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DATED 18 JULY 2011

THE RYEDALE DISTRICT COUNCIL

and

JOHN CHRISTOPHER FIELDS and OTHERS

and

SHEPHERD HOMES LIMITED

AGREEMENT

pursuant to Section 106 of the
Town and Country Planning Act 1990 as amended
and Section 111 of the Local Government Act 1972
in respect of Cheesecake Farm, Beverley Road, Norton, Malton, York in
the County of North Yorkshire

K A Winship
Council Solicitor
MALTON

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THIS DEED is made the 18 day of July 2011

BETWEEN

- 1 **THE RYEDALE DISTRICT COUNCIL** whose principal office is at Ryedale House Malton in the County of North Yorkshire YO17 7HH ("the Council")
- 2 **JOHN CHRISTOPHER FIELDS** of Monaive, Eastfield Road, Pickering, North Yorkshire, YO18 7HU, **DERWENT SEBASTIAN COLERIDGE GIBSON** of 27 Priestpopple, Hexam, Northumberland, NE46 1PB, **PRISCILLA ANNE CROSSLEY** of Westfield Farm, Norton, Malton, North Yorkshire, YO17 9PL, **CHRISTOPHER JOHN CHARLES LEGARD** of Grizzlefield House, Felixkirk Road, Thirsk, North Yorkshire, YO7 2ED, **EDWARD JAMES ALGERNON SMITH-MAXWELL** of Green Lodge, Green Lane, Goadby, Marwood, Melton Mowbray, Leicestershire, LE14 4MM and **JUSTIN FREELAND** of Green Lodge, Green Lane, Goadby, Marwood, Melton Mowbray, Leicestershire, LE14 4MM ("The Owners")
- 3 **SHEPHERD HOMES** Registered Office Huntington House, Jockey Lane, Huntington, York, YO32 9XW ("The 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 Owners are the freehold owners of the Site
- 3 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

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

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

"Act"	the Town and Country Planning Act 1990
"Social Rent"	means a rent which is comparable to the rents charged in the Ryedale District Council administrative area by Registered Social Landlords for properties of an equivalent type, age and floor area and location and which sum shall be agreed for lettings between the Housing Services Manager the Owner and the Housing Association and thereafter any increases or

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	decreases in accordance with the Tenant Services Authority or any successor body guidance at the time
"Social Rented Dwellings"	means the 6no two bedroom apartments being Plots 60-65 and 8no two bedroom dwellings being,Plots 25, 26,,30,66,67,77,78 and 80 and the 4no three bedroom dwellings being plots 11, 12, 28 and 29 of and forming part of the Development constructed in accordance with the provisions of the Third Schedule to this Agreement to be let on Assured Tenancies to Eligible Occupiers
"Affordable Dwellings"	means the Social Rented Dwellings and the Intermediate /Affordable Dwellings together
"Application"	the application for full planning permission submitted to the Council for the Development and allocated reference number 10/00977/MFUL
"Assured Tenancy"	means a tenancy within the terms of the Housing Act 1988 as amended.
"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.
"Council Solicitor"	means the Council Solicitor 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;
"Development"	the erection of 24 no. two bedroom dwellings, 39 no. three bedroom dwellings, 14no four bedroom dwellings, 6no five bedroom dwellings, 6no two-bedroom apartments together with associated garages and parking spaces, area of public open space and formation of vehicular accesses.
"Eligible Occupier"	means a person or household identified in accordance with the provisions of the Fourth Schedule to this Agreement
"The Housing Association"	Means a Registered Social Landlord registered in accordance with Part 1 Chapter 1 of the Housing Act

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	1996 (or as redefined by any amendment, replacement or re-enactment of such Act) and regulated by the Tenant Services Authority or any successor body and approved in writing by the Housing Services Manager
"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;
"Intermediate/Affordable Dwellings"	means 2no three bedroom dwellings being Plots 10 and 13 and the 7no two bedroom dwellings being plots 23, 24, 27, 31, 68, 79 and 81 of and forming part of the Development constructed in accordance with the provisions of the Third 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 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, may 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 Eligible Occupiers in accordance with the Housing Associations policy
"Intermediate/Affordable Rent"	means an intermediate rent set up to 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;
"Interest"	interest at 4 per cent above the base lending rate of the National Westminster Bank Plc from time to time.
"Market Dwellings"	means those units to be constructed on the Site excluding the Affordable Housing Units for sale on the open market and "Market Dwelling" shall be construed accordingly;
"Market Value"	means a figure to be agreed between the Owner 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

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marketing wherein the parties had each acted knowledgeably, prudently and without compulsion;

"Nominated Housing Association"

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

"Net Revenue"

Means "The sale price of the Market Dwellings less any incentives provided by the Developer in respect of Stamp Duty, Legal Fees, Carpets and Curtains as are listed on each relevant Council of Mortgage Lenders Disclosure of Incentives Form

"Off-site Contribution"

The sum of £132,500 (one hundred and thirty-two thousand five hundred pounds) towards the provision of adult and youth public open space within the vicinity of the Site.

"On-site Contribution"

The sum of £60,440 (sixty thousand four hundred and forty pounds) as a contribution to the maintenance of the on-site open space within the development together with ROSPA and Local Authority inspections for a period of 15 years from the date of transfer of the open space to the Council

"Plan"

The plan attached to this Deed

"Planning Permission"

The full 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 Contribution"

The sum of £172,500 (one hundred and seventy-two thousand five hundred pounds) towards the proposed improvements to the A64 Brambling Fields junction pursuant to the Malton and Norton Transportation Strategy as outlined in the Draft Supplementary Planning Document: Developer Contributions towards Strategic Transport Improvements at Malton and Norton (Interim Version) July 2007 and for no other purpose.

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"Education Contribution"	The sum of £39,732.88 (thirty-nine thousand seven hundred and thirty two pounds and eighty-eight pence) to be paid by the Owners and Developer as a contribution towards procuring improvements to primary school education in Norton
"Traffic Order Contribution"	The sum of £1,500 (one thousand five hundred pounds) to be paid by the Owners and Developer as a contribution towards the costs of relocating the current speed limit on Beverley Road, Norton

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 its statutory functions
- 2.7 The headings 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 [Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000]
- 3.2 The covenants, restrictions and requirements imposed upon the Owners and Developer 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 Owners and Developer.

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 6 1, 8, 11, 12 and 13 which shall come into effect immediately upon completion of this Deed.

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5 THE COVENANTS

- 5.1 The Owners and Developer covenant with the Council as set out in the Third Schedule.
- 5.2 The Council covenants with the Owners and the Developer as set out in the Sixth Schedule

6 MISCELLANEOUS

- 6.1 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
- 6.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 6.3 This Deed shall be registrable as a local land charge by the Council
- 6.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owners or Developer 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 the Council by the Head of Planning;

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.
- 6.5 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.
- 6.6 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.
- 6.7 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 Owners or Developer) it is modified by any statutory procedure or expires prior to the Commencement of Development
- 6.8 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 but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 6.9 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.
- 6.10 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.

7 WAIVER

No waiver (whether expressed or implied) by the Council, Owners or 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, Owners or Developer from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default

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8 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 except insofar as any such change in ownership resulting from a transfer from the Owner to the Developer and / or from the Developer to purchasers of Market Dwellings.

9 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.

10 VAT

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

11 DISPUTE PROVISIONS

11.1 In the event of any dispute or difference arising between 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.

11.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 11.1 or as to the appropriateness of the professional body then such question may be referred by either part 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.

11.3 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.

11.4 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.

11.5 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.

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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

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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.

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FIRST SCHEDULE

The Site

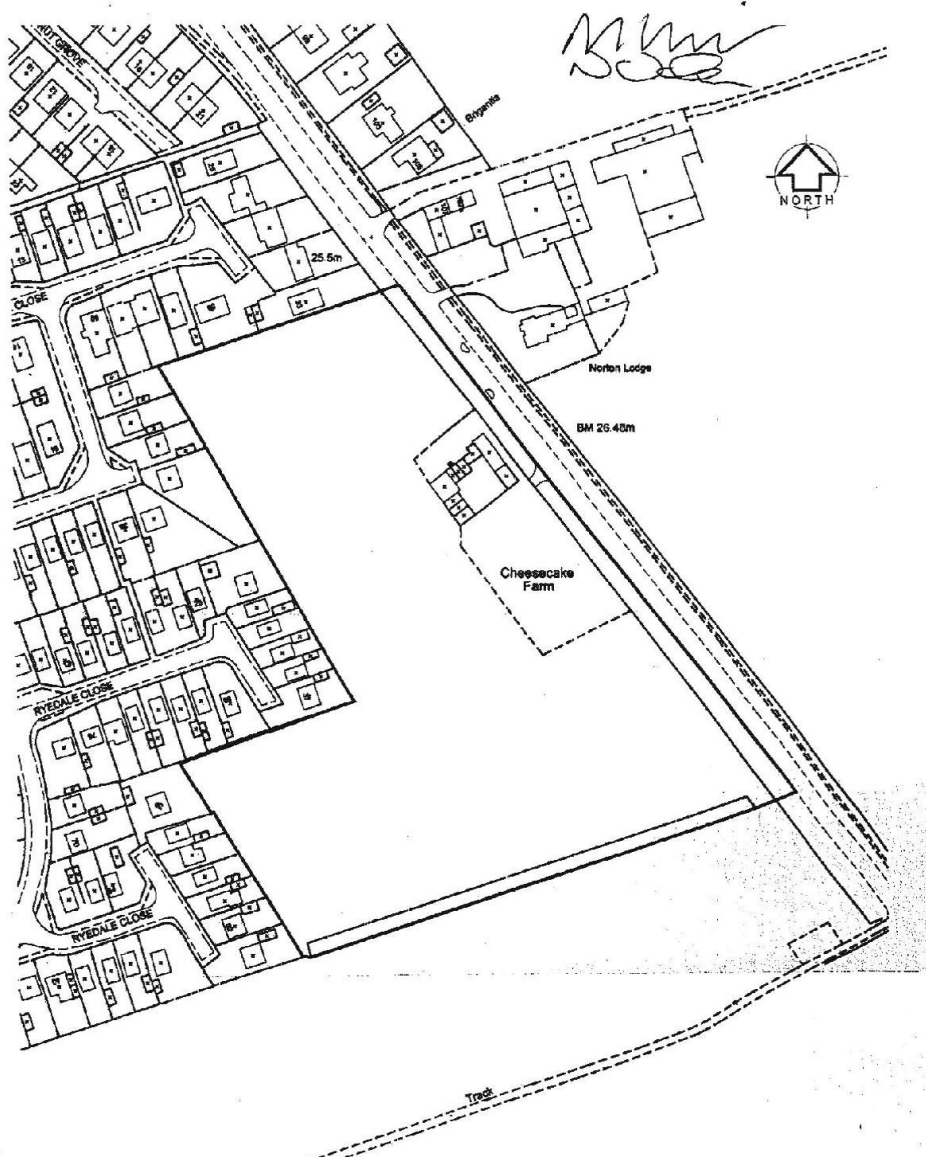
Land at Cheese Cake Farm, Beverley Road, Norton, Malton, YO17 9PJ and shown for the purposes of identification edged red on the Plan

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SECOND SCHEDULE
[Draft Decision Notice]



Cheesecake Farm, Beverley Road, Norton.



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Site Location Plan - 1 : 1250 @ A3 - 01.09.10

**THIRD SCHEDULE
THE OWNER'S COVENANTS WITH THE COUNCIL**

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

- 1. Off-Site Public Open Space Contribution**
 - 1.1 Not to permit occupation of more than 75% of the dwellings on the Site until the Off-site Contribution has been paid to the Council

- 2. Strategic Transport Contribution**
 - 2.1 Not to permit occupation of more than 50% of the dwellings on the Site until the Strategic Transport Contribution has been paid to the Council

- 3. Traffic Order Contribution**
 - 3.1 Not to Commence Development until the Traffic Order Contribution has been paid to the Council

- 4. Affordable Housing**
 - 4.1 To procure that the Affordable Dwellings be constructed on the Site 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: -
 - 4.1.1 A Social Rent in respect of the Social Rented Dwellings; and
 - 4.1.2 An Intermediate/Affordable Rent in respect of the Intermediate/Affordable Dwellings
 - 4.1.3 On terms and conditions approved in writing by the Council
 - 4.2 As soon as reasonably practicable to nominate in writing to the Council the Housing Associations to some of which the Owners and Developer will market the Affordable Dwellings PROVIDED THAT it is agreed that with the Council's prior approval the Owners and Developer 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 or Developer a Nomination the Council may notify to the Owners and Developer in writing of any additional Housing Associations to whom the Owners and Developer shall offer and use reasonable endeavours to contract to transfer the Affordable Dwellings

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- 4.3 The Owners and Developer shall as soon as reasonably practicable following a Nomination pursuant to paragraph 4.2 of this Schedule enter into negotiations with those Housing Associations which it have selected from its Nomination and use reasonable endeavours to contract to transfer the Affordable Dwellings to be constructed within the Development 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:-
- 4.3.1 A Social Rent in respect of the Social Rented Dwellings; and
- 4.3.2 An Intermediate/Affordable Rent in respect of the Intermediate/Affordable Dwellings
- 4.4 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 on the terms of this Agreement or if in the Owners', the Developer's 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 4.3 of this Schedule the Owners, the Developer or the Council shall give written notice to the others ("Notice") and the Owners or Developer may select another Nominated Housing Association(s) from a Nominations referred to in paragraph 4.2 of this Schedule
- 4.5 The Owners and Developer 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 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 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 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 any offer made pursuant to paragraph 4.1 of this Schedule or if following negotiations no offer is forthcoming and the Council acting reasonably is satisfied on the evidence provided by the Owners and Developer that the Owners and Developer 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

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Development to a Nominated Housing Association then the Owners and Developer shall be permitted to dispose of the Affordable Dwellings to be constructed within the Development 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 and Developer shall within 28 days of each sale pursuant to this clause pay to the Council the Affordable Housing Contribution in accordance with the calculation at the Fifth Schedule

- 4.6 Not to permit (unless the Owners are entitled to dispose of the Affordable Dwellings on the open market in accordance with the provisions of paragraph 4.5 of this schedule);
- 4.6.1 Occupation of more than 50% of the Open Market Dwellings until the Owners have entered into a binding contract with a Housing Association(s) for the disposal of at least 50% of the Affordable Dwellings proposed;
- 4.6.2 Occupation of more than 75% of the Open Market Dwellings until 50% of the Affordable Dwellings have been constructed and transferred to a Housing Association(s) and that the owners have entered into a binding contract with a Housing Association(s) for the balance of the Affordable Dwellings proposed;
- 4.6.3 Occupation of more than 90% of the Open Market Dwellings until 100% of the Affordable Dwellings have been constructed and transferred to a Housing Association(s).
- 4.7 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 -
- 4.7.1 A Social Rent in respect of the Social Rented Dwellings; and
- 4.7.2 An Intermediate/Affordable Rent in respect of the Intermediate/Affordable Dwellings to Eligible Occupiers
- 4.8 Prior to the transfer of any of the Affordable Dwellings pursuant to this Schedule the Owners and Developer shall ensure they are fully serviced and accessible by vehicles and pedestrians
- 4.9 To supply within 14 working days from the date of the transfer of the Affordable Dwellings

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to the Housing Association and / or the Nominated Housing Association as the case may be and to provide a copy of that transfer to the Council.

- 4.10 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: -

- 4.10.1 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
- 4.10.2 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
- 4.10.3 Any subsequent disposition of the properties following a disposal falling within paragraphs 4.10.1 or 4.10.2 above

5 Education Contribution

- 5.1 Not to permit the Occupation of more than 40 of the dwellings on the Site until the Education Contribution has been paid to the Council.

6 On-site Public Open Space

- 6.1 To submit to the Council for approval prior to the Commencement of Development a scheme for the installation and landscaping of a childrens' play area on the area of open space within the Site shown edged in red on drawing number Y81:713.01 annexed to this Agreement. Thereafter to implement the agreed scheme as appropriate within the overall timescale for progression of the development and to maintain the on-site public open space in accordance with the agreed scheme until such time as it is transferred to the Council pursuant to clause 6.2 below.
- 6.2 Within six months of occupation of the 89 dwellings on the Site to transfer title of the on-site public open space to the Council on terms to be agreed by the Owners and Developer and the Council PROVIDED always that the transfer shall be for the sum of £1 (one pound only)

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- 6.3 Immediately prior to completion of the transfer pursuant to clause 6.2 above to pay to the Council the On-site Contribution
7. **Viability Reassessment**
- 7.1 The Developer and the Council agree to undertake a viability study ("Viability Reassessment") in accordance with the Seventh Schedule if all of the Market Dwellings have not been sold by two years from the date of Commencement of Development
- 7.2 Should any payments be due from the Developer to the Council as a result of the Viability Reassessment the Developer covenants to pay them to the Council within 28 days of agreement as to the sums due
- 7.3 The Council covenants to use any payments made by the Developer as a result of the Viability Reassessment for the purpose of providing affordable homes within the Ryedale District
- 7.4 The District Council covenants with the Developer that it will pay to the Developer such amount which have not been expended in accordance with paragraph 7.3 of this Schedule within five years of the date of receipt by the District Council of such payment together with Interest for the period from the date of payment to the date of refund
- 7.5 If all of the Market Dwellings have not been sold by two years from the date of Commencement of Development then within 28 days of the sale of the last Market Dwelling a further Viability Reassessment shall take place and the procedure and covenants as paragraphs 7.2 and 7.4 shall be repeated provided that for the avoidance of doubt the Developer shall not be required to make any duplicate payments and any calculation shall exclude Market Dwellings which are included in the first Viability Reassessment

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FOURTH SCHEDULE

Eligibility 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 town 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

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FIFTH SCHEDULE

Affordable Housing Commuted Sum

1. The commuted sum payable in lieu of the Affordable Dwellings shall be calculated as follows:-

The Market Value of the Affordable Dwelling at the time that the Dwelling is offered for sale

minus

The purchase price of the Affordable Dwelling which would have been paid by the Housing Association as appropriate had the Affordable Dwelling been transferred to the Housing Association in accordance with the provisions of the Third Schedule PROVIDED that the commuted sum payable for each Affordable Dwelling shall not be less than the figures set out below.

Type	Commuted Sum
	£
K3	54,310
	£
Dalton	67,790
	£
680	67,400
	£
Newstead	105,800

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Sixth Schedule

Council's Covenants

Repayment of Contributions

- 1 The District Council hereby covenants with the Owner and the Developer to use the contributions received from the Owner and / or Developer under the terms of Clauses 1, 2, 3, 5 and 6 (and Clause 4 in the event that such contributions are paid) of the Third Schedule of this Deed ("the Contributions") for the purposes specified; PROVIDED that where these contributions are to be passed to a third party to be used for the purposes specified, to use reasonable endeavours to ensure that the contributions are used by that third party for the purpose specified.
- 2 The District Council covenants with the Owner and the Developer that it will pay to the Owner and / or Developer (whomever shall have paid such sums) such amount of the Contributions made to the District Council under this Deed which have not been expended in accordance with the provisions of this Deed within five years of the date of receipt by the District Council of such payment together with Interest for the period from the date of payment to the date of refund except in the case of the Strategic Transport Contribution in which case such period shall be ten years in lieu of five
- 3 The District Council shall provide to the Owner and Developer such evidence as the Owner and / or Developer shall reasonably require in order to confirm the expenditure of the Contributions paid by the Owner under this Deed

Discharge of Obligations

- 4 At the written request of the Owner and / or the Developer the District Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed and arrange for the removal of any entries on the Local Land Charges register in respect of this Deed.

Grant of Planning Permission

- 5 The District Council shall issue the Decision Notice within 10 working days of completion of this Deed

SEVENTH SCHEDULE

Viability Reassessment

1 Background

The current viability study prepared by the District Valuer Services (DVS) and dated 14 June 2010 shows that there shall be an initial provision of affordable homes of 27 which represents 30.34% based upon a development of 92 houses. Full compliance with the planning authority's policies would require the actual figure to be 35% which is equivalent to 31.15 affordable homes based upon an adjusted housing provision of 89 houses.

2 Calculation

2.1 The calculation for the re-assessment provision of affordable homes to be paid by way of a commuted sum shall be based upon the following methodology

2.2 The Developer shall at least one week prior to their commencement on site advise the Council of the date that they propose to commence the start of their development. Subsequently at the end of two years from the site commencement date the Developer shall submit full details of all Net Revenue of sales of Market Dwellings achieved in relation to the agreed schedule of house types and areas (appendix 1) together with their respective completion dates. Any increase in the value of the individual house types shall then be deducted from the agreed DVS schedule value to provide increase in value (A). From the resultant figure any BCIS increase in build cost shall be deducted. This figure being calculated by any increase in the agreed DVS build cost per square foot the commencing figure of which has been calculated and agreed as being in the sum of £91.64 at a BCIS index of 181. Any increase in the BCIS index will then be applied to each completed house type area and any increase will be deducted from the original DVS figure.

Therefore: House Type Area (Z) X £91.64 = Original Build Cost (Y)

Then: $\frac{\text{Original Build Cost (Y)}}{\text{BCIS Index 181}} \times \text{New BCIS Index} = \text{Build Cost Increase (B)}$

Then: House Type Value Increase (A) - Build Cost Increase (B)

Divided by the agreed ratio of 5.255 = Commuted Sum Payment

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The resultant figure is the amount payable for affordable homes and any overage due shall be paid to the Council for use by it to provide affordable homes elsewhere at the Council's discretion.

- 2.3 When the development has been completed a final calculation shall be carried in similar manner as set out above and any resultant sum shall again be overage due payable to RDC for use by it to provide affordable homes elsewhere at the Council's discretion.

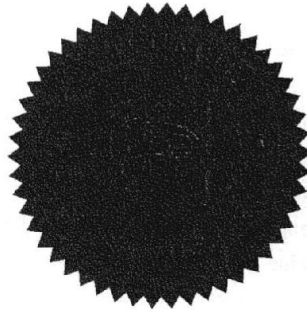
3. Good Faith

The overage calculation shall be facilitated by the Developer acting in good faith and fully disclosing all sale prices achieved and dates of completed sales in the development.

EXECUTED AS A DEED BY AFFIXING)
THE COMMON SEAL OF)
RYEDALE DISTRICT COUNCIL)
Authenticated by:)

S. Clewley
Chairman:
K. Whittington
Council Solicitor:

Minute 934/18
Reg No. 6337
Initials Am



EXECUTED AS A DEED BY)
JOHN CHRISTOPHER FIELDS)

In the presence of: *[Signature]*
DYLAN TOWNSEND
The Anglian Westfield Farm
Farm Manager

EXECUTED AS A DEED BY)
DERWENT SEBASTIAN COLERIDGE GIBSON)

In the presence of: *[Signature]*
C. Munn
27 Prestwood
Newham
Secretary

[Signature]

EXECUTED AS A DEED BY
PRISCILLA ANNE CROSSLEY

) Priscilla Crossley

In the presence of:
S. Newlove
4 Bank Knotts Ter
Norton
Malton YO17 9DX

) S. Newlove

EXECUTED AS A DEED BY
CHRISTOPHER JOHN CHARLES LEGARD

) *[Handwritten Signature]*

In the presence of:
Witness name X *[Signature]*
address X C. F. FARNON
occupation X BLACKBIRD COTTAGE SCAMPSTON
MALTON NORTH YORKSHIRE
YO17 8NE
BUTLER/HOUSEMANAGER

EXECUTED AS A DEED BY
EDWARD JAMES ALGERNON SMITH-MAXWELL) A Smith Maxwell

In the presence of: *[Signature]*
Pharmacy
THE GRANARY, WARRION HOUSE FARM
BRANDSBY, North Yorkshire, YO61 4SS

EXECUTED AS A DEED BY
JUSTIN FREELAND) *[Signature]*
In the presence of: *[Signature]*
44 Christchurch Road
London SW14 7AF
Teacher

EXECUTED AS A DEED BY
SHEPHERD HOMES LIMITED)
Acting By)

Director: *[Signature]*

Director: *[Signature]*

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APPENDIX 1

Plot	Type	Ft2	£ / ft2	DV revenue
1	L Type	2035	£ 165	£ 335,775
2	Lumley	1153	£ 200	£ 230,600
3	Hampton	1047	£ 185	£ 193,695
4	Hampton	1047	£ 185	£ 193,695
5	Beningbrough	1412	£ 195	£ 275,340
6	Hampton	1047	£ 185	£ 193,695
7	Fairfax Variant	1430	£ 195	£ 278,850
8	Lumley	1153	£ 200	£ 230,600
9	Richmond	1024	£ 185	£ 189,440
14	930	930	£ 185	£ 172,050
15	930	930	£ 185	£ 172,050
16	Burghley	1485	£ 180	£ 267,300
17	Epsom	2125	£ 165	£ 350,625
18	L Type	2035	£ 165	£ 335,775
19	Lumley	1153	£ 200	£ 230,600
20	Epsom	2125	£ 165	£ 350,625
21	Fairfax Variant	1430	£ 195	£ 278,850
22	680	680	£ 195	£ 132,600
32	Hampton	1047	£ 185	£ 193,695
33	Beningbrough	1412	£ 195	£ 275,340
34	Fairfax Variant	1430	£ 195	£ 278,850
35	Lumley	1153	£ 200	£ 230,600
36	Richmond	1024	£ 185	£ 189,440
37	Newstead	950	£ 180	£ 171,000
38	Newstead	950	£ 180	£ 171,000
39	Richmond	1024	£ 185	£ 189,440
40	Newstead	950	£ 180	£ 171,000
41	Newstead	950	£ 180	£ 171,000
42	Beningbrough	1412	£ 195	£ 275,340
43	L Type	2035	£ 165	£ 335,775
44	Fairfax Variant	1430	£ 195	£ 278,850
45	L Type	2035	£ 165	£ 335,775
46	Lumley	1153	£ 200	£ 230,600
47	Richmond	1024	£ 185	£ 189,440
48	Richmond	1024	£ 185	£ 189,440
49	Hampton	1047	£ 185	£ 193,695
50	Hampton	1047	£ 185	£ 193,695
51	930	930	£ 185	£ 172,050
52	930	930	£ 185	£ 172,050
53	Hampton	1047	£ 185	£ 193,695
54	Hampton	1047	£ 185	£ 193,695
55	930	930	£ 185	£ 172,050
58	930	930	£ 185	£ 172,050
57	Dalton	682	£ 195	£ 132,990
58	Dalton	682	£ 195	£ 132,990
59	Dalton	682	£ 195	£ 132,990
69	Newstead	950	£ 180	£ 171,000
70	Newstead	950	£ 180	£ 171,000
71	680	680	£ 195	£ 132,600
72	680	680	£ 195	£ 132,600
73	Dalton	682	£ 195	£ 132,990
74	Dalton	682	£ 195	£ 132,990
76	Dalton	682	£ 195	£ 132,990
76	Richmond	1024	£ 185	£ 189,440
82	Hampton	1047	£ 185	£ 193,695
83	Lumley	1153	£ 200	£ 230,600
84	930	930	£ 185	£ 172,050
85	930	930	£ 185	£ 172,050
86	Newstead	950	£ 180	£ 171,000
87	Newstead	950	£ 180	£ 171,000
88	930	930	£ 185	£ 172,050
89	930	930	£ 185	£ 172,050