

DATED

5<sup>th</sup> January

2010

RYEDALE DISTRICT COUNCIL

- and -

GARETH MARTYN HORSLEY & SUSAN ELAINE HORSLEY

- and -

PERSIMMON HOMES LIMITED

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**AGREEMENT AND PLANNING OBLIGATION**

under Section 106 of the Town and Country Planning Act 1990 (as amended)  
relating to land at Westfield Nurseries, Scarborough Road, Norton, Malton, North Yorkshire

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**WALKER MORRIS**  
King's Court  
12 King Street  
LEEDS  
LS1 2HL  
Tel: 0113 2832500  
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Ref: CAS/PHY 2-1564

THIS AGREEMENT is made the 5<sup>th</sup> day of January 2010

BETWEEN: -

- (1) RYEDALE DISTRICT COUNCIL of Ryedale House, Malton, North Yorkshire YO17 7HH ("Council") of the first part; and
- (2) GARETH MARTYN HORSLEY of 68 Scarborough Road, Norton, Malton, North Yorkshire YO17 8AE ("First Owner") of the second part; and
- (3) SUSAN ELAINE HORSLEY of 31 Lockey Croft, Wigginton, York YO32 2FP ("Second Owner") of the third part; and
- (4) PERSIMMON HOMES LIMITED (Company No 04108747) whose registered office is at Persimmon House Fulford York YO1 4FE ("Developer") of the fourth part

#### 1 DEFINITIONS

1.1 In this Agreement the expressions listed below shall have the meanings respectively assigned in relation thereto unless the context otherwise requires it: -

"1990 Act" means the Town and Country Planning Act 1990 as amended;

"Affordable Dwellings" means together the Affordable Rented Dwellings and the Intermediate Dwellings and reference to "Affordable Dwelling" shall be construed accordingly;

"Affordable Housing" means housing provided to eligible households whose needs are not met by the market in accordance with the definition in Annex B of PPS3;

"Affordable Housing Commuted Sum" means the sum of 194,000 00 (one hundred and ninety four thousand pounds only) to be paid by the Owners to the Council in lieu of the provision of 2% of the Affordable Housing the need for which directly arises from the Development that would have been required to be provided within the Development as a contribution to be applied by the Council towards a

broad range of schemes and initiatives, linked to providing additional Affordable Housing, which may include but not be limited to the following: -

1. Support for Housing Associations for both the development and acquisition of Affordable Housing, including facilitating any necessary works of improvement or repair;
2. Support for specific initiatives to regenerate the existing housing stock e.g. Empty Property Grants and Houses in Multiple Occupation Grants which give the Council tenancy nomination rights for qualifying individuals;
3. Support for specific schemes which are developed to provide permanent homes to meet an identified need e.g. the lack of suitable accommodation for homeless families or a scheme to meet the accommodation needs of young single people;
4. Support for the Rural Housing Enabler / Affordable Development Officer functions at the Council;

**"Affordable Housing Contribution"**

means if applicable in relation to: -

1. an Affordable Rented Dwelling a sum equal to the difference between the price that would enable the Housing Association to charge an Affordable Rent and the Market Value of that Affordable Rented Dwelling on the date that it is sold on the open market in accordance with the provisions of paragraph 1.5 of the First Schedule (less the costs of any "finishing touches" / sales extras); and

2. an Intermediate Dwelling a sum equal to the difference between the price that would enable the Housing Association to charge an Intermediate Rent and the Market Value of that Intermediate Dwelling on the date that it is sold on the open market in accordance with the provisions of paragraph 1.5 of the First Schedule (less the costs of any "finishing touches" / sales extras)

in both cases such sum to be agreed between the Owners and the Council and to be used by the District Council in lieu of the provision or part provision of Affordable Dwellings on the Land for the provision of or improvements to existing Affordable Housing elsewhere within Malton and Norton;

**"Affordable Rented Dwellings"**

means the 38 dwellings consisting of 10 x three bed houses 20 x two bed houses and 8 x one bed houses to be constructed in accordance with the Planning Permission and paragraph 1.1 of the First Schedule to this Agreement and to be made available at an Affordable Rent to persons in accordance with the Housing Associations and / or Nominated Housing Associations policy and reference to "Affordable Rented Dwelling" shall be construed accordingly;

**"Affordable Rent"**

means a rent which is comparable to the average rents charged in the Council's administrative area by Housing Associations for properties of an equivalent type age and floor area to the Affordable Rented Dwellings and which sum shall be agreed for lettings between the Owners the Housing Services Manager and the Housing Association or Nominated Housing Association (whichever has taken the transfer of the Affordable Rented Dwellings) in accordance with Government Target Rents at the time and thereafter any increases or decreases shall be in accordance with



the Housing Association's or Nominated Housing Association's rent setting policy and the Homes and Communities Agency's guidance at the time or such other price that is in accordance with government policy relating to Housing Association rent levels at the time and first approved in writing by the Council;

**"Agreement"**

means this Agreement;

**"Application"**

the written application made on behalf of the Developer to the Council under reference 09/00829/MFUL dated 4 August 2009 for full planning permission for residential development for Erection of 63 no. four-bed dwellings, 61 no. three-bed dwellings, 50 no two-bed dwellings, 12 no one-bed dwellings with associated garages and parking spaces, area of open public space and formation of vehicular access;

**"Children's Play Facilities"**

means the children's play facilities to be provided within the area of the Public Open Space shown for identification purposes edged blue on Drawing No. WN/100 attached to this Agreement or such other area within the Public Open Space that may be first agreed in writing with the Council;

**"Commencement of Development"**

means the date upon which the Development shall commence by the carrying out on the Land pursuant to the Planning Permission of a material operation as specified in Section 56 of the 1990 Act **Save That** the term "*material operation*" shall not include operations in connection with any work of or associated with archaeological investigation demolition site clearance remediation works environmental investigation site and soil surveys ground grouting erection of contractors work compound erection of site office erection of fencing to site boundary and reference to **"Commence**

**Development'** shall be construed accordingly;

**"Development"** means the development proposed by the Application and any development pursuant to the Application of all or part of the Land;

**"Dwellings"** mean those units to be constructed on the Land and **"Dwelling"** shall be construed accordingly;

**"Education Contribution"** means the sum of £78,562 00 (seventy eight thousand five hundred and sixty two pounds only) to be paid by the Owners to the Council as a contribution to be applied by the Council towards procuring improvements of primary school education in Norton the need for which directly arises from the Development;

**"Eligible Occupier"** means a person or household identified in accordance with the provisions of the Second Schedule to this Agreement;

**"Government Target Rents"** means the target rents published by the Homes and Communities Agency as amended from time to time;

**"Homes and Communities Agency"** means the Homes and Communities Agency or any bodies undertaking the existing functions of the Homes and Communities Agency within the meaning of Part I of the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment of such Act);

**"Housing Association"** means a housing association or registered provider operating in the area of the Land as defined by the Housing Act 1996 (or as redefined by any amendment, replacement or re-enactment of such Act) and registered by the Homes and Communities Agency under the provisions of Chapter 1 Part 1 of the Housing Act 1996 or any company or other body approved by the Homes and Communities Agency for

receipt of social housing grant as may be proposed by the Owners and approved by the Council and reference to "**Housing Associations**" shall be construed accordingly;

**"Housing Services Manager"** means the Housing Services Manager of the Council or such other Officer as may from time to time be nominated by him / her or carry out the functions at the date hereof carried out by him / her;

**"Independent Chartered Surveyor"** means a member of the Royal Institution of Chartered Surveyors appointed by agreement between the Owners at their own costs and the Council or in the absence of such agreement upon the application of either party to the President of the Royal Institution of Chartered Surveyors and the phrase "**Independent Chartered Surveyors**" shall be construed accordingly;

**"Intermediate Dwellings"** means the 27 dwellings consisting of 7 x three bed houses 16 x two bed houses and 4 x one bed houses to be constructed in accordance with the Planning Permission and paragraph 1 1 of the First Schedule to this Agreement and to be made available as shared ownership housing or shared equity housing or such other form of intermediate affordable housing (other than Affordable Rented Dwellings) that meets the criteria of Annex B to PPS3 (or any future guidance or initiative that replaces or supplements it) agreed in writing with the Council and which, for the avoidance of doubt, should include any initiative subject to receipt of Homes and Communities Agency funding or such other funding that is in accordance with government policy relating to Housing Association rent levels at the time and first approved in writing by the Council suitable for those unable to meet their housing needs on the open market such properties to be made available at an Intermediate Rent to persons

in accordance with the Housing Associations and / or Nominated Housing Associations policy and reference to **"Intermediate Dwelling"** shall be construed accordingly;

**"Intermediate Rent"**

means an intermediate rent set at 80% of the open market rent for Norton or such other price that is in accordance with government policy relating to Housing Association rent levels at the time and first approved in writing by the Council;

**"Land"**

means land at Westfield Nurseries, Scarborough Road, Norton, Malton, North Yorkshire as shown for identification purposes only edged red on the Plan;

**"Management Company"**

means a limited company or companies registered at Companies House which may already be in existence or which may be formed by the Owners for the purposes of carrying out future maintenance of the Public Open Space and Children's Play Facilities and:

1. which is incorporated in England, Wales or Scotland;
2. which has its registered office in England, Wales or Scotland; and
3. whose primary objects permit it to maintain and renew the Public Open Space and Children's Play Facilities;

**"Nominated Housing Association"**

means a housing association nominated by the Owners in substitution for the Housing Association pursuant to this Agreement;

**"Occupation"**

means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in the construction, fitting out or

decoration or occupation for marketing or display or occupation in relation to security operations;

"Off-Site Highway Works Contribution"

means the sum of £492,750 00 (four hundred ninety two thousand seven hundred and fifty pounds only) to be paid by the Owners to the Council as a contribution to be applied by the Council towards procuring highway improvements to the A64 / ~~Broughton Road~~ interchange; <sup>BRAUNSHING FIELDS</sup> ~~Broughton Road~~ *SA* *AMH*

"Off-Site POS Contribution"

means the sum of £273,200 00 (two hundred seventy three thousand two hundred pounds only) to be paid by the Owners to the Council as a contribution to be applied by the Council towards the provision of and / or improvements to youth and / or adult sports facilities within the vicinity of the Land within Norton and Malton; *Q.M.H.*

"Open Market Dwellings"

means those units to be constructed on the Land excluding the Affordable Dwellings for sale on the open market and "Open Market Dwelling" shall be construed accordingly;

"Market Value"

means a figure to be agreed between the Owners and the Council calculated having regard to the estimated amount for which a relevant Dwelling should exchange on the date of valuation between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion;

"Owners"

means collectively the First Owner and the Second Owner;

"Phase"

means if applicable a phase of the Development and which shall be detailed in any phasing plan approved by the Council in relation to a condition to the Planning Permission or this Agreement or otherwise

and reference to "Phases" shall be construed accordingly;

"Plan" the plan annexed to this Agreement;

"Planning Permission" means a planning permission issued pursuant to the Application substantially in the form attached as the Fourth Schedule to this Agreement;

"Public Open Space" means that part of the Land consisting of approximately 1.8 acres which is shown for identification purposes edged green on Drawing No WN/100 attached to this Agreement that is to be made available for use by the general public for the provision of leisure and recreation

1.2 Where the context so requires: -

1.2.1 The singular includes the plural and vice versa and words importing the masculine gender only include the feminine gender and extend to include a corporation sole or aggregate

1.2.2 References to any party shall include the successors in title of that party.

1.2.3 Where a party includes more than one person any obligations of that party shall be joint and several.

1.2.4 Any covenant by the Owners not to do any act or thing shall be deemed to include a covenant not to cause permit or suffer the doing of that act or thing.

1.2.5 References to clauses paragraphs and schedules are references to clauses paragraphs and schedules to this Agreement and are for reference only and shall not affect the construction of this Agreement

## 2 RECITALS

2.1 The Council is the Local Planning Authority for the purposes of the 1990 Act for the area within which the Land is situated

2.2 The First Owner is the registered proprietor of part of the part of the Land with freehold title absolute registered at H.M. Land Registry under Title Number NYK171245

NYK171246 and NYK171070

- 2.3 The Second Owner is the registered proprietor of part of the part of the Land with freehold title absolute registered at H.M. Land Registry under Title Number NYK170938
- 2.4 The First Owner and the Second Owner are the registered proprietor of the part of the Land with freehold title absolute registered at H.M. Land Registry under Title Number NYK171071,
- 2.5 The Developer has an interest in the Land by way of an option agreement dated 5 February 2009 and made between the Owners and the Developer
- 2.6 The Developer has made the Application to the Council for the Planning Permission.
- 2.7 The Council is satisfied that the Development is such as may be approved by the Council under the 1990 Act subject to conditions and subject to the obligations and restrictions contained in this Agreement.
- 2.8 The Owners by entering into this Agreement do so to bind the Land and to create planning obligations in favour of the Council pursuant to Section 106 of the 1990 Act and to be bound by and observe and perform the covenants agreements conditions and stipulations hereinafter contained on the terms of this Agreement

### 3 OPERATIVE PROVISIONS

- 3.1 This Agreement is a planning obligation made in pursuance of Section 106 of the 1990 Act as substituted by Section 12 of the Planning and Compensation Act 1991 and to the extent that the covenants in this Agreement are not made under Section 106 of the 1990 Act they are made under Section 111 or section 139 of the Local Government Act 1972 and all other powers so enabling
- 3.2 The planning obligations comprised in this Agreement on the part of the Owners shall not become effective until the following conditions are satisfied: -
  - 3.2.1 the Planning Permission has been granted; and
  - 3.2.2 except where otherwise stated in this Agreement the Commencement of Development

3.3 The Owners hereby covenant with the Council that the Land shall be permanently from the date specified in clause 3.2 above subject to, and the Developer acknowledges that the Land shall be bound by, the restrictions and provisions regulating the Development and use thereof specified in the First Schedule to this Agreement

3.4 The Council covenants with the Owners to comply with its obligations in the Third Schedule hereto.

**4 IT IS AGREED AND DECLARED AS FOLLOWS: -**

4.1 No party shall be bound by the terms of this Agreement or be liable for the breach of any covenants restrictions or obligations contained in this Agreement (but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest): -

4.1.1 occurring after he or it has parted with his or its interest in the Land or the part in respect of which such breach occurs;

4.1.2 in respect of any part or parts of the Land in respect of any period during which it or they shall no longer have an interest in such part or parts of the Land;

4.1.3 if he or it shall be an occupier or owner or tenant of a Dwelling

4.1.4 if he or it shall be an occupier or tenant or a purchaser of a site or sites for statutory infrastructure purposes in relation to the Development

4.2 If the Planning Permission shall expire before the Commencement of Development or shall at any time be revoked or modified (without the consent of the Owners) this Agreement shall forthwith determine and cease to have effect

4.3 It is hereby declared that this Agreement is a planning obligation and that the land subject to the obligation is the Land and that the Agreement is enforceable by the Council

4.4 This Agreement is a local land charge and shall be registered as such.



- 4.5 Any dispute arising between the parties as to their respective rights duties or obligations or as to the failure of the Council to give or confirm its consent where required under this Agreement or as to failure to agree Market Value or as to any other matter or thing arising out of or connected with the subject matter of this Agreement or any failure to agree upon any matter may be referred in accordance with clause 4.6 below to the determination of an Independent Chartered Surveyor
- 4.6 Any reference to an Independent Chartered Surveyor in accordance with clause 4.5 above shall be to a reputable Independent Chartered Surveyor unconnected to any of the parties hereto and experienced in commercial development matters who shall be agreed between the parties to the dispute or appointed on the application of any party to the dispute made at any time by the President of the Royal Institution of Chartered Surveyors or his duly appointed deputy and the decision of such Independent Chartered Surveyor shall be final and binding upon the parties to the dispute and the parties hereby agree to act in accordance with the decision (save for manifest error) and if the parties to the dispute shall agree in writing such reference shall be deemed to be a reference to an expert (and not an arbitrator) but shall otherwise be deemed to be a reference to an arbitrator pursuant to the Arbitration Act 1996 and if any Independent Chartered Surveyor shall act as an expert pursuant to the terms of this clause 4.6 then each of the parties to the dispute shall be entitled to submit to him representations and cross representations with such supporting evidence as they shall consider necessary and he shall have regard thereto in making his decision which he shall deliver in writing as expediently as possible and the reference to him shall include authority to determine in what manner all the costs of the referral (whether incurred by the parties to the dispute or the Independent Chartered Surveyor himself) shall be paid.
- 4.7 Wherever this Agreement requires the approval agreement determination or consent of the Council or the Owners such approval agreement determination or consent is not to be unreasonably withheld or delayed
- 4.8 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than one relating to the Development) granted (whether or not on appeal) after the date of this Agreement
- 4.9 The expressions "the Council" and "the Owners" and "the Developer" shall include their respective successors in title and assigns

4 10 The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement as provided for by Section 1 of that Act provided that this clause shall not affect any right of action of any person to whom this Agreement has been lawfully assigned or becomes vested in law

## FIRST SCHEDULE

### (Owners' Covenants)

The Owners hereby jointly and severally covenant with the Council as follows: -

#### 1 AFFORDABLE DWELLINGS

##### On-Site Provision

1.1 To procure that the Affordable Dwellings be constructed on the Land in accordance with the Planning Permission and approved plans and a physical specification to be negotiated with the Housing Association for offer of disposal to a Housing Association or a Nominated Housing Association at a price which enables the Housing Association and / or a Nominated Housing Association as the case may be to charge: -

1.1.1 an Affordable Rent in respect of the Affordable Rented Dwellings; and

1.1.2 an Intermediate Rent in respect of the Intermediate Dwellings

on terms and conditions approved in writing by the Council **PROVIDED ALWAYS** that the Owners will not be required to provide more than 65 Affordable Dwellings on the Land.

1.2 As soon as reasonably practicable following the Commencement of Development to nominate in writing to the Council the Housing Associations to some of which the Owners will market the Affordable Dwellings **PROVIDED THAT** it is agreed that with the Council's prior approval the Owners will be entitled to amend the nomination by adding or removing Housing Associations from time to time during the course of carrying out the Development ("**Nomination**") Within 10 working days of the Council receiving from the Owners a Nomination the Council may notify to the Owners in writing of any additional Housing Associations to whom the Owners shall offer and use reasonable endeavours to contract to transfer the Affordable Dwellings

1.3 The Owners shall as soon as reasonably practicable following a Nomination pursuant to paragraph 1.2 of this Schedule enter into negotiations with those Housing Associations which it have selected from its Nomination and the Council has added and use reasonable endeavours to contract to transfer the Affordable Dwellings to be constructed within the Development or within a Phase of the Development if applicable to such Housing Associations which expresses an interest in acquiring those dwellings as it shall choose at a price which enables the Housing Association to charge:-

1.3.1 an Affordable Rent in respect of the Affordable Rented Dwellings; and

1.3.2 an Intermediate Rent in respect of the Intermediate Dwellings.

1.4 In the event that the Housing Association(s) declines or is unable to accept the transfer of some or all of the Affordable Dwellings to be constructed within the Development or within a Phase of the Development if applicable on the terms of this Agreement or if in the Owners' or the Council's opinion (acting reasonably) insufficient progress is being made towards exchange of contracts with the Housing Association for the transfer of some or all of the Affordable Dwellings within a period of three months from the date of the offer referred to in paragraph 1.3 of this Schedule the Owners or the Council shall give written notice to the other ("Notice") and the Owners may select another Nominated Housing Association(s) from a Nominations referred to in paragraph 1.2 of this Schedule.

1.5 The Owners shall offer to enter into negotiations with the Nominated Housing Association for the transfer to it of the Affordable Dwellings to be constructed within the Development or within a Phase of the Development if applicable (or any individual unit or units comprised in the Affordable Dwellings that has/have not been transferred or may not have been contracted to be sold to the Housing Association) on the terms of this Agreement and if the Nominated Housing Association declines or is unable to accept the transfer of some or all of the Affordable Dwellings to be constructed within the Development or within a Phase of the Development if applicable (or any individual unit or units comprised in the Affordable Rented Dwellings that has/have not been transferred or may not have been contracted to be sold to the Housing Association) within a period of three months from the date of the offer referred to in paragraph 1.4 of this Schedule and the Council acting reasonably is satisfied on the evidence provided by the Owners that the Owners have used reasonable endeavours to transfer the Affordable Dwellings (or any individual unit or units comprised in the Affordable Dwellings that has/have not been transferred or may not have been contracted to be sold to the Housing Association) to the Nominated Housing Association and there is no reasonable prospect of securing the transfer of any part or element of the Affordable Dwellings to be constructed within the Development or within a Phase of the Development if applicable to a Nominated Housing Association then the Owners shall be permitted to dispose of the Affordable Dwellings to be constructed within the Development or within a Phase of the Development if applicable that may not have been contracted to be sold to the Housing Association or the Nominated Housing Association (or any individual unit or units comprised in the Affordable Dwellings that has/have not been transferred or may

not have been contracted to be sold to the Housing Association or the Nominated Housing Association) individually on the open market free from the restrictions and obligations contained in this Agreement and the Owners shall upon the first 12 month anniversary of the sale of the first Affordable Dwelling on the open market pay to the Council the Affordable Housing Contribution attributable to all of the Affordable Dwellings sold on the open market during that year with each subsequent payment to be calculated on the same basis and made on the 12 month anniversary following the preceding payment until such time that there are no further Affordable Dwellings to be sold on the open market.

1.6 Not to permit (unless the Owners are entitled to dispose of the Affordable Dwellings to be provided in a particular Phase on the open market in accordance with the provisions of paragraph 1.5 of this Schedule): -

1.6.1 Occupation of more than 50% of the Open Market Dwellings to be provided within a Phase until the Owners have entered into a binding contract with a Housing Association(s) for the disposal of the Affordable Dwellings to be provided within that Phase;

1.6.2 Occupation of more than 75% of the Open Market Dwellings to be provided within a Phase until 50% of the Affordable Dwellings to be provided within that Phase have been constructed and transferred to a Housing Association(s);

1.6.3 Occupation of more than 90% of the Open Market Dwellings to be provided within a Phase until the Affordable Dwellings to be provided within that Phase have been constructed and transferred to a Housing Association(s)

1.7 It shall be a term of the sale of the Affordable Dwellings that the Housing Association and / or the Nominated Housing Association as the case may be shall not dispose of or cause or permit the disposal of the Affordable Dwellings other than for the purpose of providing tenancies at: -

1.7.1 an Affordable Rent in respect of the Affordable Rented Dwellings; and

1.7.2 an Intermediate Rent in respect of the Intermediate Dwellings

to Eligible Occupiers

1.8 Prior to the transfer of any of the Affordable Dwellings pursuant to this Schedule the Owners shall ensure they are fully serviced and accessible by vehicles and pedestrians.

1.9 To supply within 14 working days from the date of the transfer of the Affordable Dwellings to the Housing Association and / or the Nominated Housing Association as the case may a copy of that transfer to the Council.

1.10 Any transfer of the Affordable Dwellings to a Housing Association or a Nominated Housing Association shall contain reasonable provisions ensuring that the Affordable Dwellings remain available at an affordable price for future eligible households, or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision but nothing in this schedule shall apply upon: -

1.10.1 the exercise by any person of a statutory right to buy, right to acquire or right to staircase out and acquire a 100% interest in the Affordable Dwelling under the terms of a Shared Ownership Lease based substantially on the Homes and Communities model lease; or

1.10.2 the exercise of its power of sale by a mortgagee of the Housing Association and / or the Nominated Housing Association as the case may be or of any of the Affordable Dwellings or the sale by a receiver appointed by such mortgagee pursuant to statutory powers or the provisions of any mortgage or charge as required by a Court Order; or

1.10.3 any subsequent disposition of the properties following a disposal falling within paragraphs 1.9.1 or 1.9.2 above

**Off-Site Provision**

1.11 Not to allow the Occupation of more than 46 Dwellings until £48,500.00 of the Affordable Housing Commuted Sum has been paid to the Council.

1.12 Not to allow the Occupation of more than 93 Dwellings until a further £48,500.00 of the Affordable Housing Commuted Sum has been paid to the Council.

1.13 Not to allow the Occupation of more than 139 Dwellings until a further £48,500.00 of the Affordable Housing Commuted Sum has been paid to the Council.

1.14 Not to allow the Occupation of more than 186 Dwellings until the balance of £48,500.00 of the Affordable Housing Commuted Sum has been paid to the Council

2 **PUBLIC OPEN SPACE & CHILDREN'S PLAY FACILITIES**

2.1 By no later than the first planting season following the occupation of 120 Dwellings (or such other number of Dwellings that may first be agreed in writing between the Owners and the Council) to lay out and provide the Public Open Space and the Children's Play Facilities in accordance with the Planning Permission and approved plans or in accordance with any amended plans submitted to and approved by the Council.

2.2 Upon the completion of the works specified in paragraph 2.1 of this Schedule to the Council's reasonable satisfaction to within six months of completion of the Public Open Space and the Children's Play Facilities transfer title for the Public Open Space and the Children's Play Facilities (in whole or in separate parts on an ongoing basis as and when each part of the Public Open Space is completed to the Council's reasonable satisfaction) to a Management Company (having first supplied to the Council a certified copy of the Memorandum and Articles of Association of the Management Company) on the terms agreed between the Owners and the Management Company in consultation with the Council and all further maintenance shall be thereafter carried out by the Management Company **PROVIDED THAT** it shall be a term of the transfer that the Management Company will: -

2.2.1 maintain and manage in perpetuity the Public Open Space and the Children's Play Facilities in accordance with the principles of good horticultural and estate management; and

2.2.2 only allow the use of the Public Open Space and the Children's Play Facilities for public access and recreation and for no other purpose

2.3 The Owners hereby declare that pursuant to Section 31(5) Highways Act 1980 that the Public Open Space has not been dedicated to the public nor is any use by the public of any part of the Public Open Space to be taken in any way as an intention by the Owners to dedicate the same as highway save in relation to any areas that the Owners wish to dedicate as public highway and first agrees with the Council.

3 **EDUCATION CONTRIBUTION**

3.1 Not to allow the Occupation of more than 100 Dwellings until the Education Contribution has been paid to the Council.

**4 OFF-SITE HIGHWAY WORKS CONTRIBUTION**

4.1 Not to allow the Occupation of more than 25 Dwellings until £246,375 00.00 of the Off-Site Highway Works Contribution has been paid to the Council.

4.2 Not to allow the Occupation of more than 75 Dwellings until the balance of £246,375.00.00 of the Off-Site Highway Works Contribution has been paid to the Council.

**5 OFF-SITE POS CONTRIBUTION**

5.1 Not to allow the Occupation of more than 25 Dwellings until £136,600 00 of the Off-Site POS Contribution has been paid to the Council

5.2 Not to allow the Occupation of more than 100 Dwellings until the balance of £136,600.00 of the Off-Site POS Contribution has been paid to the Council.



## SECOND SCHEDULE

### (Occupancy Criteria)

The Owners shall ensure the Affordable Dwellings are occupied by persons

1. who have for a period of at least 2 years been ordinarily resident within the town of Malton or Norton, or
2. who have been permanently employed in the town of Malton or Norton for 2 years or more, or
3. if no such person qualifies under paragraphs 1 or 2 above for occupation a person ordinarily resident for a period of at least 2 years in any of the Parishes which adjoin the Parishes of Malton or Norton
4. if no such person qualifies under paragraph 3 above for occupation then a person ordinarily resident for a period of at least 2 years in 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 Dwelling 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

**THIRD SCHEDULE**  
**(Council's Covenants)**

The Council covenants with the Owners and the Developer as follows: -

- 1 To issue the Planning Permission on the date hereof
- 2 To issue a receipt for each instalment of the Affordable Housing Commuted Sum, the Education Contribution, and each instalment of the Off-Site Highway Works Contribution and the Off-Site POS Contribution and if applicable the Affordable Housing Contribution.
- 3 Upon receipt to place the sums referred to in paragraph 2 of this Schedule in an interest bearing account or in separate accounts as the Council shall in its discretion decide
- 4 To apply the Affordable Housing Commuted Sum towards the purposes specified in the definition of Affordable Housing Commuted Sum the need for which directly arises from the Development and not to apply the Affordable Housing Commuted Sum for any other purposes and the Council shall (on the reasonable request of the payee or the payee's nominee) provide evidence that the monies have been so applied.
- 5 To apply the Education Contribution towards the purposes specified in the definition of Education Contribution the need for which directly arises from the Development and not to apply the Education Contribution for any other purposes and the Council shall (on the reasonable request of the payee or the payee's nominee) provide evidence that the monies have been so applied
- 6 To apply the Off-Site Highway Works Contribution towards the purposes specified in the definition of Off-Site Highway Works Contribution the need for which directly arises from the Development and not to apply the Off-Site Highway Works Contribution for any other purposes and the Council shall (on the reasonable request of the payee or the payee's nominee) provide evidence that the monies have been so applied
- 7 To apply the Off-Site POS Contribution towards the purposes specified in the definition of Off-Site POS Contribution the need for which directly arises from the Development and not to apply the Off-Site POS Contribution for any other purposes and the Council shall (on the reasonable request of the payee or the payee's nominee) provide evidence that the monies have been so applied

- 8 If applicable, to apply the Affordable Housing Contribution towards the purposes specified in the definition of Affordable Housing Contribution the need for which directly arises from the Development and not to apply the Affordable Housing Contribution for any other purposes and the Council shall (on the reasonable request of the payee or the payee's nominee) provide evidence that the monies have been so applied.
- 9 In the event the Affordable Housing Commuted Sum the Education Contribution the Off-Site and / or the Off-Site POS Contribution and if applicable the Affordable Housing Contribution or any part or parts thereof are not expended within five years of the date on which such monies were received by the Council then the sum or sums not expended plus interest accrued will be repaid to the person who paid the sum or sums or its nominee
- 10 In the event the Off-Site Highway Works Contribution or any part or parts thereof are not expended within ten years of the date on which such monies were received by the Council then the sum or sums not expended plus interest accrued will be repaid to the person who paid the sum or sums or its nominee
- 11 The Council will on the reasonable written request of the Owners at any reasonable time or times after any of the planning obligations under this Agreement have been fulfilled issue written confirmation thereof or at any reasonable time after this Agreement ceases to have effect issue written confirmation thereof and thereafter cancel all relevant entries in the Register of Local Land Charges.

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**FOURTH PARAGRAPH**

**(Draft Decision Notice)**

**RYEDALE DISTRICT COUNCIL**

**TOWN & COUNTRY PLANNING ACT 1990  
FULL APPLICATION FOR PERMISSION TO CARRY OUT DEVELOPMENT**

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

**Application No:** 09/00829/MFUL

**Proposal:** Erection of 63no. four-bed dwellings, 61no. three-bed dwellings, 50no. two-bed dwellings, 12no. one-bed dwellings with associated garages and parking spaces, area of open public space and formation of vehicular access

**at:** Land At Westfield Nurseries Scarborough Road Norton Malton North Yorkshire

**for:** Persimmon Homes

**Decision Date:**

**REASON FOR APPROVAL**

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:

Ryedale Local Plan - Policy ENV7 - Landscaping  
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

The site lies outside of an identified development limit and the following considerations are considered to outweigh the adopted development plan which shows the current extent of the development limits. The adopted development plan dates from 2002 and the Council is currently unable to demonstrate that it has a 5-year supply of available housing land as required by PPS3 - 'Housing' 2010. This site is considered to relate well in terms of its relationship to the built form of Norton and is identified as a Category 1 site in the Council's Strategic Housing Land Availability Assessment. It performs well against the SHLAA criteria of sustainability, availability and achievability. There are no technical objections from consultees and subject to the conditions listed below and the accompanying Section 106 Agreement securing developer contributions in respect of affordable housing, education, off-site public open space and strategic highway improvements, the development is considered acceptable.

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**CONDITIONS AND ASSOCIATED REASONS**

- 01 The development hereby permitted shall be begun on or before 22 December 2015
- Reason:- To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004
- 02 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.
- 03 Prior to the laying of foundations and the construction of any built development (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), 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.
- 04 No development shall take place within the application site until a written scheme for archaeological investigation works on the site has been submitted and approved in writing by the Local Planning Authority. Thereafter, development shall only be undertaken within those parts of the site where the implementation of the archaeological investigation works has been completed in accordance with the approved scheme
- Reason:- The site is of archaeological interest and investigation/protection and observation of the site is required by PPS5 - 'Planning for the Historic Environment'
- 05 Notwithstanding the details of the individual dwellings shown on the listed approved plans, no development shall commence on the responsible dwelling until a full schedule of the following details matters has been submitted to and approved in writing with the Local Planning Authority:
1. Eaves and verge details
  2. Windows including materials and type of manner of opening

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- 3 Chimney details
- 4. External doors and garage door details.

Reason:- For the avoidance of doubt and to ensure that the development and to satisfy the requirements of Policy H7A (ii) of the Ryedale Local Plan.

- 06 The development permitted by this planning permission shall only be carried out in accordance with the approved "Protected Species Guidance: In Respect of Potential for Occurrence of Water Vole and Kingfisher – Version 2 June 2010" and "Habitat Retention, Restoration and Management Plan (ERAP Ltd) Dwg 1 v2 and Dwg 2 v2" which include the following mitigation measures:

Priorpot Beck

- A buffer strip of no less than 5m from the top of the bank is to be marked with temporary "Heras" type fencing, no storage or activity is to take place in this buffer, unless previously agreed
- Remove the man-made and woody debris in the channel by hand at an appropriate time of year
- Light thinning of trees and shrubs is to take place in the wooded area to the south of the beck at suitable time of year

Water Voles

- The procedure and method of work explained in Section 4.4 of the approved document "Protected Species Guidance: In Respect of Potential for Occurrence of Water Vole and Kingfisher – Version 2 June 2010" is to be followed in respect of the construction of the bridge and outfall along Priorpot Beck to protect water vole from harm during the construction.

Bats

- The method statement and procedures set out in Section 4.7 of the approved document "Protected Species Guidance: In Respect of Potential for Occurrence of Water Vole and Kingfisher – Version 2 June 2010" are to be followed as regards the existing buildings within the development.
- Outdoor lighting must not illuminate woodland, hedgerow, grassland and trees along the beck, trees along the northern and southern boundary and airspace in the vicinity of number 92.

Breeding birds

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- The procedures set out in Section 4.5 of the approved document "Protected Species Guidance: In Respect of Potential for Occurrence of Water Vole and Kingfisher – Version 2 June 2010" are to be followed as regards tree works and vegetation removal should be carried out outside the bird nesting season.

Western Hedgerow

- Homeowners adjacent the western hedgerow should be provided with information on standard hedgerow management as outlined on the approved "Habitat Retention, Restoration and Management Plan (ERAP Ltd) Dwg 2 v2"

Reason:- To ensure that sufficient regard is taken in respect of protected species and habitats and to comply with PPS9 - Biodiversity and Geological Conservation

07 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks except for investigative works, demolition/remediation works or the depositing of material on the site, until the following drawings and details have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Authority:

(1) Detailed engineering drawing to a scale of not less than 1:500 and based upon an accurate survey drawing:

- a) the proposed highway layout including the highway boundary
- b) dimensions of any carriageway, cycleway, footway and verges
- c) visibility splays
- d) the proposed buildings and site layout, including levels
- e) accesses and driveways
- f) drainage and sewerage system
- g) lining and signing
- h) traffic calming measures
- i) all types of surfacing (including facilities), kerbing and edging.

(2) Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:

- a) the existing ground level
- b) the proposed road channel and centre line levels
- c) full details of surface water drainage proposals

(3) Full highway construction details including:

- a) typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
- b) when requested cross-sections of regular intervals along the proposed roads showing the existing and proposed ground levels
- c) kerb and edging construction details
- d) typical drainage construction details

(4) Details of the method and means of surface water disposal.

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(5) Details of all proposed street lighting

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

(7) Full working drawings for any structures which affect or form part of the highway network

(8) A programme for completing the works

The development shall only be carried out in full compliance with the approved drawings and details unless agreed otherwise in writing by the Local Planning Authority in consultation with the Highways Authority.

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and in the interests of the safety and convenience of highway users

08 No development to which this planning permission relates shall be occupied 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 completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority in consultation with the Highway Authority before the first dwelling of the development is occupied.

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and to ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.

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

Reason:- In the interests of satisfactory and sustainable drainage.

10 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 by the Local Planning Authority before development commences.

Reason:- To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading.

11 No development shall take place until details of the proposed means of disposal of foul water drainage, including details of any balancing works and off-site works have been submitted to and approved by the Local Planning Authority

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Reason:- To ensure that the development can be properly drained

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- 12 The development permitted by this planning permission shall only be carried out in accordance with the approved letter containing supplementary information (Ref: E09/5044/IH/PW/002) which includes the following mitigation measures, or such other details as may be agreed with the Local Planning Authority in writing::

1. Limiting the surface water run-off generated by the development to 7 litres per second so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site. The storage must be able to accommodate the 1 in 100 storm with allowances for climate change as shown on drawing E09/5044/03

2. Provision of compensatory flood storage on site to a 1 in 100 flood event as shown on drawing E09/5044/02.

3. The setting of those areas of the spine access road within Flood Zones 2 or 3 (as shown on the Environment Agency's Flood Zone Map) at a minimum level of 19.28 metres Above Ordnance Datum.

4. Finished floor levels are set no lower than 19.88 metres Above Ordnance Datum (AOD).

5. The culvert soffit is set at a minimum level of 19.88 metres Above Ordnance Datum as shown on drawing E09/5044/05.

Reason:-

1. To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
2. To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.
3. To ensure safe access and egress from and to the site.
4. To reduce the risk of flooding to the proposed development and future occupants.
5. To reduce the risk of flooding from blockages to the proposed culvert.

- 13 Prior to the laying of foundations and the construction of any built development (or such other date, phase or stage in development as may be agreed in writing with the Local Planning Authority), a Verification Report demonstrating completion of the works set out in the approved Remedial Strategy (Reference 1134/1A by Lithos, June 2010 as updated by the final agreed remedial strategy referenced 1134/1B) and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The results of any supplementary investigation identified in the above Remedial Strategy shall be submitted to the Local Planning Authority together with a supplementary Remedial Strategy to be approved in writing by the Local Planning Authority, prior to the laying of foundations and the construction of any built development on that area.

Reason:- To ensure that the remediation of land contamination has been effective. To ensure that Priorpot Beck, the unnamed watercourse adjacent to the south of the site, and the shallow

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groundwaters supporting the River Derwent are protected from pollution. To protect the River Derwent SSSI from pollution

- 14 If during development, contamination not previously identified is found to be present at the site, it must be reported in writing immediately to the Local Planning Authority. No further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for an amendment to the Remediation Strategy detailing how this unsuspected contamination shall be dealt with. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:- To ensure the site is reclaimed to an appropriate standard in order to protect nearby Priorpot Beck and unnamed watercourse, and the underlying groundwater associated with the sand and gravel alluvium. To protect the River Derwent SSSI from pollution.

- 15 The development hereby permitted shall not be commenced until such time as a scheme to treat and removed suspended solids from surface water run-off during construction works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.

Reason:- In order to protect nearby Priorpot Beck and unnamed watercourse, and the underlying groundwater associated with the sand and gravel alluvium. To protect the River Derwent SSSI from pollution.

- 16 Drainage from areas of hardstanding of an area greater than 100m<sup>2</sup> be passed through a suitably sized oil interceptor or oil interceptors prior to discharge into any watercourse, soakaway or surface water sewer.

Reason:- In order to protect nearby Priorpot Beck and unnamed watercourse, and the underlying groundwater associated with the sand and gravel alluvium. To protect the River Derwent SSSI from pollution.

- 17 Construction work shall not begin until a scheme for protecting the proposed development from noise has been submitted to and approved by the Local Planning Authority. Such scheme will a design aim of:

Living Rooms 35dB LAeq - day time  
Bedrooms 30dB LAeq - night time, 45dB LMax - night time  
Outdoor living areas 50dB LAeq - daytime

Prior to the commencement of any affected dwellings (as identified in the Waterman Report Assessment of Environmental Noise June 2010 Fifth Issue), the sound insulation scheme shall be installed and thereafter maintained

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If the submitted scheme is unable to demonstrate that any individual plot is unable to meet the above targets, a submission in writing for an exemption shall be made to the Local Planning Authority.

Reason:- In the interests of residential amenity.

- 18 A scheme to prevent a dust nuisance arising as a result of works on the site must be submitted to and approved by the Local Planning Authority prior to development commencing.

Reason:- To ensure that works arising from the development do not cause detriment to the amenities of the locality and to satisfy the requirements of PPS23 - Planning and Pollution Control

- 19 There shall be no egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging onto the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and in the interests of highway safety

- 20 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks except for investigative works, demolition /remediation works or the depositing of material on the site or removal of material from the site until that part of the access(es) extending 20 metres into the site from the carriageway of the existing highway has been made up and surfaced in accordance with the approved details and the published Specification of the Highway Authority. All works shall accord with the approved details unless otherwise approved in writing by the Local Planning Authority in consultation with the Highway Authority. Any damage during use of the access until the completion of all the permanent works shall be repaired immediately.

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and in the interests of highway safety.

- 21 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks except for investigative works, demolition /remediation works or the depositing of material on the site or removal of material from the site until splays are provided giving clear visibility of 45m measures along both channel lines of the major road Scarborough Road from a point measured 2.4m down the centre line of the access road. The eye height will be 1.05m and the object height shall be 0.6m. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and in the interests of highway safety

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- 22 There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of site investigative works, demolition /remediation works and constructing the initial site access) until visibility splays providing clear visibility of 2 metres x 2 metres measured down each side of the private access and the back edge of the footway of the major road have been provided. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purposes at all times.

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and in the interests of highway safety.

- 23 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, demolition/remediation works or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until:

The details of the required highway improvement works, listed below, have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

- An independent Stage 2 Safety Audit has been carried out in accordance with HD19/03 - Road Safety Audit or any superseding regulations.

- A programme for the completion of the proposed works has been submitted.

The required highway improvements shall include:

- Provision of tactile paving.

- To provide a right turning lane on Scarborough Road that conforms to current highway standards to access the site. A 30mph speed limit provided to the junction of Westfield Way and Scarborough Road.

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and to ensure that the details are satisfactory in the interests of the safety and convenience of highway users.

- 24 Unless otherwise approved in writing by the Local Planning Authority in consultation with the Highway Authority, the development shall not be brought into use until the following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority under Condition number 23. To provide a right turning lane on Scarborough Road which conforms to current standards to access the site.

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and in the interests of the safety and convenience of highway users.

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- 25 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks except for investigative works, demolition /remediation works until full technical details relating to the bridging/culverting of the watercourse adjacent to the site have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and in the interests of the safety and convenience of highway users

- 26 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, demolition/remediation works or the depositing of materials on the site in connection with the construction of the access road or building(s) or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:

- i. tactile paving
- ii. vehicular, cycle and pedestrian accesses
- iii. vehicular and cycle parking
- iv. vehicular turning arrangements
- v. manoeuvring arrangements
- vi. loading and unloading arrangements

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and in the interests of the safety and convenience of highway users

- 27 There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority in consultation with the Highway Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commencing on the site and be kept available and in full working order and used such time as the Local Planning Authority in consultation with the Highway Authority agrees in writing to their withdrawal

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety

- 28 No external lighting equipment shall be used other than in accordance with details previously approved in writing by the Local Planning Authority in consultation with the Highway Authority

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and in the interests of highway safety and visual amenity.

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29 During construction works there shall be no:

Light Good Vehicles exceeding 3.5 tonnes  
Medium Goods Vehicles up to 7.5 tonnes  
Heavy Goods Vehicles exceeding 7.5 tonnes

Permitted to arrive, depart, be loaded or unloaded on Sunday or a Bank Holiday nor at any time, except between the hours of 7.30am and 17.30pm on Mondays to Fridays and 8.30am and 12.30pm on Saturdays.

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and to avoid conflict with vulnerable road users.

30 Unless otherwise approved in writing by the Local Planning Authority, there shall be no HGV'S brought onto the site until a survey recording the condition of the existing highway has been carried out in a manner approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and in the interests of highway safety and the general amenity of the area.

31 Any projection overhanging the footway shall be securely fixed and no part shall be less than 2.4 metres above the footway level and no closer than 0.5 metres from the edge of the carriageway.

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and to protect pedestrians and other highway users.

32 Prior to the development being brought into use, a Travel Plan shall have been submitted to an approved in writing by the Local Planning Authority in consultation with the Highway Authority. This shall include:-

- i. the appointment of a travel co-ordinator
- ii. a partnership approach to influence travel behaviour
- iii. measures to encourage the use of alternative modes of transport other than the private car by persons associated with the site
- iv. provision of up-to-date details of public transport services
- v. continual appraisal of travel patterns and measures provided through the Travel Plan
- vi. improved safety for vulnerable road users
- vii. a reduction in all vehicle trips and mileage
- viii. a programme for the implementation of such measures and any proposed physical works
- ix. procedures for monitoring the uptake of such modes of transport and for providing evidence of compliance

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The Travel Plan shall be implemented and the development shall thereafter be carried out and operated in accordance with the Travel Plan.

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and to establish measures to encourage more sustainable non-car modes of transport

- 33 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

- 34 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 designs 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 PPS1 - Delivery Sustainable Development.

- 35 Prior to the occupation of any of any dwelling hereby approved, the following refuse collection and recycling bins shall be provided:-

- 240 litre green refused bin;
- 240 litre brown garden waste bin; and
- 55 litre green glass/cans recycling box.

Reason:- For the avoidance of doubt, and to satisfy Policy H7 (v) of the Ryedale Local Plan.

- 36 The development hereby permitted shall be carried out in accordance with the attached schedule.

Reason:- For the avoidance of doubt and in the interests of proper planning.

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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 REQUIREMENT.

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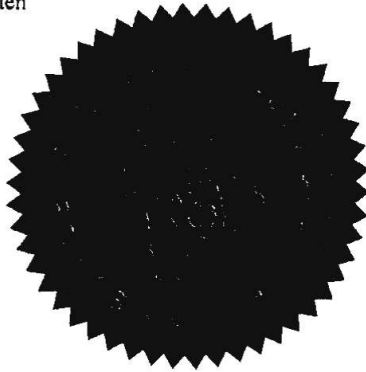
HEAD OF PLANNING

DRAFT

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C/O P+HS Architects (Mrs K Pettit)  
Queens House  
34 Wellington Street  
Leeds  
LS1 2DE

IN WITNESS WHEREOF the parties hereto have duly executed this document as their Deed in the presence of the persons mentioned below the day and year first above written

THE COMMON SEAL of )  
RYEDALE DISTRICT COUNCIL )  
was )  
hereunto affixed in the presence of:- )



*[Handwritten signature]*  
Chairman

*[Handwritten signature]*  
Council Solicitor

Minute P.70/2010  
Reg No. 6314  
Initials *ew*

SIGNED as a DEED by )  
GARETH MARTYN HORSLEY )  
in the presence of: - )  
Signed )

*Gareth M Horsley*  
*Tom Horsley*  
*Jean N. Horsley*


Print Full Name *GARETH MARTYN HORSLEY*  
Address *70, SCARBOROUGH ROAD*  
*NORTON*  
*YO17 8AE*  
Occupation *FLORIST*

SIGNED as a DEED by

SUSAN ELAINE HORSLEY

in the presence of: -

Signed

)  
)   
) JEAN HORSLEY  
) JEAN N. HORSLEY

Print Full Name SUSAN ELAINE HORSLEY

Address 31, LOCKEY CROFT  
WICKINGTON  
YORK

Occupation

YOJ2 ZFP  
FUNERAL DIRECTOR

EXECUTED AS A DEED by

PERSIMMON HOMES LIMITED

acting by its Attorney


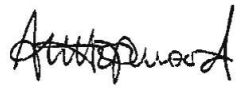

~~WILLIAM ANDREW BOWLES~~

and

ALAN HOPWOOD

in the presence of: -

L. COULSON  
40 Persimmon Homes Ltd  
Fulford  
York

)  
)   
)  
)   
) 

Chairman  
*Redman*

"Plan"

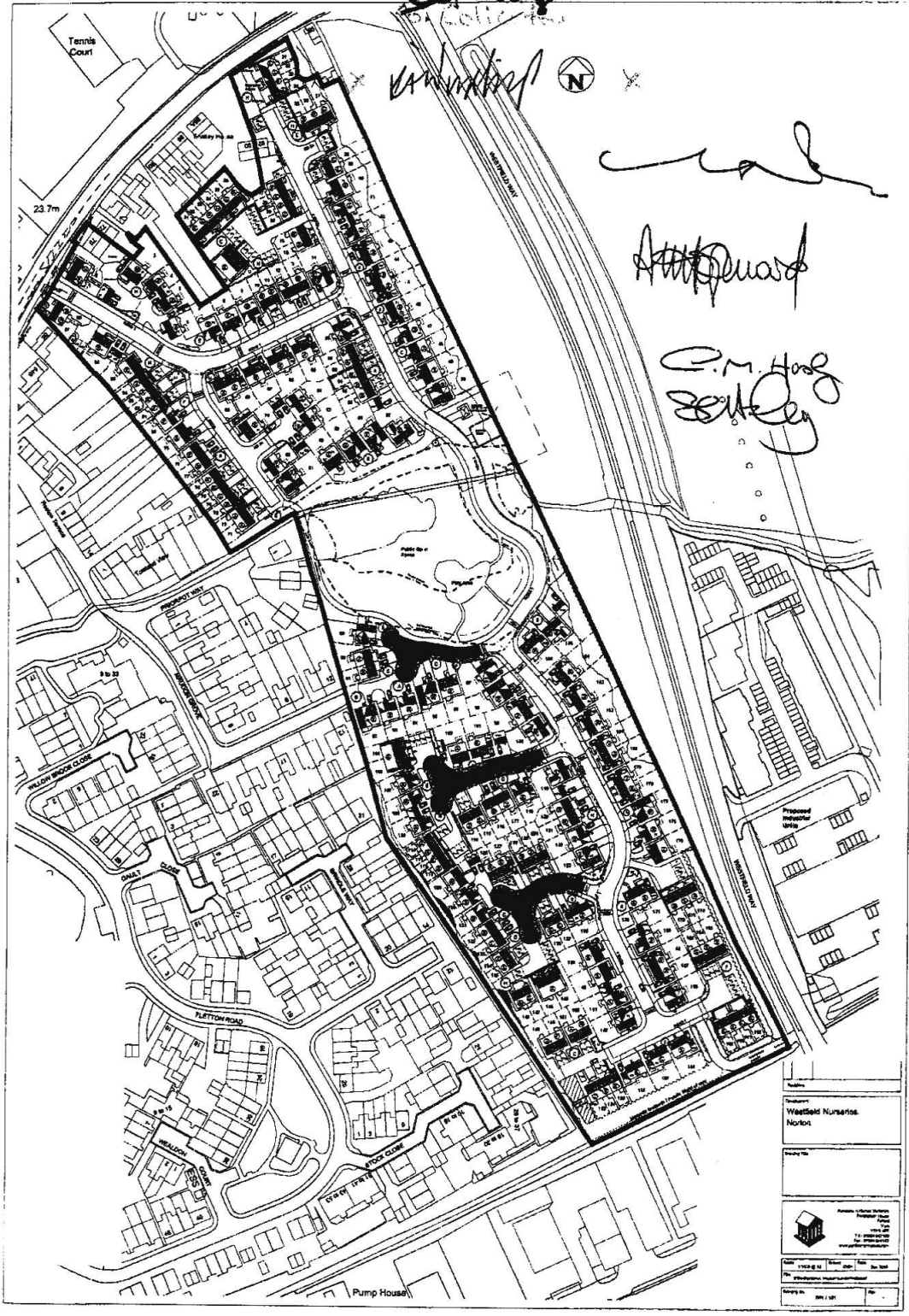
*examined*



*red*

*Attendant*

*C.M. Hoag*  
*SE/CE*



Project Name	
Westfield Nurseries, Norton	
Drawing No.	
Scale	
Author	
Checked	
Date	
Drawing No.	

