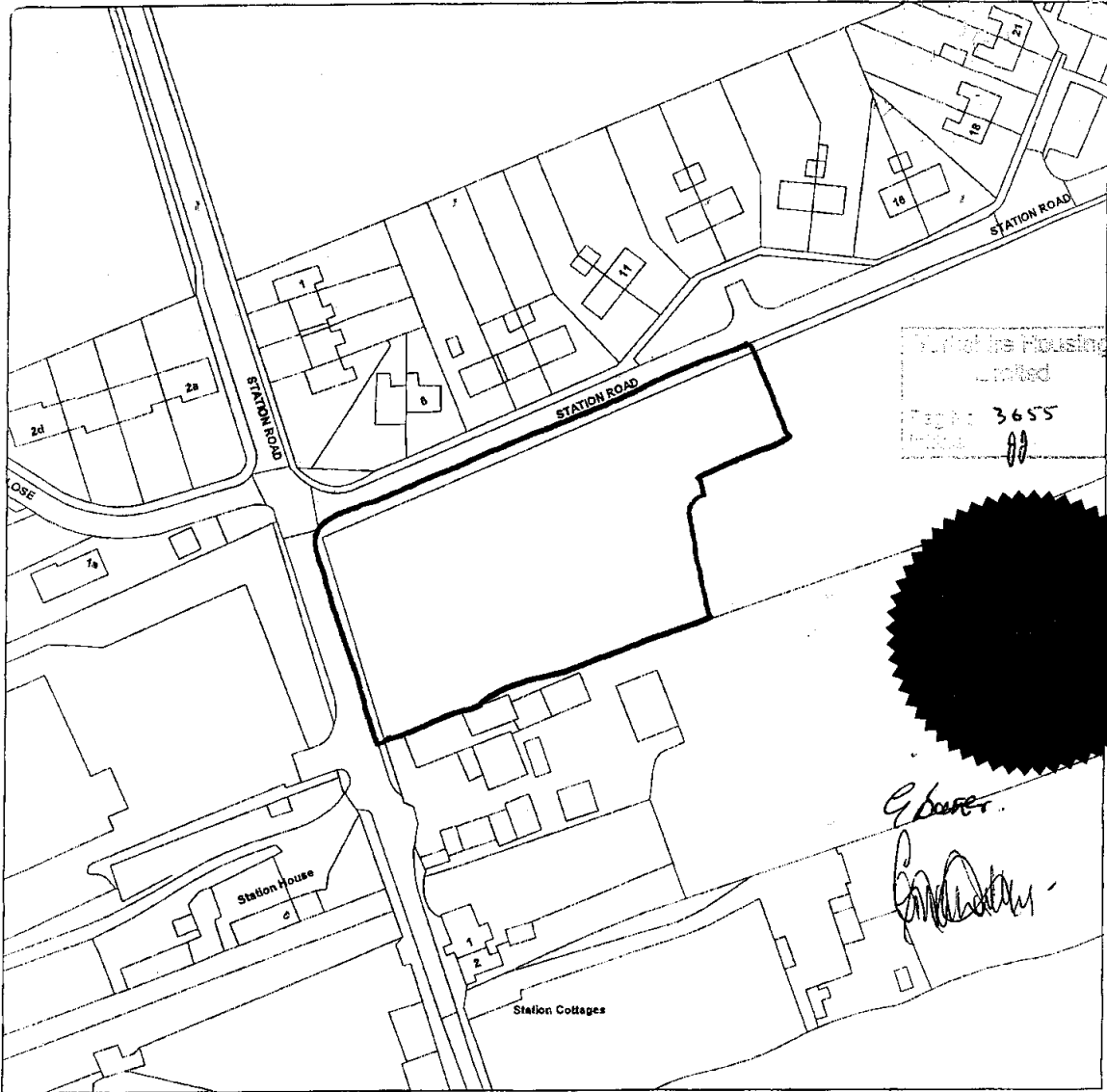
[Signature]

Authorised Signatory

G. Baker

Set

x chairman
Derek Keal x
Council Solicitor
x K. Whistling x



Scale : 1:1250

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Organisation	Not Set
Department	Not Set
Comments	Not Set
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