

10/00150/MOUT

DATE 22 December 2010

PARTIES

- (1) RYEDALE DISTRICT COUNCIL of Ryedale House, Malton, North Yorkshire, YO17 7HH ("Council")
- (2) GORDON BRYAN BARKER *of Beech Lea, Flaxton, North Yorkshire YO60 7QZ* *of No 2 Cottage, Low Gaterley, Huttons Ambo, York ("Owner")* KAW
- (3) SEAN DAVID HARRISON of Copper Beeches, York Road, Malton, North Yorkshire, YO17 6AX ("Developer")

INTRODUCTION

- 1 The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated
- 2 The Owner is the freehold owner of the Site.
- 3 The Developer has made an Outline Application for Planning Permission for a mixed use development of Business (B1), General Industrial (B2) and Storage and Distribution (B8).
- 4 The Developer has submitted the Application to the Council and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
- 5 The Council resolved on 28 September 2010 to grant the Planning Permission subject to the prior completion of this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

- "1980 Act" the Highways Act 1980.
- "Act" the Town and Country Planning Act 1990 as amended
- "Application" the application for outline planning permission submitted to the Council for the Development and allocated reference number 10/00150/MOUT.
- "Commencement of Development" the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly

"Development"	the Development of the Site with mixed use development of Business (B1), General Industrial (B2) and Storage and Distribution (B8) as set out in the Application.
"Framework Travel Plan"	the Framework Travel Plan referred to in the Planning Permission.
"Index"	All Items Index of Retail Prices issued by the Office for National Statistics .
"Interest"	interest at 4 per cent above the base lending rate of the National Westminster Bank Plc from time to time.
"Occupation" and "Occupied"	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations.
"Plan"	the plan attached to this Deed.
"Planning Permission"	the outline planning permission subject to conditions to be granted by the Council pursuant to the Application as set out in the Second Schedule.
"Site"	the land against which this Deed may be enforced as shown edged red on the Plan.
"Strategic Transport Commuted Sum"	Financial contribution to pay for infrastructure improvements to relieve traffic congestion at Butcher Corner, Malton, North Yorkshire generated by the Development

## **2 CONSTRUCTION OF THIS DEED**

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to their respective statutory functions

2.7 The headings and contents list are for reference only and shall not affect construction.

**3 LEGAL BASIS**

3.1 This Deed is made pursuant to Section 106 of the Act.

3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner.

**4 CONDITIONALITY**

This Deed is conditional upon:

- (i) the grant of the Planning Permission; and
- (ii) the Commencement of Development

save for the provisions of Clauses 7.1, 9, 13, 14 and 15 which shall come into effect immediately upon completion of this Deed

**5 THE OWNER'S AND DEVELOPERS' COVENANTS**

5.1 The Owner and the Developer covenant with the Council as set out in the Third Schedule.

**6 THE COUNCIL'S COVENANTS**

6.1 The Council covenants with the Owner and the Developer as set out in the Fourth Schedule.

**7 MISCELLANEOUS**

7.1 The Owner and the Developer shall pay to the Council on completion of this Deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed.

7.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999

7.3 This Deed shall be registrable as a local land charge by the Council.

7.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of:

- (i) the Council by the Head of Planning or the Chief Executive;

And any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.

7.5 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

7.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

7.7 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.

- 7.8 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site or relevant part thereof but without prejudice to liability for any subsisting breach arising prior to parting with such interest or liability arising from the provisions of the Third Schedule in relation to the Owner and/or the Developer and/or (for the avoidance of doubt) their respective successors in title to the whole or relevant part of the Site .
- 7.9 This Deed shall not be enforceable against owner-occupiers or tenants of industrial units constructed pursuant to the Planning Permission nor against those deriving title from them
- 7.10 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed
- 7.11 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

**8 WAIVER**

No waiver (whether expressed or implied) by the Council the Owner or the Developer of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council the Owner or the Developer from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

**9 CHANGE IN OWNERSHIP**

The Owner agrees with the Council to give the Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan.

**10 INDEXATION**

Any sum referred to in the Third Schedule shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable.

Any sum increased by the application of this clause shall not exceed the Strategic Transport Commuted Sums being applied generally to new developments at the date on which such sum is payable.

**11 INTEREST**

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

**12 VAT**

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

**13 DISPUTE PROVISIONS**

- 13.1 In the event of any dispute or difference arising between any of the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly

relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

- 13.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 13.1 or as to the appropriateness of the professional body then such question may be referred by either party to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.
- 13.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received any file or written representation
- 13.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten working days.
- 13.5 The provisions of this clause shall not affect the ability of the Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Deed and consequential and interim orders and relief.

#### 14 JURISDICTION

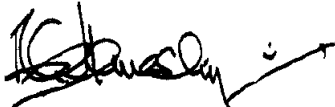
This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

#### 15 DELIVERY

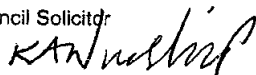
The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated

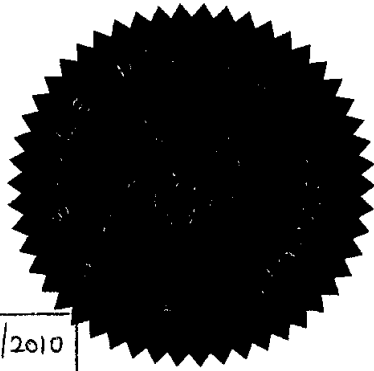
IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

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

  
Chairman

Council Solicitor





Minutes 71/2010  
Reg No. 6313  
Initials *clw*

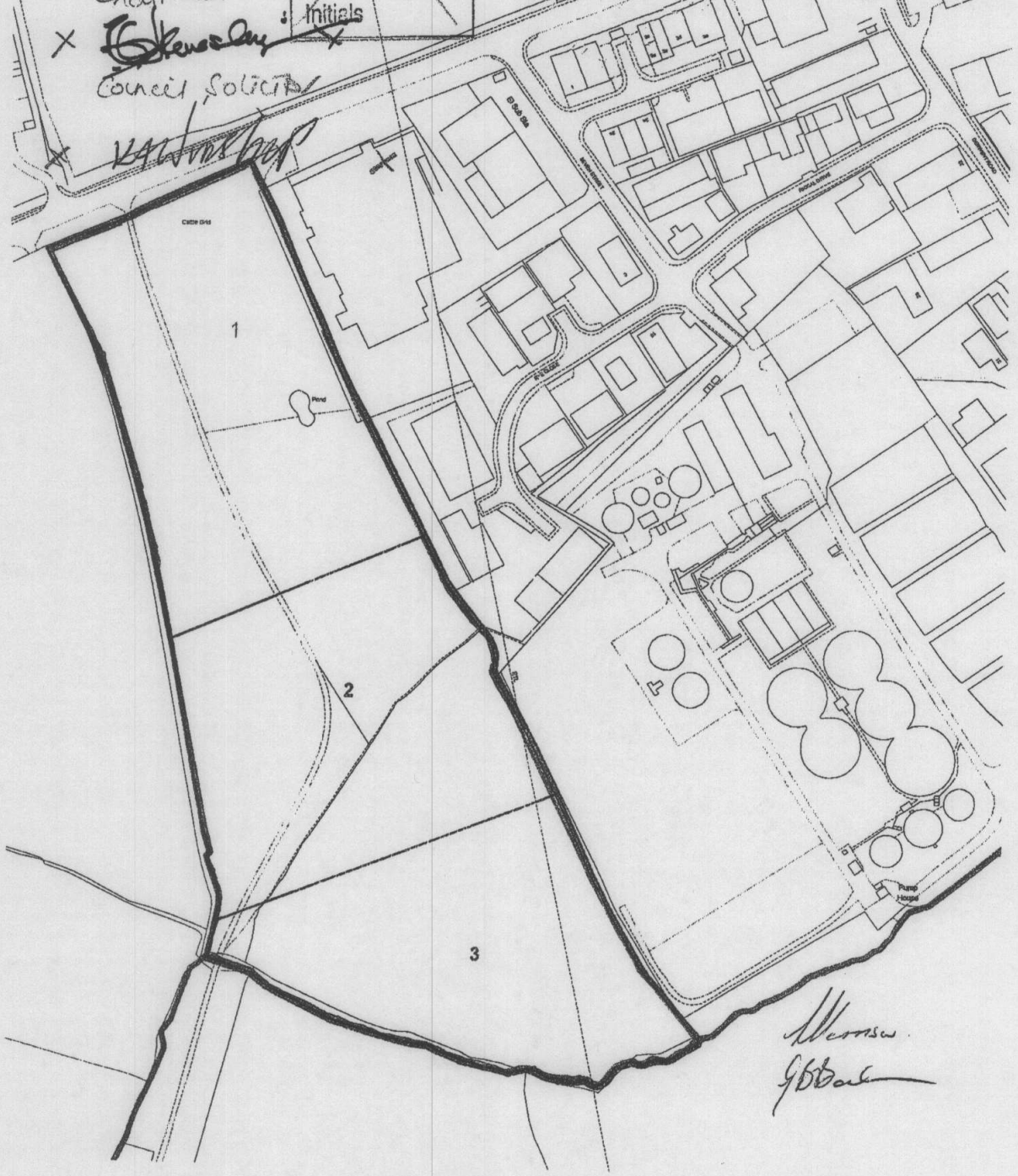
Land Registry  
Official copy of  
title plan

Title number NY1  
Ordnance Survey  
Scale 1:2500  
Administrative ar

Minute  
Reg No.  
Initials

Chairman  
X *[Signature]*  
Council Solicitor  
X *[Signature]*

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*[Signature]*  
*[Signature]*

FIRST SCHEDULE

ALL THAT Land on the North side of Cherry Farm, Huttons Ambo with H M Land Registry registered title number NYK 244172

SECOND SCHEDULE  
[Form of notice of planning permission]



**RYEDALE DISTRICT COUNCIL**

**TOWN & COUNTRY PLANNING ACT 1990**

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

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

**Application No:** 10/00150/MOUI  
**Proposal:** Mixed use development of Business (B1), General Industrial (B2), Storage and Distribution (B8) - site area 6.8ha  
**at:** Land To West Of York Road Industrial Estate York Road Malton North Yorkshire  
**for:** G B Barker & S D Harrison  
**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 T3 - Access to the local highway network  
Ryedale Local Plan - Policy T7 - Parking  
Ryedale Local Plan - Policy T10 - Public rights of way and pedestrian facilities

The site, however, lies outside of an identified development limit and the following material considerations are considered to outweigh the adopted development plan which show the current extent of the development limits. The adopted development plan dates from 2002 and in the interim period, the Council has commissioned two additional employment land studies, in April 2006 the Knight Frank Study and in June 2010 an update report by ENTEC. Both studies identified a clear need to provide an additional supply of employment land to meet existing and future needs. This site is identified as a 'short-term' priority site to meet such needs in the short-term. Malton and Norton are the principle town serving the District and there is a limited availability of suitable sites, particularly for B1 uses. The application to develop 6.8 hectares of land immediately adjacent to York Road Industrial Estate for B1, B2 and B8 will bring forward a much needed release of land for employment uses and the Studies recommend release of this site ahead of the Local Development Framework being finalised.

G B Barker & S D Harrison  
C/O David Chapman Associates  
4 Middlethorpe Business Park  
Sim Balk Lane  
Bishopthorpe  
York  
YO23 2BD

**CONDITIONS AND ASSOCIATED REASONS**

- 01 Application for approval of reserved matters shall be made to the Local Planning Authority not later than
- The development hereby permitted shall be begun on or before whichever is the later of the following dates:-
- The expiration of two years from the final approval of the reserved matters or (in the case of approval on different dates) the final approval of the last such matters approved.
- Reason:- To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 02 No construction of any building forming part of the development shall take place without the prior written approval of the Local Planning Authority of all details of the following matters:-
- (i) the layout, scale and appearance of the building, including a schedule of external materials to be used
- (ii) the landscaping of the site
- Reason:- To safeguard the rights of control by the Local Planning Authority in respect of the reserved matters.
- 03 The detailed design approach to accompany the Reserved Matters application shall follow the principles set out in paragraphs 4, 5, 6, 7, 8, 9 and 10 of the submitted and approved Design & Access Statement deposited on 16 February 2010
- Reason:- To ensure that the detailed design of the development hereby approved by the grant of this Outline planning permission are satisfactory, and to satisfy the requirements of Policy EMP13 of the Ryedale Local Plan
- 04 Before the construction of any building forming part of 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 construction of any building forming part of 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 EMP13 of the Ryedale Local Plan

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- 05 Prior to the commencement of the construction of any building forming part 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 EMP13 of the Ryedale Local Plan.

- 06 No development shall take place within the application site until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation for a watching brief submitted by the applicant and approved in writing by the Local Planning Authority

Reason:- The site is of archaeological interest and investigation/protection and observation of the site is required by PPS5 - 'Planning for the Historic Environment'

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

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

- (a) the proposed highway layout including the highway boundary
- (b) dimensions of any carriageway, cycleway, footway, and verges
- (c) visibility splays
- (d) drainage and sewerage system
- (e) lining and signing
- (f) traffic calming measures
- (g) all types of surfacing (including tactiles), 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 at regular intervals along the proposed road showing the existing and proposed ground levels
- (c) kerb and edging construction details
- (d) typical drainage construction details

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- (4) Details of the method and means of surface water disposal.
- (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 with the Local Planning Authority in consultation with the Highway Authority

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and to secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of highway users.

- 08 No part of the development to which this permission relates shall be brought into use until the carriageway and any footway/footpath from which it gains access shall be 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 any part of the development is brought into use.

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

- 09 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:

(i) The details of the access shall have been approved in writing by the Local Planning Authority in consultation with the Highway Authority

(ii)(a) The access shall be formed with 15 metre radius kerbs, to give a minimum carriageway width of 7.3 metres, and that part of the access road extending 30 metres into the site shall be constructed in accordance with Standard Detail number E7

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(iii) Any gates or barriers shall be erected a minimum distance of 30 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway

(iv) That part of the access(es) extending 30 metres into the site from the carriageway of the existing highway shall be at a gradient not exceeding 1 in 30

(v) Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the approved details and maintained thereafter to prevent such discharges.

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience

- 10 No part of the development shall be brought into use until the existing access into Pro Pak Foods and the farm access track have been permanently closed off and the highway restored. These works shall be in accordance with details which have been approved in writing by the Local Planning Authority in consultation with the Highway Authority. No new access shall be created without the written approval of 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.

- 11 There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 160 metres measured along both channel lines of the major road York Road from a point measured 4.5 metres down the centre line of the access road. 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 purpose at all times.

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

- 12 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative 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:

(i) 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

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

(iii) A programme for the completion of the proposed works has been submitted.

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The required highway improvements shall include:

- (a) Provision of a right turn lane on York Road
- (b) Provision of a new footway on York 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.

- 13 Unless otherwise approved in writing by the Local Planning Authority in consultation with the Highway Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority under condition 11:

- a) Provision of a right lane turn on York Road

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

- 14 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 11:

- a) Provision of a pedestrian island and a new footway on York Road;
- b) Closure of the existing Pro Pak entrance

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

- 15 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks associated with the construction of any building forming part of the development, except for investigative works, or the depositing of material on the site in connection with the construction of the building(s) 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 T7 of the Ryedale Local Plan and to ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.

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16 No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved:

- (i) have been constructed in accordance with the submitted drawings
- (ii) are available for use unless otherwise approved in writing by the Local Planning Authority

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

Reason:- In accordance with Policy T7 of the Ryedale Local Plan and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

17 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 commences on the site, and be kept available and in full working order and used until 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.

18 Unless approved otherwise in writing by the Local Planning Authority, there shall be no establishment on a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction of the site, until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:

- (i) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway
- (ii) on-site materials storage area capable of accommodating all materials required for the operation of the site.

The approved areas shall be kept available for their intended use at all times that construction works are in operation. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site

Reason:- In accordance with Policy T3 of the Ryedale Local Plan and to provide for appropriate on-site vehicle parking and the storage facilities, in the interests of highway safety and the general amenity of the area

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21 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) July 2010/AAH Planning Consultants/ENV/0101/10FRA and the following mitigation measures detailed within the FRA:

1 Limiting the surface water run-off generated by the development so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site. The calculated Greenfield run-off rate of 3.65 l/s/ha is acceptable. The drainage scheme should be able to store the 1 in 30yr storm and not flood any buildings during the 1 in 100yr storm. An allowance for climate change must be factored into the design calculations.

Reason:- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

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

Reason:- In the interest of satisfactory drainage.

23 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.

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

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

Reason:- To ensure that the development can be properly drained, and to comply with Policy U1 of the Ryedale Local Plan.

25 Unless otherwise approved in writing by the Local Planning Authority, no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason:- To ensure that no foul water discharges take place until proper provision has been made for its disposal, and to comply with Policy U1 of the Ryedale Local Plan.

26 Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor with a capacity to be agreed in writing with the local planning authority prior to discharge to the public sewer. Roof drainage shall not be passed through any interceptor.

Reason:- In the interest of satisfactory drainage, and to comply with Policy U3 of the Ryedale Local Plan.

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- 27 Unless otherwise agreed in writing by the Local Planning Authority, no building or other obstruction shall be located over or within 5.0 (five) metres either side of the centre line of the 315mm live water main, which crosses the site.

Reason:- In order to allow sufficient access for maintenance and repair work at all times

- 28 Unless otherwise agreed in writing by the Local Planning Authority, no building or other obstruction shall be located over or within 3.0 (three) metres either side of the centre line of the public sewage pumping main, which crosses the site

Reason:- In order to allow sufficient access for maintenance and repair work at all times

- 29 No new tree planting shall be located over or within 5.0 (five) metres either side of the centre line of the 315mm live water main, which crosses the site.

Reason:- In order to protect the structural integrity of the sewers from tree root infestation

- 30 The Reserved Matters for each of the units to be submitted under the requirements of Condition 02 shall make provision for the following measures in relation to bats, otters, BAP bird species, boundary water courses, treatment of Indian Balsam and a new pond within the site. The detailed measures are listed below:

Bats:

- Lighting plan to be drawn up to protect existing corridors and new foraging areas;
- Erect a minimum of 10 bat boxes in existing trees;
- Inspect existing trees to be removed for bat habitation; and
- Retain as much existing hedgerow and tree habitat as possible, new landscaping to be designed to increase foraging areas for bats

Otters:

- Site induction for workers should include information that otters may enter the site; a mitigation method statement should be prepared

BAP bird species:

- Site clearance should be undertaken outside the bird nesting season March to August; and
- Incorporate bird boxes in new buildings

Treatment of Indian Balsam:

- Areas currently containing Indian Balsam are to be managed to eradicate this plant.

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New pond:

- An area within part of the development site is to incorporate in its design features a permanent pond that will be attractive to wildlife

The approved measures shall be implemented in accordance with a programme of works to be agreed with the Local Planning Authority, such programme to be agreed prior to the commencement of any part of the development

Reason:- To accord with the NERC Act and PPS9 - Biodiversity and Geological Conservation.

[David - Your comments are with our CMO, Don Davies]

- 31 The development shall only be carried out in accordance with the agreed Framework Travel Plan (Final Issue 7)Wd97\_03 dated 28 September 2010.

Reason:- This condition should be applied to ensure that development is carried out in accordance with the provisions of the agreed Framework Travel Plan which has been agreed with the Highways Agency.

- 32 Six months prior to first occupation of the development a suitably qualified person or organisation shall be appointed as Travel Plan Coordinator to manage the Framework Travel Plan and shall remain in post for a minimum of 5 years from the date of first occupation. The Travel Plan Coordinators responsibilities shall be in strict accordance with those stated in the Framework Travel Plan. On termination of the Travel Plan Coordinators position, the Coordinators responsibilities are to be passed to the site management company. Details of the appointee are to be submitted to the Local Planning Authority and Highways Agency following the appointment.

Reason:- This condition should be applied to ensure a Travel Plan Coordinator is appointed

- 33 No more than 176 car parking spaces shall be provided on the site. Prior to the occupation of any unit, at least 15% of the parking spaces for that unit should be allocated as car share spaces

Reason:- This condition should be applied to ensure sustainable travel across the site is delivered in line with PPS1, PPG13 and Circular 02/2007

- 34 The Framework Travel Plan measures identified in Table 6.2 of the Framework Travel Plan shall be implemented in strict accordance with the corresponding Implementation Timescales

Reason:- This condition should be applied to ensure that all the Framework Travel Plan Measures are implemented in accordance with the agreed timescale stated in the Framework Travel Plan

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- 35 Prior to first occupation of the development, a 'development working group' shall be established and a meeting held with the Travel Plan Coordinator. Meetings between the Travel Plan Coordinator and 'Development Working Group' should take place every three months following first occupation until all the travel plans have been agreed.

Reason:- This condition should be applied to ensure the development of a Travel Plan Working Group and regular liaison between the group and the Travel Plan Coordinator.

- 36 Within six months of occupation of any unit, detailed travel plans shall be submitted by the occupier. The Travel Plan shall be submitted to and agreed in writing by the Local Planning Authority in consultation with the Highways Agency

Reason:- This condition should be applied to ensure occupier specific travel plans are delivered.

- 37 Prior to first occupation, a Car Park Management Plan shall be submitted to and agreed in writing by the Local Planning Authority in consultation with the Highways Agency.

Reason:- This condition should be applied to ensure that an appropriate Car Park Management Plan is prepared for inclusion in the Employee Site Welcome Pack

- 38 The approved method for vehicle trip monitoring set out in section 7 within the Framework Travel Plan shall be implemented in strict accordance with these details. Monitoring of vehicle trips shall commence within 8 weeks of first occupation and shall take place on an annual basis for a period of 5 years ending on the 5th anniversary of full occupation. Monitoring reports are to be submitted to and agreed in writing by the Local Planning Authority in consultation with the Highways Agency

Reason:- This condition should be applied to ensure that the agreed monitoring and reporting procedure is adhered to

- 39 Following the full occupation of the site, the total number of single occupancy vehicles entering or exiting the site should not exceed 'development fully occupied' targets set out in the agreed Framework Travel Plan:

- 646 two-way vehicle trips during the 12 hour (07.00 - 19.00) weekday period
- 89 two-way vehicle trips during the AM peak hour (08.00 - 09.00) weekday period
- 62 two-way vehicle trips during the PM peak hour (17.00 - 18.00) weekday period

Should any of the above targets be breached, an action plan setting out what measures will be taken to meet the targets set, shall be submitted to and agreed in writing by the Local Planning Authority in consultation with the Highways Agency. The action plan should be submitted within 8 weeks of the breach being identified

Reason:- This condition should be applied to ensure that the Local Planning Authority and the Highways Agency are informed of any breach in the single vehicle occupancy targets and that appropriate measures are taken to address the breach

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- 40 The development hereby permitted shall be carried out in accordance with the following approved plan(s):
- Site Location Plan - Scale 1:1250;
  - Site Layout - Scale 1:1250 Drawing 09:21:02 Revision G; and
  - Proposed Access Arrangement - Scale 1:100 Ref LTP/774/002 Revision B.

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

**INFORMATIVE(S)**

- 01 The applicant is advised that this decision notice should be read in conjunction with the Agreement made under Section 106 of the Town and Country Planning Act 1990
- 02 In imposing Condition 07 above, it is recommended that before a detailed planning submission is made, a draft layout is produced for discussion between the applicant, the Local Planning Authority and the Highway Authority in order to avoid abortive work. The agreed drawings must be approved in writing by the Local Planning Authority for the purpose of discharging this condition.
- 03 You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in this condition.
- 04 These works shall include, where appropriate, replacing kerbs, footways, cycleways and verges to the proper line and level
- 05 An explanation of terms used above is available from the Highway Authority.
- 06 There must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the Highway Authority
- 07 The proposals shall cater for all types of vehicles that will use the site. The parking standards are set out in the North Yorkshire County Council publication 'Transport Issues and Development - A Guide' available at [www.northyorks.gov.uk](http://www.northyorks.gov.uk)

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- 08 The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as any alternative route has been provided and confirmed under an Order made under the Town & Country Planning Act 1990

Applicants are advised to contact the County Council's Access and Public Rights of Way Manager at County Hall, Northallerton on 0845 872374 to obtain up-to-date information regarding the line of the route of the way. The applicant should discuss with the Highway Authority any proposals for altering the route.

- 09 A full set of advisory notes/informatives received from Yorkshire Water is attached to this decision notice (copy letter dated 23 March 2010)

- 10 In imposing Condition 06 above, it is recommended that the applicant and/or successor is required to commission a professional archaeologist to undertake an archaeological watching brief

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

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HEAD OF PLANNING

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### THIRD SCHEDULE

#### The Owner's and Developers' Covenants with the Council

1. The Owner and Developer covenant
  - 1.1 To pay to the Council on the date of Occupation of each of the individual units on the site a Strategic Transport Commuted Sum calculated at the following rates for the following Use Classes:
    - 1.1.1 A rate of £8,333 for each 100m<sup>2</sup> or part thereof for a Use Class B1 use;
    - 1.1.2 A rate of £2,222 for each 100m<sup>2</sup> or part thereof for Use Class B2 use;
    - 1.1.3 A rate of £1,180 for each 100m<sup>2</sup> or part thereof for Use Class B8 use
  2. The Council, the Owner and the Developer agree as follows:-
    - 2.1 The rates set out in clause 1 above are derived from a total Strategic Transport Commuted Sum of £397,500.00p based on a Development comprising 1,800 m2 of Use Class B1, 5,400 m2 of Use Class B2 and 10,800 m2 of Use Class B8. This sum is calculated on the basis of 53 Passenger Car Units (PCUs) passing through Butcher Corner, Malton during the period 8.00 am to 9.00 am at a rate of £7,500.00p per PCU.
    - 2.2 A passenger car is one PCU and a goods vehicle is two PCUs. The figure of 53 PCUs passing through Butcher Corner is derived from the 89 two way passenger car vehicle trips during the 8.00 am to 9.00 am period set out in Condition 39 of the Planning Permission. Of these 89 passenger car vehicle trips 74 are trips into the Site and 15 are trips out of the Site. In addition to the passenger car vehicle trips there are deemed to be 4 goods vehicle trips into the Site and 5 goods vehicle trips out of the Site during the 8.00 am to 9.00 am period. During the period 8.00 am to 9.00 am period 44% of trips into the Site and 68% of the trips out of the Site are deemed to pass through Butcher Corner.
    - 2.3 If (1) the figure of 89 passenger car trips set out in the Framework Travel Plan and Condition 39 in the Planning Permission is changed by agreement with the Council in writing and after approval of an application to vary Condition 39 of the Planning Permission or (2) the development mix of 1,800 m2 of Use Class B1, 5,400 m2 of Use Class B2 and 10,800 m2 of Use Class B8 is varied, then the number of PCUs passing through Butcher Corner during the 8.00 am to 9.00 am period and the rates of payment per 100 m2 noted above shall be re-calculated using the same methods employed to calculate the figure of 53 PCUs and the rates set out in clause 1 above. The calculation of PCUs passing through Butcher Corner shall be reviewed when 6,000 m2 and 12,000 m2 of developed floor area have been occupied and on full occupation. Any difference at each of the review stages shall be paid by the Owner and the Developer to the Council or be re-paid by the Council to the Owner and Developer, as the case may be.

## FOURTH SCHEDULE

### Council's Covenants

#### Repayment of contributions

- 1 The Council hereby covenants with the Owner and with the Developer to use all sums received from the Owner and/or the Developer under the terms of this Deed for the purposes specified in this Deed for which they are to be paid or for such other purposes for the benefit of the Development as the Council shall agree with whichever of the Owner or the Developer shall have made the payment.
- 2 The Council covenants with the Owner and with the Developer that it will pay to the Owner and/or the Developer such amount of any payment made by the Owner or the Developer to the Council under this Deed which has not been expended in accordance with the provisions of this Deed (and money shall be deemed to be expended if the Council has properly entered into a contract for the expenditure of the money for the purpose for which it is paid which is reasonably likely to result in the fulfilment of that purpose) within ten years of the date of receipt by the Council of such payment.
- 3 The Council shall provide to the Owner and/or the Developer such evidence, as the Owner and/or the Developer shall reasonably require in order to confirm the expenditure of the sums paid by the Owner and/or the Developer under this Deed.

#### Discharge of obligations

- 4 At the written request of the Owner and/or the Developer the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed in respect of each individual unit.