

DATED

23rd September

2011

RYEDALE DISTRICT COUNCIL

- and -

PICKERING TOWN COUNCIL

- and -

R V ROGER LIMITED

- and -

ANTHONY GAY ROGER

- and -

BDW TRADING LIMITED

~~- and -~~

HSBC BANK PLC

*agr*

*ack*  
*14/2*

*By*  
*SC*  
*UW*

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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 The Nurseries, Whitby Road, Pickering, North Yorkshire YO18 7HG

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**WALKER MORRIS**

King's Court  
12 King Street  
LEEDS  
LS1 2HL  
Tel: 0113 2832500  
Fax: 0113 2459412  
Ref: CAS/BYL.5-1829

THIS AGREEMENT is made the 23rd day of September 2011

**BETWEEN: -**

- (1) **RYEDALE DISTRICT COUNCIL** of Ryedale House, Malton, North Yorkshire YO17 7HH ("Council") of the one part; and
- (2) **PICKERING TOWN COUNCIL** of Memorial Hall, Potter Hill, Pickering, YO18 8AA ("Town Council") of the second part; and
- (3) **R V ROGER LIMITED** (Company No. 708326) whose registered office is situate at The Nurseries, Pickering, North Yorkshire YO18 7JW ("First Owner") of the third part; and
- (4) **ANTHONY GAY ROGER** of Greengates, The Old Vicarage, Maltongate, Thornton Dale, Pickering, North Yorkshire YO18 7JW ("Second Owner") of the fourth part; and
- (5) **BDW TRADING LIMITED** (Company No. 03018173) whose registered office is situate at Barratt House, Cartwright Way, Forest Business Park, Bardonia Hill, Coalville, Leicestershire LE67 1UF ("Developer") of the fifth part; and
- ~~(6) **HSBC BANK PLC** (Company No. 14259) of Securities Processing Centre, PO Box 3924, Sheffield S1 9BD whose registered office is situate at 8 Canada Square, London E14 5HQ ("Mortgagee") of the sixth part.~~

*[Handwritten signatures and initials: a large scribble at the top, 'AGR', 'AKR', 'MR', 'R', 'SA', 'KW']*

**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: -

- |   |   |
|---|---|
| <b>"1990 Act"</b>                               | means the Town and Country Planning Act 1990 as amended;  |
| <b>"Affordable Dwellings"</b>                   | means together the Social Rented Dwellings and the Affordable / Intermediate Dwellings;   |
| <b>"Affordable Homes Programme – Framework"</b> | means the 2011 – 15 Affordable Homes Programme – Framework produced by the Department of Communities and Local Government and the Homes and Communities Agency; |
| <b>"Affordable Housing"</b>                     | means housing provided to eligible households whose   |



**"Affordable Housing  
Commuted Sum"**

needs are not met by the market in accordance with the definition in Annex B of PPS3 (or any future guidance or initiative that replaces or supplements it);

means the sum of £53,673.00 (fifty three thousand six hundred and seventy three pounds only) to be paid by the Owner to the Council in lieu of the provision of 0.6 of a 2 bed Affordable Dwelling 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: -

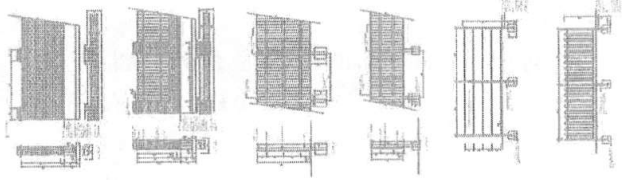
1. a Social Rented Dwelling a sum equal to the difference between the price that would enable the Housing Association to charge a Social Rent and the Open Market Value of that Social Rented Dwelling on the date that it is sold on the open market in accordance with the provisions of paragraph 1.5 of the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

in both cases such sum to be agreed between the Owner and the Council and to be used by the 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 Pickering;

**"Affordable / Intermediate Dwellings"**

means the 12 dwellings consisting of 7 no. two-bed dwellings identified as plots 32 to 34, 82, 83, 95 and 96 and 5 no. no. three-bed dwellings identified as plots 35, 38, 39, 40 and 41 on Drawing No. 10.1015.01 Rev H or such alternative plots as may be agreed in writing with the Council (such agreement

*A. J. Roger S. L. Aksew  
 Lau Roger*

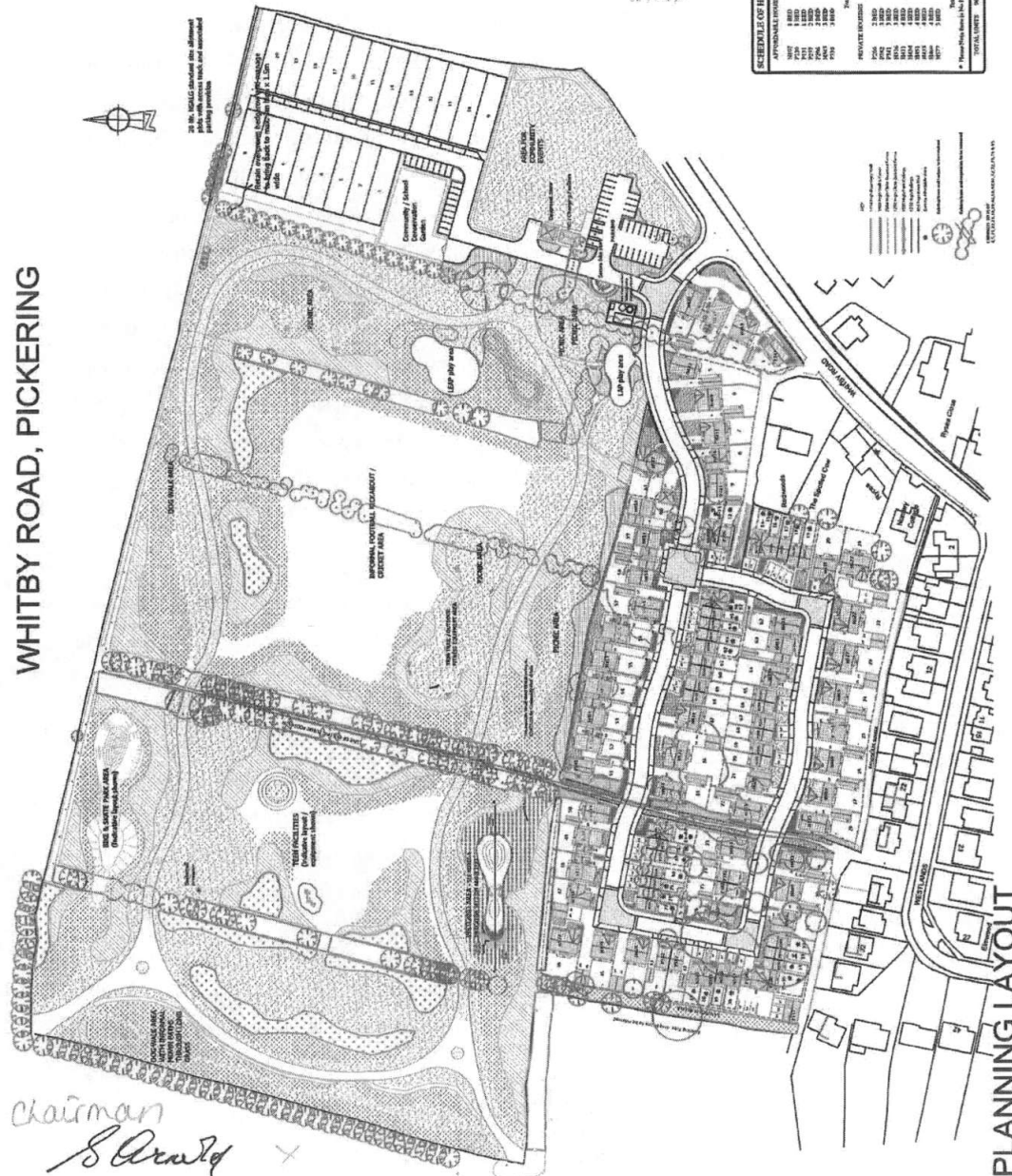


**WHITBY ROAD PROGRAM**  
**PLANNING LAYOUT**  
 1st Floor Plan  
 1:1000 Scale  
 10/10/15/01 H

**SCHEDULE OF HOUSE TYPES**

APPROVAL NUMBER	AREA	TYPE	NO. OF UNITS	TOTAL AREA
1007	1007	A1	10	1000
1008	1008	A2	10	1000
1009	1009	A3	10	1000
1010	1010	A4	10	1000
1011	1011	A5	10	1000
1012	1012	A6	10	1000
1013	1013	A7	10	1000
1014	1014	A8	10	1000
1015	1015	A9	10	1000
1016	1016	A10	10	1000
1017	1017	A11	10	1000
1018	1018	A12	10	1000
1019	1019	A13	10	1000
1020	1020	A14	10	1000
1021	1021	A15	10	1000
1022	1022	A16	10	1000
1023	1023	A17	10	1000
1024	1024	A18	10	1000
1025	1025	A19	10	1000
1026	1026	A20	10	1000
1027	1027	A21	10	1000
1028	1028	A22	10	1000
1029	1029	A23	10	1000
1030	1030	A24	10	1000
1031	1031	A25	10	1000
1032	1032	A26	10	1000
1033	1033	A27	10	1000
1034	1034	A28	10	1000
1035	1035	A29	10	1000
1036	1036	A30	10	1000
1037	1037	A31	10	1000
1038	1038	A32	10	1000
1039	1039	A33	10	1000
1040	1040	A34	10	1000
1041	1041	A35	10	1000
1042	1042	A36	10	1000
1043	1043	A37	10	1000
1044	1044	A38	10	1000
1045	1045	A39	10	1000
1046	1046	A40	10	1000
1047	1047	A41	10	1000
1048	1048	A42	10	1000
1049	1049	A43	10	1000
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1053	1053	A47	10	1000
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1063	1063	A57	10	1000
1064	1064	A58	10	1000
1065	1065	A59	10	1000
1066	1066	A60	10	1000
1067	1067	A61	10	1000
1068	1068	A62	10	1000
1069	1069	A63	10	1000
1070	1070	A64	10	1000
1071	1071	A65	10	1000
1072	1072	A66	10	1000
1073	1073	A67	10	1000
1074	1074	A68	10	1000
1075	1075	A69	10	1000
1076	1076	A70	10	1000
1077	1077	A71	10	1000
1078	1078	A72	10	1000
1079	1079	A73	10	1000
1080	1080	A74	10	1000
1081	1081	A75	10	1000
1082	1082	A76	10	1000
1083	1083	A77	10	1000
1084	1084	A78	10	1000
1085	1085	A79	10	1000
1086	1086	A80	10	1000
1087	1087	A81	10	1000
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1097	1097	A91	10	1000
1098	1098	A92	10	1000
1099	1099	A93	10	1000
1100	1100	A94	10	1000
1101	1101	A95	10	1000
1102	1102	A96	10	1000
1103	1103	A97	10	1000
1104	1104	A98	10	1000
1105	1105	A99	10	1000
1106	1106	A100	10	1000

**WHITBY ROAD, PICKERING**



*Chairman  
 S. Oswald  
 Council Solicitor  
 K. Wainwright*

*Thomson*

**PLANNING LAYOUT**

not to be unreasonably withheld or delayed) 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 affordable / intermediate affordable housing (other than Social 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 suitable for those unable to meet their housing needs on the open market such properties to be made available at an Affordable / Intermediate Rent to persons in accordance with the Housing Associations and / or Nominated Housing Associations policy and reference to "**Affordable / Intermediate Dwelling**" shall be construed accordingly;

**"Affordable / Intermediate Rent"**

means: -

1. an intermediate rent set at 80% of the open market rent for Pickering ("**Intermediate Rent**"); or
2. in the event that a Housing Association is unable to dispose of the Affordable / Intermediate Dwellings at an Intermediate Rent, and if first approved in writing by the Council, a rent up to 80% of the open market rent for Pickering ("**Affordable Rent**")

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;

<b>"Agreement"</b>	means this Agreement;
<b>"Annual Monitoring Contribution"</b>	means the sum of £4,250.00 (four thousand two hundred and fifty pounds) to be paid to the Council by the Owner and applied by the County Council towards procuring the purchase and installation of the CCTV for a maximum period of one week in any one year and collecting and processing on an annual basis the data from the CCTV for a period of two years from Practical Completion of the Development which sum represents 50% of the cost to the County Council in procuring the installation of the CCTV and collecting and processing the data;
<b>"Application"</b>	the written application made on behalf of the Developer to the Council under reference 10/01086/MFUL dated 10 September 2010 for full planning permission for residential development for the erection of 6 no. five-bed dwellings, 35 no. four-bed dwellings, 17 no. three-bed dwellings, 32 no. two-bed dwellings and 6 no. one-bed dwellings with associated garages and parking spaces, formation of vehicular access and change of use of agricultural land to create a community park with associated facilities;
<b>"CCTV"</b>	means the closed circuit television camera to be installed along the section of Whitby Road in the approximate location shown for identification purposes only on Drawing No. 5730/005 attached hereto for the purpose of carrying out the Traffic Monitoring;
<b>"Commencement of Development"</b>	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 <b>Save That</b> the term " <i>material operation</i> " shall not include operations in connection with any work of or

associated with 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;

- "Community Park"** means that part of the Land consisting of approximate 8.4 hectares which is shown for identification purposes edged green on Drawing No. 10.1015.01 Rev H attached to this Agreement that is to be made available for use by the general public for the provision of leisure and recreation;
- "County Council"** means North Yorkshire County Council of County Hall, Northallerton, North Yorkshire, DL7 8AD;
- "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 total sum of £285,516.00 (two hundred and eighty five thousand five hundred and sixteen pounds only) to be paid by the Owner to the Council and applied by the County Council towards procuring the provision of and / or improvements to primary school facilities in Pickering 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 Social Rents"** means the target rents published by the Homes and Communities Agency as amended from time to time

and agreed by the Council in writing;

**"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 Owner and / or the Developer 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;

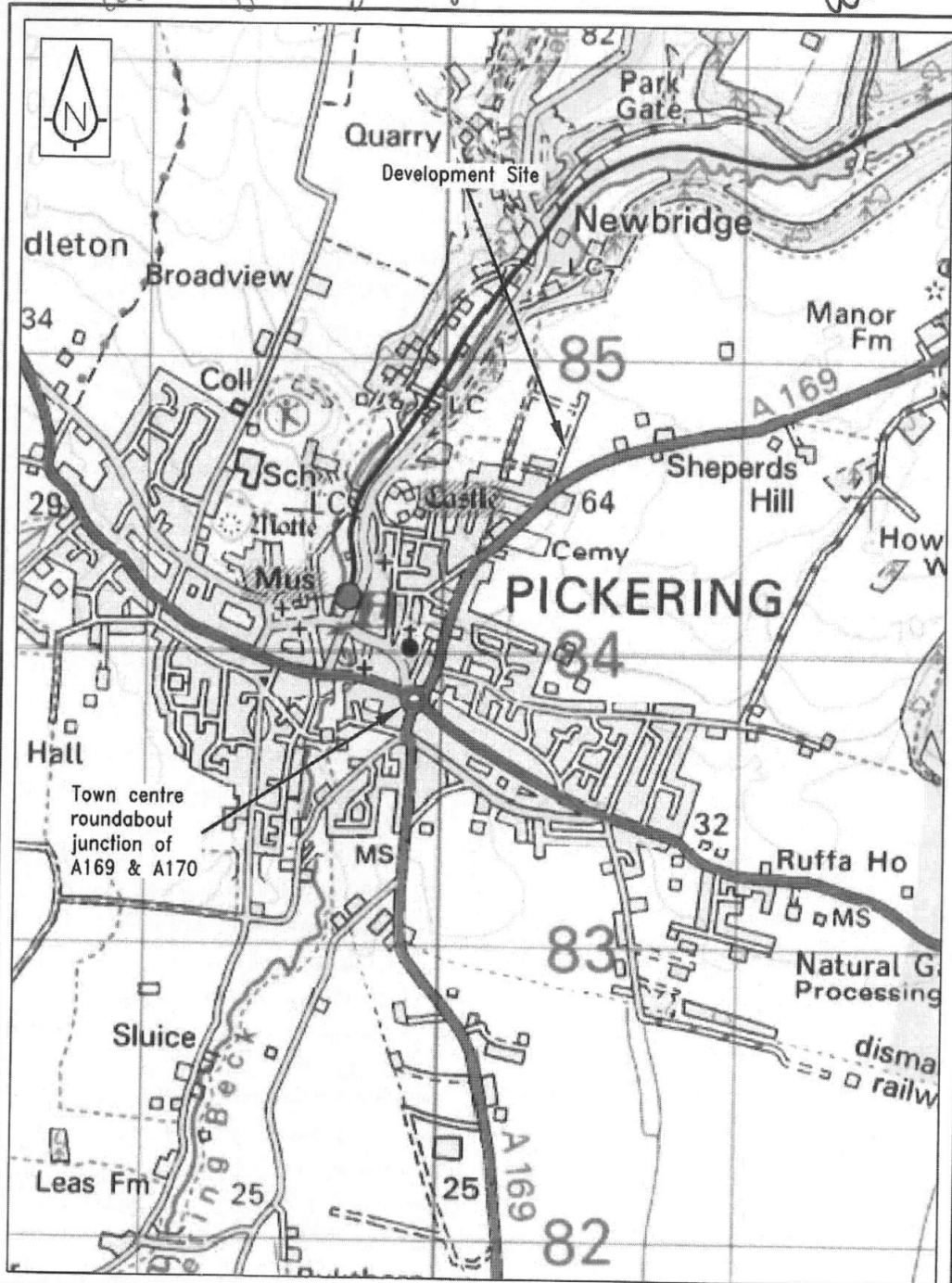
**"Index Linked"**

means such increase or decrease to sums payable to the County Council (under this Agreement) on an annual basis or pro rata per diem from the date of the grant of Permission until such time that payment of any sum in this Agreement is made such index linking to be equivalent to any inflationary increase in such sums in proportion to the increase or decrease taking as the measure of inflation the Retail Price Index last published before the date of grant of Permission or any publication substituted for it;

- "Infrastructure Framework"** means the infrastructure framework to be implemented within the Community Park as agreed between the Developer and the Town Council to include the provision of allotments, a car park, toilet block and changing facilities, amenity grass seeding and footpaths;
- "Land"** means land at The Nurseries, Whitby Road, Pickering, North Yorkshire YO18 7HG as shown for identification purposes only edged red on the Plan;
- "Nominated Housing Association"** means a housing association nominated by the Council in substitution for the Housing Association pursuant to this Agreement;
- "Occupied"** means the beneficial occupation for the purposes permitted by the Planning Permission but shall exclude occupation for the purposes of decoration, fit out or marketing and reference to **"Occupation"** shall be construed accordingly;
- "Off-Site Highway Works Contribution"** means the sum of £21,000.00 (twenty one thousand pounds only) (Index Linked) to be paid by the Owner to the Council and applied by the County Council as follows: -
1. £3,000.00 towards procuring works to the roundabout in Pickering shown for identification purposes only on Drawing No. Figure 1 (106) attached hereto; and
  2. £18,000.00 towards procuring improvements to the junction of Vivis Lane, Pickering
- the need for which directly arises from the Development;
- "Open Market Dwellings"** means those units to be constructed on the Land excluding the Affordable Dwellings for sale on the



*Plan for A. J. Roger B. L. A. Roger*



**sa sanderson**  
**ASSOCIATES**  
 (consulting engineers) Ltd  
 Highways | Traffic | Transportation | Water  
 T 01924 844000 mail@sandersonassociates.co.uk  
 F 01924 844001 www.sandersonassociates.co.uk

Section 106 Agreement  
 Off Site Works Location Plan  
 Whitby Road, Pickering

Drawn AA	Scale NTS	<input checked="" type="checkbox"/> QIM <input checked="" type="checkbox"/> SIA <input checked="" type="checkbox"/> ISO 9001 REGISTERED FIRM
Checked RIG	Date July 2011	
Approved RIG	Drawing Number Figure 1 (106)	Size A4

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Chairman  
*[Signature]*  
 Council Reps  
*[Signature]*

*[Signature]*

open market and "Open Market Dwelling" shall be construed accordingly;

**"Open Market Value"** means a figure calculated having regard to the estimated amount for which a relevant Dwelling should sell on the date of valuation between a willing buyer and a willing seller in an arm's length transaction on the open market after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion;

**"Owner"** means the First Owner and the Second Owner together;

**"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 Fifth Schedule to this Agreement;

**"Practical Completion"** means the stage when a Dwelling has been constructed and fitted out and are ready for occupation;

**"Practical Completion of the Development"** means the stage when the final Dwelling has been constructed and fitted out and is ready for occupation and the works to provide the Community Park have been completed and the Community Park is available and operational for its intended use;

**"Retail Price Index"** means the 12 month percentage change in the All Items Retail Price Index published by the Office for National Statistics contained in the Monthly Digest of Statistics (or contained in any official publication substituted therefore) or such other index as may vary from time to time;

**"Right Turn Lane Works"** means the works to provide a right turn lane within the existing highway corridor at the proposed junction

of the new estate road and access to the Country Park with the A169 Whitby Road to be undertaken by the Owner at its own expense in accordance with the indicative scheme shown on Drawing No. 5730/005 attached hereto that are to be the subject of and more particularly specified in the Section 278 Agreement which is to be completed in accordance with para 4.3 of the First Schedule to this Agreement;

**"Section 278 Agreement"**

means an agreement under section 278 of the 1980 Act that may be made between the County Council and the Owner for the purpose of delivering the Right Turn Lane Works in the A169 Whitby Road substantively in accordance with the template attached as the Sixth Schedule to this Agreement or such other standard template as may be in general use by the County Council at the time;

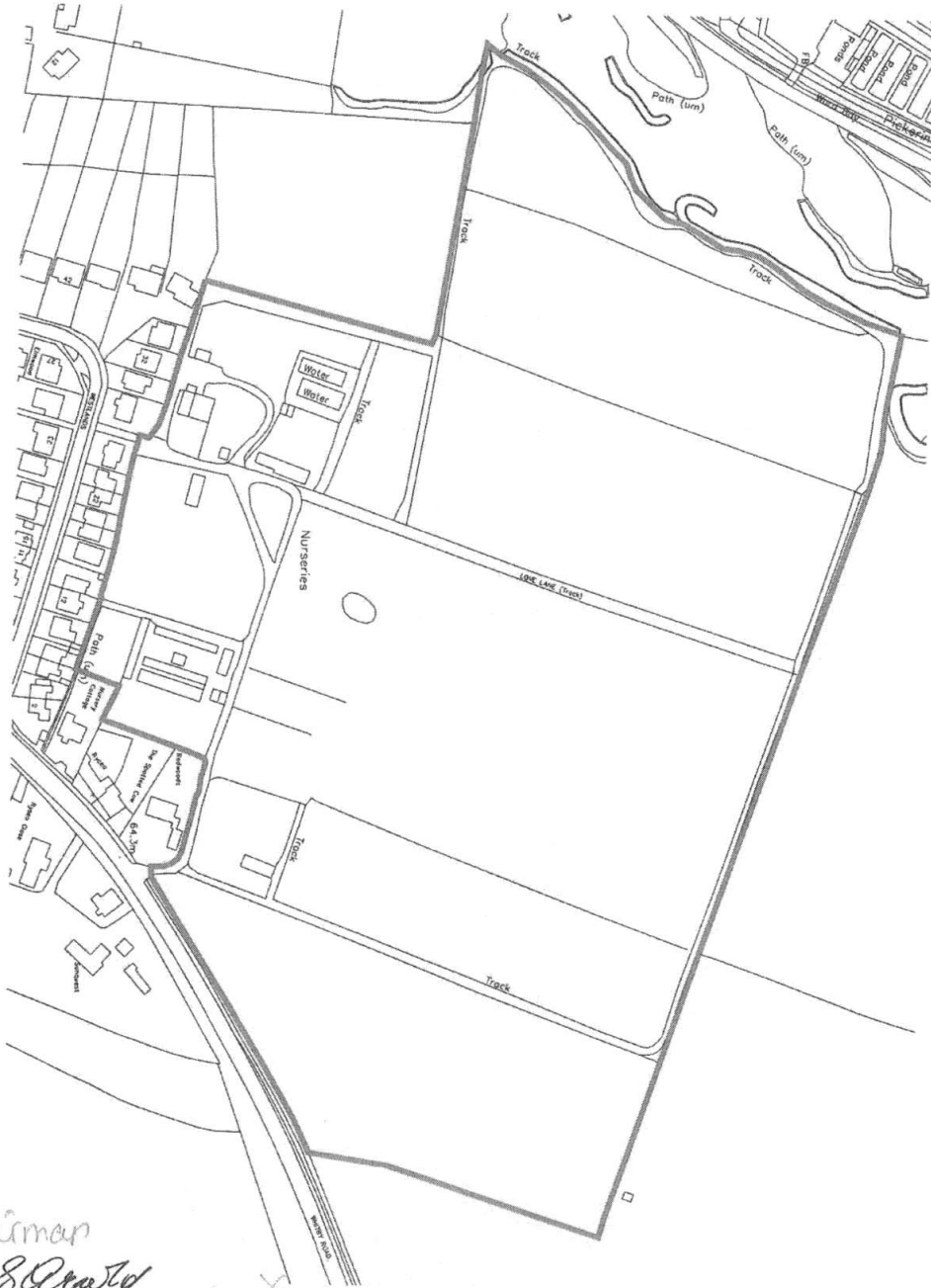
**"Social Rented Dwellings"**

means the 21 dwellings consisting of 6 no. one-bed dwellings identified as plots 10, 14, 36, 37, 84 and 97 and 15 no. two-bed dwellings identified as plots 11, 12, 15 to 19, 77 to 81 and 92 to 94 on Drawing No. 10.1015.01 Rev H or such alternative plots as may be agreed in writing with the Council (such agreement not to be unreasonably withheld or delayed) 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 a Social Rent to persons in accordance with the Housing Associations and / or Nominated Housing Associations policy and reference to "**Social Rented Dwelling**" shall be construed accordingly;

**"Social 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 prior to the introduction of the Affordable Homes Programme – Framework to the

A. J. Roger  
 Ann Roger  
 A. Roger  
 W. Roger



Chairman

X S. O. O. O. O. X

Council Solicitor

X K. W. W. W. X

W. W. W.  
 W. W. W.

Social 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 Social Rented Dwellings) in accordance with Government Social 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 and approved in writing by the Council;

**"Threshold"**

means the agreed adverse impact which follows a qualitative detailed examination of the operation of the implemented junction and shall relate to the review of the level of right turning traffic queuing on Whitby Road and the duration of the queue in normal operating conditions. The examination shall also include an appraisal of Police recorded injury accident data supplied by the County Council which shall specifically relate to right turning traffic movements only from Whitby Road into the site;

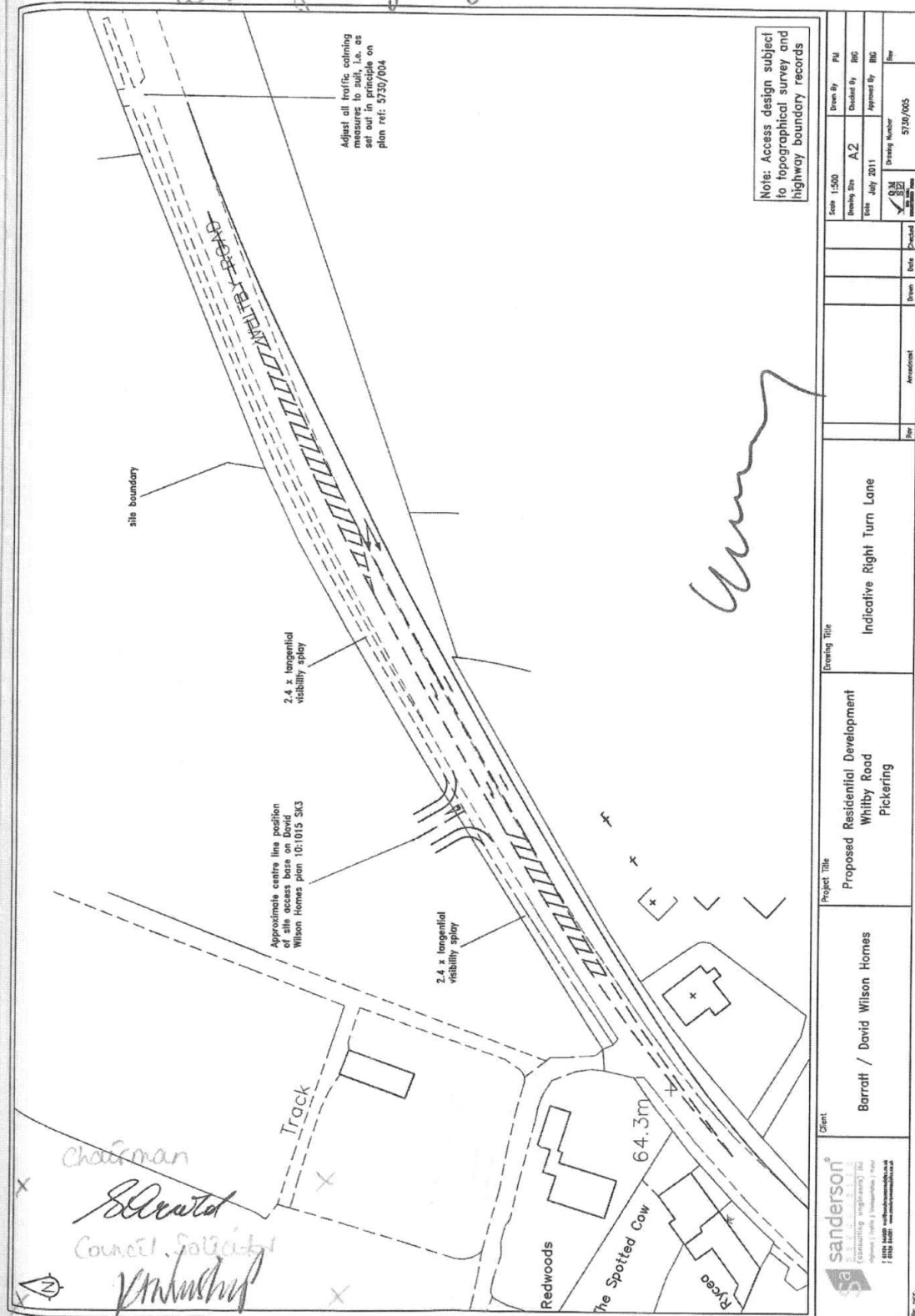
**"Traffic Monitoring"**

means the traffic monitoring and assessment of performance of the proposed junction of the new estate road and Whitby Road to be carried out in accordance with the method statement attached as the Seventh Schedule to this Agreement.

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;

*Ken Rogel, by Roger S L. Arger*



*Chairman*  
*Edward*  
*Council, Salisbury*  
*Wiltshire*

Note: Access design subject to topographical survey and highway boundary records

Adjust all traffic calming measures to suit, i.e. as set out in principle on plan ref: 5730/004

Scale	1:500	Drawn By	FM
Drawing Size	A2	Checked By	BO
Date	July 2011	Approved By	BO
Client	Barratt / David Wilson Homes	Drawing Number	5730/005
Project Title	Proposed Residential Development Whiby Road Pickering	Revision	
Drawing Title	Indicative Right Turn Lane	Drawn	FM
		Checked	BO
		Approved	BO



*Arger*

- 1.2.4 Any covenant by the Owner 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 freehold owner of the part of the Land registered with HM Land Registry under title registration number NYK380552.
- 2.3 The Second Owner is the freehold owner of the part of the Land registered with HM Land Registry under title registration number NYK380561.
- 2.4 The Developer has an interest in the Land by way of an agreement dated 5 May 2010 and made between the First Owner the Second Owner and the Developer.
- ~~2.5 The Mortgagee has an interest in the:-~~
- ~~2.5.1 part of the Land registered with HM Land Registry under title registration number NYK380552 by way of a registered charge dated 3 November 1982 and made between the First Owner and the Mortgagee; and~~
- ~~2.5.2 part of the Land registered with HM Land Registry under title registration number NYK380561 by way of a registered charge dated 3 August 1983 and made between the Second Owner and the Mortgagee.~~
- 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 Owner by entering into this Agreement does so 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 Save for clause 4.4 the planning obligations comprised in this Agreement on the part of the Owner 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 Owner hereby covenants 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 Owner to comply with its obligations in the Third Schedule to this Agreement..
- 3.5 The Town Council covenants with the Council and the Owner to comply with its obligations in the Fourth Schedule to this Agreement..

### **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 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 Owner) 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 The Developer agrees to pay to the: -
  - 4.4.1 Council on the execution hereof the reasonable legal costs of the Council incurred in connection with this Agreement in the sum of £350.00.
  - 4.4.2 County Council on the execution hereof the reasonable legal costs of the Council incurred in connection with this Agreement in the sum of £700.00.
- 4.5 This Agreement is a local land charge and shall be registered as such.
- 4.6 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 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 4.7 below to the determination of an independent Chartered Surveyor or in the case of any dispute disagreement or difference arising between the parties with regard to the matters in paragraph 4 of the First Schedule or paragraphs 8, 9 and 12 – 15 of the Second Schedule determination of an independent Civil Engineer.
- 4.7 Any reference to an independent Chartered Surveyor or an independent Civil Engineer as the case may be in accordance with clause 4.6 above shall be to a reputable Chartered Surveyor or Civil Engineer as the case may be 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 or by the President for the time being of the

Institution of Civil Engineers or his duly appointed deputy as the case may be and the decision of such independent Chartered Surveyor or independent Civil Engineer as the case may be 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 Chartered Surveyor or Civil Engineer as the case may be shall act as an expert pursuant to the terms of this clause 4.7 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 expeditiously as possible **PROVIDED THAT** it is agreed that all costs incurred by the County Council and all other costs arising from the referral (whether incurred by the parties to the dispute or the Chartered Surveyor or Civil Engineer as the case may be himself) shall be paid by the Owner.

- 4.8 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.
- 4.9 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.
- 4.10 The expressions "the Council" and "the Town Council" and "the Owner" and "the Developer" and "the Mortgagee" shall include their respective successors in title and assigns.
- 4.11 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.
- ~~4.12 The Mortgagee hereby consents to the execution of this Agreement and acknowledges that the Land shall be bound by the planning obligations contained herein.~~

*Handwritten signatures and initials:*  
BL  
W  
APR  
KWR  
IME  
BY  
KW  
3L  
W  
APR  
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BY  
KW

4.13<sup>1</sup> ~~Notwithstanding the terms contained herein the parties hereto agree that the Mortgagee shall only be liable in relation to this Agreement during such periods (if any) as it is a mortgagee in possession of the Land and then only if it shall have caused such breach to have been occasioned and provided further for the avoidance of doubt it shall not in any event be liable for any breach of this Agreement arising prior to it becoming a mortgagee in possession of the Land regardless of whether or not such pre-existing breach shall continue for any period during which it is a mortgagee in possession of the Land PROVIDED ALWAYS that the successors in title to the Mortgagee shall become fully liable for any breach of this Agreement and FOR THE AVOIDANCE OF DOUBT any successor of a legal charge or security shall also benefit from the provisions of this Clause.~~

ALR  
ALR  
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KAN

## FIRST SCHEDULE

### (Owner's Covenants)

The Owner hereby covenants 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 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 a Social Rent in respect of the Social Rented Dwellings; and
  - 1.1.2 an Affordable / Intermediate Rent in respect of the Affordable / Intermediate Dwellings
- on terms and conditions approved in writing by the Council **PROVIDED ALWAYS** that the Owner will not be required to provide more than 33 Affordable Dwellings on the Land.
- 1.2 Not to permit (unless the Owner is entitled to dispose of the Affordable Dwellings on the open market in accordance with the terms of paragraph 1.5 of this Schedule) : -
- 1.2.1 Occupation of more than 50% of the Open Market Dwellings until the Owner has entered into a binding contract with the Housing Association and / or a Nominated Housing Association as the case may be for the disposal of the Affordable Dwellings;
  - 1.2.2 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 and / or a Nominated Housing Association as the case may be;
  - 1.2.3 Occupation of more than 90% of the Open Market Dwellings until the Affordable Dwellings have been constructed and transferred to a Housing Association and / or a Nominated Housing Association as the case may be

- 1.3 As soon as reasonably practicable following the Commencement of Development to offer and use reasonable endeavours to contract to transfer the Affordable Dwellings to a Housing Association nominated by the Owner and agreed by the Council (such agreement not to be unreasonably withheld or delayed) on the terms of this Agreement **PROVIDED THAT** it is agreed that if the Council do not approve the Housing Association(s) nominated by the Owner within 14 days of receiving such nomination the Owner will be entitled to enter into negotiations with the nominated Housing Association(s).
- 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 on the terms of this Agreement or if in the Owner'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 1.3 of this Schedule either the Owner or the Council shall give written notice to the other ("**Notice**") and the Council may select a Nominated Housing Association for the Owner's approval any such selection to be made within 14 days of the service of the Notice and if no selection is made in that time the Council shall be deemed to have waived the right to select the Nominated Housing Association and the Owner shall be permitted to dispose of the Affordable Dwellings that may not have been contracted to be sold to the 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) individually on the open market free from the restrictions and obligations contained in this Agreement and the Owner 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 if applicable 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.
- 1.5 In the event that the Council does nominate a Nominated Housing Association for the Owner's approval within the 14 day referred to in paragraph 1.4 of this Schedule the Owner shall offer to enter into negotiations with the Nominated Housing Association for the transfer to it of 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) on the terms of this Agreement and if the Nominated Housing Association declines or is unable to accept the transfer of the Affordable Dwellings (or any individual unit or units comprised in the Social 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 Owner that the Owner has 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 a Nominated Housing Association then the Owner shall be permitted to dispose of the Affordable Dwellings 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 Owner 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 if applicable 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 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: -
- 1.6.1 a Social Rent in respect of the Social Rented Dwellings; and
  - 1.6.2 an Affordable / Intermediate Rent in respect of the Affordable / Intermediate Dwellings
- to Eligible Occupiers.
- 1.7 Prior to the transfer of any of the Affordable Dwellings pursuant to this Schedule the Owner shall ensure they are fully serviced and accessible by vehicles and pedestrians.

- 1.8 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 be a copy of that transfer to the Council.
- 1.9 Any transfer of the Affordable Dwellings 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: -
- 1.9.1 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
- 1.9.2 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
- 1.9.3 any subsequent disposition of the properties following a disposal falling within paragraphs 1.9.1 or 1.9.2 above.

**Off-Site Provision**

- 1.10 Not to allow the Occupation of more than 10% of the Open Market Dwellings until the Affordable Housing Commuted Sum has been paid to the Council.

**2 COMMUNITY PARK**

- 2.1 On or before the Occupation of 95% of the Dwellings to lay out the Infrastructure Framework of the Community Park 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 transfer the Community Park to the Town Council for consideration of £1.00 (one pound) **PROVIDED THAT** the Town Council shall covenant in the said transfer so as to bind the land transferred into whatsoever hands the same may come to maintain and keep open the land transferred and not to permit it to be used for anything other than public open space.

### **3 EDUCATION CONTRIBUTION**

- 3.1 Not to allow the Commencement of Development until £142,758.00 of the Education Contribution has been paid to the Council.
- 3.2 Not to allow the Occupation of more than 48 Dwellings until the balance of £142,758.00 of the Education Contribution has been paid to the Council.

### **4 OFF-SITE HIGHWAY WORKS**

#### **Off-Site Highway Works Contribution**

- 4.1 Not to allow the Commencement of Development until the Off-Site Highway Works Contribution (as Index Linked) specifically for the improvements to the roundabout in Pickering centre and junction improvement at Vivis Lane, Pickering has been paid to the Council.

#### **Right Turn Lane to the Development**

- 4.2 To notify the Council upon the: -
- 4.2.1 Occupation of the 90<sup>th</sup> Dwelling and not to allow the Occupation more than 90 Dwellings until it has paid the Annual Monitoring Contribution to the Council.
- 4.2.2 Practical Completion of the Development ("**Owner's Notice**").
- 4.3 Subject to paragraph 14 of the Third Schedule within 12 months of the Commencement of Development to enter into with the County Council the Section 278 Agreement in respect of the Right Turn Lane Works within the highway corridor of Whitby Road and thereafter to carry out the relevant works in accordance with the terms and provisions of the agreed Section 278 Agreement **PROVIDED THAT** it is agreed that it will be a term of the Section 278 Agreement that: -



- 4.3.1 the Owner shall only be obliged to carry out the Right Turn Lane Works if it is served with the Council's Notice in accordance with the provisions of paragraph 14 of the Third Schedule; and
- 4.3.2 if planning permission is or has been granted by the Council for a use on the Community Park other than for use to create a community park in accordance with the Planning Permission then the Owner's obligation in relation to provision of the Right Turn Lane Works shall cease and determine.

## SECOND SCHEDULE

### (Occupancy Criteria)

The Owner and / or Developer shall ensure the Affordable Dwellings are occupied by persons

1. who have for a period of at least 3 years been ordinarily resident within the town of Pickering, or
2. who have been permanently employed in the town of Pickering for 3 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 3 years in any of the Parishes which adjoining the towns of Pickering.
4. if no such person qualifies under paragraph 3 above for occupation then a person ordinarily resident for a period of at least 3 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 Owner and the Developer as follows: -

##### **General**

- 1 To issue planning permission within 10 working days of the date hereof.
- 2 The Council will on the reasonable written request of the Owner 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.
- 3 To issue a receipt on request for each instalment of the Education Contribution and for the Affordable Housing Commuted Sum and the Off-Site Highway Works Contribution and if applicable the Affordable Housing Contribution.
- 4 Upon receipt to place the sums referred to in paragraph 3 of this Schedule in an interest bearing account or in separate accounts as the Council shall in its discretion decide.

##### **Contributions**

- 5 As soon as reasonably practicable after receiving each instalment of the Education Contribution from the Owner to pay that instalment of the Education Contribution to the County Council but solely on the condition that the County Council applies: -
  - 5.1 the Education Contribution towards the provision of and / or improvements to primary school facilities in Pickering the need for which directly arises from the Development and does not apply the Education Contribution for any other purposes and the County Council shall (on the reasonable request of the payee or the payee's nominee) provide evidence that the monies have been so applied; and
  - 5.2 issues a statement to the Council of how each instalment of the Education Contribution has been expended and the unspent balance; and
  - 5.3 repays to the Council any part or parts thereof which remains unspent within 10 years of the date of payment.

6. That as soon as reasonably practicable following repayment by the County Council of the Education Contribution or any part or parts thereof in accordance with paragraph 5.3 of this Schedule then the sum received will be repaid to the person who paid the sum or sums or its nominee.
7. 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.
8. As soon as reasonably practicable after receiving the Off-Site Highway Works Contribution from the Owner to pay it to the County Council but solely on the condition that the County Council: -
  - 8.1 applies the Off-Site Highway Works Contribution towards procuring the works and improvements referred to in the definition of Off-Site Highway Works Contribution the need for which directly arises from the Development and does not apply the Off-Site Highway Works Contribution for any other purposes and the County Council shall (on the reasonable request of the payee or the payee's nominee) provide written evidence that the monies have been so applied; and
  - 8.2 issues a statement to the Council of how each instalment of the Off-Site Highway Works Contribution has been expended and the unspent balance; and
  - 8.3 repays to the Council any part or parts thereof which remains unspent within five years of the date of payment.
9. That as soon as reasonably practicable following repayment by the County Council of the Off-Site Highway Works Contribution or any part or parts thereof in accordance with paragraph 8.3 of this Schedule then the sum received will be repaid to the person who paid the sum or sums or its nominee.
10. 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.

11. In the event the Affordable Housing Commuted Sum 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.

**Right Turn Lane to the Country Park**

12. To issue a receipt on request for the Annual Monitoring Contribution.
13. As soon as reasonably practicable after receiving the Annual Monitoring Contribution from the Owner to pay the Annual Monitoring Contribution to the County Council and use reasonable endeavours to ensure: -
  - 13.1 the County Council uses the Annual Monitoring Contribution solely for the purpose of installing the CCTV for a maximum period of one week in any one year, ensuring the same is operational upon the Practical Completion of the Development and collecting and processing on an annual basis the data from the CCTV for a period of two years from Practical Completion of the Development;
  - 13.2 the County Council issues a statement to the Council of how the Annual Monitoring Contribution has been expended and the unspent balance;
  - 13.3 the County Council repays to the Council any part or parts thereof which remains unspent within two years of the Practical Completion of the Development.
14. In the event that it is demonstrated within a period of two years of receiving the Owner's Notice in accordance with paragraph 4.2 of the First Schedule by the data collected and processed by the County Council in accordance with paragraph 13.1 of this Schedule that the operating conditions of the junction clearly are exceeding the normal expected Threshold operating conditions and the Council has received written notice together with supporting evidence from the County Council that there is therefore a requirement for the Right Turn Lane Works to inform the Owner in writing within four weeks of receiving the said confirmation and provide evidence that the Right Turn Lane Works are required as a result of the Development ("**Council's Notice**") **PROVIDED THAT** if both parties acting reasonably cannot reach agreement in relation to the results of the data between the Council the County Council and the Owner within 30 Working Days (or within such other time period that the County Council may reasonably require) of the Owner receiving the Council's Notice (or such other period of time that may be agreed) then the provisions of Clause 4.6 of this Agreement relating to expert determination can be invoked by any party in relation to only those matters that are in dispute.

## **FOURTH SCHEDULE**

### **(Town Council's Covenants)**

The Town Council covenants with the Council the Owner and the Developer as follows: -

1. To accept the transfer of the Community Park (or such part or parts of the Community Park that have been laid out and established in accordance with the Planning Permission) within 28 working days of the offer being made by the Owner or within such other time period that may be agreed in writing between the Council and the Owner (such agreement not to be unreasonably withheld or delayed).
2. To ensure that the transfer or transfers of the Community Park will contain a covenant so as to bind the land transferred into whatsoever hands the same may come not to permit it to be used for any purpose other than for public open space without the written consent of the Council and the Owner.
3. To maintain the Community Park for a period of not less than 10 years from the date of the transfer to the Town Council.

**FIFTH 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:** 10/01086/MFUL

**Proposal:** Erection of 6 no. five-bed dwellings, 35 no. four-bed dwellings, 17 no. three-bed dwellings, 32 no. two-bed dwellings and 6 no. one-bed dwellings with associated garages and parking spaces, formation of vehicular access and change of use of agricultural land to create a Community Park with associated facilities

**at:** The Nurseries Whitby Road Pickering North Yorkshire YO18 7HG

**for:** David Wilson Homes Yorkshire (East) Division (Mr P Butler)

**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 ENV3 - Development in the Areas of High Landscape Value  
Ryedale Local Plan - Policy ENV7 - Landscaping  
Ryedale Local Plan - Policy H14 - Public open space in residential developments  
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 U2 - Availability of water supplies  
Ryedale Local Plan - Policy U3 - Surface water run-off  
Ryedale Local Plan - Policy U4 - Sewage disposal  
Regional Spatial Strategy - Policy ENV5 - Energy  
Regional Spatial Strategy - Policy ENV7 - Agricultural Land  
Regional Spatial Strategy - Policy ENV8 - Biodiversity  
Regional Spatial Strategy - Policy ENV10 - Landscape  
Regional Spatial Strategy - Policy ENV11 - Health and Recreation  
Regional Spatial Strategy - Policy H2 - Managing and Stepping Up the Supply and Delivery of Housing  
Regional Spatial Strategy - Policy H4 - The Provision of Affordable Housing  
Regional Spatial Strategy - Policy H5 - Housing Mix  
Regional Spatial Strategy - Policy T2 - Parking Policy  
National Policy Guidance - PPS1 - 'Delivering Sustainable Development' 2005  
National Policy Guidance - PPS3 - 'Housing' 2006

David Wilson Homes Yorkshire (East) Division (Mr P Butler)  
Monks Cross Drive  
York  
YO32 9WN



APPN NO: 10/01086/MFUL

National Policy Guidance - PPS5 - 'Planning for the Historic Environment' 2010  
National Policy Guidance - PPS7 - 'Sustainable Development in Rural Areas' 2004  
National Policy Guidance - PPS9 - 'Biodiversity and Geological Conservation' 2005  
National Policy Guidance - PPG13 - 'Transport' 1994  
National Policy Guidance - PPG17 - 'Planning for Open Space, Sport and Recreation' 1991  
National Policy Guidance - PPS22 - 'Renewable Energy' 1993  
National Policy Guidance - PPS23 - 'Planning and Pollution Control' 2004

This application is approved subject to conditions and a s106 legal agreement because the Council does not have a 5 year land supply in accordance with PPS3. This site is closely related to the Town and is not considered to have a material adverse effect upon the area or be prejudice to highway safety or residential amenity. The proposed dwellings are considered to provide a satisfactory level of residential amenity themselves. The community park will provide substantial wider public benefits. The proposals are considered to satisfy the requirements of the stated development plan policies and national guidance.

#### **CONDITIONS AND ASSOCIATED REASONS**

- 01 The development hereby permitted shall be begun on or before .

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 commencement 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 H7A (ii) of the Ryedale Local Plan

David Wilson Homes Yorkshire (East) Division (Mr P Butler)  
Monks Cross Drive  
York  
YO32 9WN

APPN NO: 10/01086/MFUL

Prior to the commencement of the development, details of all windows, doors and garage doors, including means of opening, depth of reveal and external finish shall be submitted to and approved in writing by the Local Planning Authority

Reason: To ensure an appropriate appearance and to comply with the requirements of Policy H7A (ii) of the Ryedale Local Plan

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 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 PPS5 - 'Planning for the Historic Environment'.

Prior to the commencement of the development hereby approved, precise details of the means of surfacing and making safe the existing Public Right of Way from Whitby Road into the site shall be submitted to and approved in writing by the Local Planning Authority.

Reason:- In order to make the area as safe and viable as possible and to eliminate crime and anti-social behaviour.

Prior to the commencement of the development, precise details of all ground surfacing materials shall be submitted to and approved in writing by the Local Planning Authority.

Reason:- In order to ensure a satisfactory external appearance, and to satisfy PPS3 - 'Housing' 2010.

The development hereby approved shall only be undertaken in accordance with the recommended mitigation and enhancement proposals as set out in Section 6 of the Ecology Report.

Reason:- In order to enhance ecology and biodiversity on the site, and to comply with PPS9 - Biodiversity and Geological Conservation.

Unless otherwise agreed in writing with the Local Planning Authority, a Management Plan to include suitable measures to protect the adjacent SINC shall be drawn up and agreed in writing with the Local Planning Authority prior to the commencement of development.

Reason:- In order to enhance ecology and biodiversity on the site, and to comply with PPS9 - Biodiversity and Geological Conservation.

A Landscape Management Plan shall be submitted to and approved in writing with the Local Planning Authority, prior to the commencement of the development hereby approved.

Reason:- In order to protect the character and appearance of the landscape, and to satisfy Policy ENV3 of the Ryedale Local Plan and PPS7 - Sustainable Development in Rural Areas.

Wilson Homes Yorkshire (East) Division (Mr P Butler)  
Cross Drive  
129WN

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- 11 A Soils Management Plan shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby approved.

Reason:- In order to protect the quality of the soil, and to satisfy PPS7 - Sustainable Development in Rural Areas and PPS23 - Planning and Pollution Control.

- 12 Unless otherwise agreed in writing, there shall be no play equipment or fixed structures not explicitly shown on the approved plans erected on the Community Park, without written approval of the Local Planning Authority.

Reason:- In order to protect the character and appearance of the area, and to satisfy PPS7 - Sustainable Development in Rural Areas.

- 13 There shall be no outbuildings or structures erected on the allotments hereby approved unless approved in writing by the Local Planning Authority, following an application in that respect.

Reason:- In order to protect the character and appearance of the area, and to satisfy Policy ENV3 of the Ryedale Local Plan.

- 14 Precise details of the proposed wetland area including full cross-sectional drawings of the area shall be submitted to and approved in writing by the Local Planning Authority.

Reason:- In order to protect the character and appearance of the area, and to satisfy Policy ENV3 of the Ryedale Local Plan.

- 15 Prior to the commencement of the development, precise details of the means of enclosure on the Community Park shall be submitted to and approved in writing by the Local Planning Authority.

Reason:- In order to protect the character and appearance of the area, and to satisfy Policy ENV3 of the Ryedale Local Plan.

- 16 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) 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 tactiles), kerbing and edging.

David Wilson Homes Yorkshire (East) Division (Mr P Butler)  
Monks Cross Drive  
York  
YO32 9WN

APPN NO: 10/01086/MFUL

(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.

(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 order to comply with Policies T3 and T4 of the Ryedale Local Plan, and to ensure the proposal can provide a safe means of access and egress onto the public highway in the interests of highway safety, and the convenience of prospective residents.

- 17 No dwelling 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 Policies T3 and T7 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.

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YO32 9WN

- 18 There shall be no movement by construction or other vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until that part of the access(es) extending metres into the site from the carriageway on the existing highway has been made up and surfaced in accordance with the approved details and/or Standard Detail number \*\*\*\* 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 \*\*\*\* 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.

- 19 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 measured along both channel lines of the major road \*\*\*\* from a point measured \*\*\*\* down the centre line of the access road. The eye height will be \*\*\*\* and the object height shall be \*\*\*\*. 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 \*\*\*\* and in the interests of road safety.

- 20 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 visibility splays providing clear visibility of 2 metres x 2 metres measured down each side of the 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 purpose at all times.

Reason:- In accordance with Policy and the interests of road safety to provide drivers of vehicles using the access and other users of the public highway with adequate inter-visibility commensurate with the traffic flows and road conditions.

- 21 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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APPN NO: 10/01086/MFUL

The required highway improvements shall include:

- To provide a new junction on A169 Whitby Road to access the site
- To provide a gate way feature for the extended 30mph speed limit and reposition the 40mph speed limit gate way and provide the new junction onto the A169 as shown on drawing 5780-04

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

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 21.

- To provide a gate way feature for the extended 30mph speed limit and reposition the 40mph speed limit gate way and provide the new junction onto the A169 as shown on drawing 5780-04

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

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 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:

- tactile paving
- vehicular, cycle and pedestrian accesses
- vehicular and cycle parking
- vehicular turning arrangements
- manoeuvring arrangements
- loading and unloading arrangements.

Reason:- In accordance with Policy and to ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development

The dwelling shall be occupied until the related parking facilities have been constructed in accordance with the approved drawing. Once created, these parking areas shall be maintained free of any obstruction and retained for their intended purpose at all times.

Reason:- In accordance with Policy \*\*\*\* and to provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interests of safety and the general amenity of the development

1000 Homes Yorkshire (East) Division (Mr P Butler)  
1000 Drive

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- 25 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 and to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.

- 26 During construction works, there shall be no:
- (a) Light Goods Vehicles exceeding 3.5 tonnes
  - (b) Medium Goods Vehicles up to 7.5 tonnes
  - (c) Heavy Goods Vehicles exceeding 7.5 tonnes

permitted to arrive, depart, be loaded or unloaded on Sundays or a Bank Holiday, nor at any time, except between the hours of 7:30am and 17:30pm on Mondays to Fridays and 9:00 to 12:30pm on Saturdays.

Reason:- In accordance with Policy T4 of the Ryedale Local Plan, and to avoid conflict with vulnerable road users.

- 27 All doors and windows on elevations of the building(s) adjacent to the existing and/or proposed highway shall be constructed and installed, such that from the level of the adjacent highway for a height of 2.4 metres they do not open over the public highway, and above 2.4 metres no part of an open door or window shall come within 0.5 metres of the carriageway. Any future replacement doors and windows shall also comply with this requirement.

Reason:- In accordance with Policy and to protect pedestrians and other highway users.

- 28 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.

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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 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.

- 29 Prior to the development being brought into use, a Travel Plan shall have been submitted to and 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.

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 and to establish measures to encourage more sustainable non-car modes of transport.

- 30 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 1 to 4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

1. Site characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

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The report of the findings may include:-

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health;
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
  - adjoining land;
  - groundwaters and surface waters;
  - ecological systems; and
  - archaeological sites and ancient monuments
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

#### 2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### 3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

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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 in accordance with condition 3.

Reason:- To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors, and to satisfy PPS23 - Planning and Pollution Control.

- 31 The development permitted by this planning permission shall only be carried out in accordance with the approved Drainage Impact Assessment (DIA) Sanderson Associates/August 2010/5733/TW/001/04 and the following mitigation measure detailed within the DIA:

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. A Greenfield discharge rate of 5l/s is acceptable. The drainage scheme allowed for climate change must be taken into account and a suitable maintenance regime must be included.

Reason:- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, and to satisfy PPS25 - 'Development and Flood Risk' 2006.

- 32 Prior to development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan and for the reporting of this to the Local Planning Authority.

Reason:- To ensure protection of the groundwater within the Upper Calcareous Grit and Pickering Beck, and to satisfy PPS23 - Planning and Pollution Control.

- 33 If during development, contamination not previously identified is found to be present at the site, then 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.

Reason:- To ensure protection of the groundwater within the Upper Calcareous Grit and Pickering Beck, and to satisfy PPS23 - Planning and Pollution Control.

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- 34 No development shall take place until an Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. Any such scheme/plan shall include:
- a. Detailed site investigation (via trial pits) to determine the near surface ground conditions, depth to bedrock and groundwater;
  - b. Chemical testing and analysis of soils and groundwater to determine the nature, degree and extent of any contamination and include a method statement of remediation;
  - c. Details of all temporary works during the demolition and construction phase;
  - d. A controlled waters risk assessment based on the site investigation which shall cover the whole site both pre and post-construction and include mitigation measures against identified risks;
  - e. A foundation risk assessment which shall include details of all the foundations proposed, the depths of the installations, the ground conditions and any aquifer protection measures required;
  - f. Details of the proposed method of construction;
  - g. Details of a scheme for surface and foul water trenches (drainage runs) and any surface water storage including confirmation that at least 1m of clay seal is in place (with a permeability of  $1 \times 10^{-9}$  m-s) or an equivalent engineered linear to sides and base in order to provide a double lined system; and
  - h. Details of a scheme for monitoring groundwater quality at specified frequency and locations, prior to and during demolition and construction of the development and for an agreed timescale thereafter.

Reason:- To ensure that the water environment and public water supply is protected, and to satisfy PPS23 - Planning and Pollution Control.

- 35 The development shall be constructed and operated in accordance with the details approved by the Local Planning Authority, including implementation of mitigation measures designed to protect groundwater, and these details shall not be altered in any way without the prior written approval of the Local Planning Authority. Furthermore, the development shall not be occupied until it has been demonstrated to the satisfaction of the Local Planning Authority that all the agreed risk mitigation measures relating to protection of groundwater have been implemented.

Reason:- In order to protect groundwater from risk of contamination arising from development on this site, and to satisfy PPS23 - Planning and Pollution Control.

- 36 The scheme shall be fully implemented and subsequently maintained in accordance with the timing/phasing arrangements embodied within the scheme, or any other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason:- To ensure that the water environment and public water supply is protected, and to satisfy PPS23 - Planning and Pollution Control.

- 37 During the construction phase of the development, any liquid storage tanks should be located within a bund with a capacity of not less than 110% of the largest tank or largest combined volume of connected tanks.

Reason:- To ensure that there are no polluting discharges to the groundwater resource, and to satisfy PPS23 - Planning and Pollution Control.

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APPN NO: 10/01086/MFUL

No development shall take place until a further scheme for landscaping the site to include a method for preventing casual car parking outside designated areas has been submitted to and approved by the Local Planning Authority.

Reason:- To ensure that the water environment and public water supply is protected, and to satisfy PPS23 - Planning and Pollution Control.

No development shall take place until details of the proposed means of disposal and foul water drainage, including details of any balancing works and off-site works have been submitted to and approved by the Local Planning Authority. Furthermore, all foul drainage trenches shall be lined with a minimum of 1 metre of engineered clay or impermeable liner in order to provide a double lined system.

Reason:- To ensure that the development can be properly drained, and to satisfy Policies U3 and U4 of the Ryedale Local Plan.

The site shall be developed with separate systems of drainage for foul and surface water on and off site. Furthermore, no discharge from the development of either surface or foul water shall take place to soakaways or Sustainable Drainage Systems.

Reason:- In the interests of satisfactory and sustainable drainage and that the water environment and public water supply is protected, and to satisfy Policies U3 and U4 of the Ryedale Local Plan.

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 in order to prevent overloading of the local sewerage system, surface water is not discharged to the foul water sewerage system, and to satisfy Policy U3 of the Ryedale Local Plan.

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 their disposal, and to satisfy Policy U3 of the Ryedale Local Plan.

A 20-year Management Plan for the Community Park hereby approved shall be submitted to and approved in writing by the Local Planning Authority.

Reason:- In order to ensure the delivery of the Community Park, and the satisfy PPG17 - 'Planning for Open Space, Sport and Recreation' 1991.

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Cross Drive

9WN

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- 44 The development hereby permitted shall be carried out in accordance with the following approved plan(s):

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

- 45 Notwithstanding the submitted plan details and unless otherwise agreed in writing with the local planning authority at least 10% of energy consumption of the development shall be derived from de-centralised, low carbon, or renewable energy sources with details to be submitted to and approved in writing by the local planning Authority prior to the commencement of development on site.

Reason: In order to comply with policy ENV5 of the Regional Spatial Strategy.

- 46 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

#### INFORMATIVE(S)

- 01 You should satisfy yourself, prior to commencement of any work related to this project, that no part of the works hereby approved (including foundations and/or guttering) extended onto or over adjoining land unless you have first secured the agreement of the appropriate landowner(s).
- 02 The developers are advised of their obligations under Wildlife legislation (including the Wildlife and Countryside Act 1981). It is recommended that any site clearance works, including tree and hedge felling is undertaken outside the bird breeding season (beginning of March to the end of August). If these works are to take place within this period, the developer is advised to check the areas by a qualified Ecologist immediately before work starts.
- 03 It is strongly suggested that the wetland area shall be fenced off/enclosed with suitable safety equipment to avoid possible water related accidents.

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York  
YO32 9WN

APPN NO: 10/01086/MFUL

There shall be no site clearance, demolition, excavation or depositing of material in connection with the construction of the development until the TRO for the moving of the 30mph speed limit beyond the new access towards Whitby Road and to move the 40mph zone out by a similar amount as shown on drawing 5780 - 0004 have been submitted to and approved in writing by the local Planning Authority in consultation with the Highway Authority. The approved details shall, at the applicant's expense, undergo the legal process required. Subject to the successful completion of this legal process, the measures will be implemented at the applicant's cost prior to the development being brought into use.

The developer is advised to consider the consultation response from Yorkshire Water dated 11 October 2010 prior to commencing development.

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SENT OR APPROVAL HEREBY GIVEN REMOVES ANY REQUIREMENT TO SERVE NOTICES OF APPROVAL FROM THE DISTRICT COUNCIL WHERE SUCH ACTION IS REQUIRED BY THE 1938 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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3000 Homes Yorkshire (East) Division (Mr P Butler)  
1000 Drive

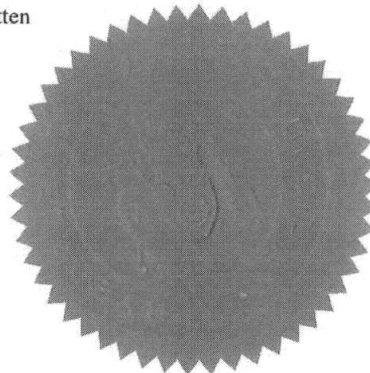
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The assessment will recognise and acknowledge all non typical local factors which may impact on the operation of the junction and also causality factors in the recorded injury accidents which do not relate to the physical layout of the junction.

The County Council and the Developer shall formally record the findings of the annual assessment and where there is any dispute between the two parties the provisions of Clause 4.6 of this Agreement relating to expert determination can be invoked by either party in relation to only those matters that are in dispute in the event that the County Council considers that the right turn lane should be implemented and the Developer do not.

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:- )



*S. Oswald*

Chairman

*K. W. Bishop*

Council Solicitor

Minute 185/2011
Reg No. 6343
Initials <i>ew</i>

EXECUTED as a DEED by  
PICKERING TOWN COUNCIL  
in the presence of: -

) *[Signature]*  
) *[Signature]*  
) *B. Yearwood*

Authorised Signatory



EXECUTED as a DEED (but not )  
delivered until the date hereof) on behalf of )  
R V ROGER LIMITED )  
in the presence of : - )

Director

*A Roger*

Director / Secretary

*Alan Roger*

EXECUTED AS A DEED BY  
ANTHONY GAY ROGER

*A. G. Roger*

in the presence of:

Signature

*AGR*

Name of witness

*Mrs Rickatson*

Address

*Duncombe Place  
York  
YO1 7BT  
Snicki*

Occupation

**SIGNED** and **DELIVERED** as a **DEED** (but  
not delivered until the date hereof) by

*ANTHONY J. MORRIS*  
and *PAUL NEWMAN*



as the Attorney in the name of **BDW**

**TRADING LIMITED** in exercise of the power

conferred upon them by a Power of Attorney

dated 23 July 2010 in the presence of: -

*E. Grogan* Barratt Homes  
*Emily Grogan* 6 Alpha Court  
Merkley Cross Drive  
York, YO32 9UN

~~IN WITNESS WHEREOF~~ this document )


which is intended to take effect as a **DEED** has )

been duly executed by a duly authorised Official )

*car*  
of the Bank as Attorney of the Bank the day and )


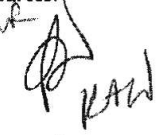
*1st*  
year first above written )

**SIGNED AND DELIVERED** )

By *th*  
  
*RAW*

Attorney of  
HSBC Bank plc

in the presence of: -

-Witness-  
  
*car*  
*1st*  
Address:  
  
*RAW*

Occupation:

**SEVENTH SCHEDULE**  
**(Traffic Monitoring Method Statement)**

**ng**

al monitoring of the junction of the site with Whitby Road shall take place for one continuous 7 day week period (to cover a one week survey per year for a period of 2 years maximum), ing from the Practical Completion of the Development. The monitored week shall be during er period when seasonal traffic flows on Whitby Road are at their highest - the exact week to discretion of the County Council and notified in advance to the Developer - but would y exclude any period where traffic flows would be abnormally high due to local or national nces, such as Bank Holidays

onitoring would be carried out by a remote video camera system which would monitor the flows / Road and the new estate road junction and would detect the interaction of traffic on Whitby i all turning movements into and out of the new estate road. If possible the system shall be so o detect traffic movements to and from the access to the Community Park which lies y adjacent to the new estate road junction with Whitby Road.

s of the monitoring shall be made available by the County Council to the Developer and the ouncil shall identify for discussion with the Developer any periods of the junction's operation y consider gives cause for consideration of the requirement to provide the right turn lane as in principle on plan reference 5730/005, attached to this Agreement. The right turning lane ided by localised widening and lining within the existing highway corridor of Whitby Road.

**nt of the performance of the proposed junction of the new estate road and Whitby Road.**

the issue of the annual monitoring results and identification by the County Council of any the junction's operation which give cause for consideration of the requirement to provide the lane, the results shall be considered jointly by the County Council and the Developer and a view taken of the various factors which will impact on the operation of the junction with gard to right turning movements both into and from the new estate road site from Whitby s assessment shall consider any unreasonable delay to main road traffic wishing to turn right e and its impact on main road flow south towards Pickering with respect to general highway e assessment will include a review of any recorded personal road traffic injury accidents two year monitoring period which specifically relate to right turn movements to and from ad into the new estate road.

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DATED

201\$ (DATE)

NORTH YORKSHIRE COUNTY COUNCIL

and

\$(DEVELOPER)

and

\$(SURETY)

and

\$(CHARGEES)

[ WARNING 1 ]

AGREEMENT

made under Section 278 of the Highways  
Act 1980 relating to land at \$(14)

**WARNING**

1. Exclude 'and' and 'Chargee' if no Chargee

Carole Dunn  
Assistant Chief Executive (Legal  
and Democratic Services)  
North Yorkshire County Council  
County Hall  
NORTHALLERTON  
DL7 8AD

UTED (but not delivered until  
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RGEE  
presence of:-

ING

Exclude if no Chargee

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2. Upon the occurrence of one or more of the events referred to in Clause 1(a) and (b) above the Surety agrees to pay the Council within 28 days of an instruction from the Surveyor such sum or sums certified by the Surveyor as representing the cost or estimated cost of the following:-
  - (a) Completion of the Works in accordance with this Agreement
  - (b) Remedy of any defect in the Works
  - (c) The Council's administrative expenses in recovering such costs and carrying out the Works or any part of them
- 3.1 Upon receipt of the required sum or sums from the Surety the Council shall:-
  - (a) Remedy any defect in the Works and/or
  - (b) Complete the Works
- 3.2 The Council shall not be required to contribute to the costs of the Works referred to in 3.1
4. If the total cost to the Council of completing the Works or of remedying the defect pursuant to Clause 3 above shall be less than the total of the sums received from the Surety the excess received shall be repaid to the Surety

**EXECUTED** (but not delivered until the date hereof) as a Deed by affixing the Common Seal of **NORTH YORKSHIRE COUNTY COUNCIL** in the presence of:-

**EXECUTED** (but not delivered until the date hereof) as a Deed by affixing the Common Seal of **\$DEVELOPER** in the presence of:-

**EXECUTED** (but not delivered until the date hereof) as a Deed by affixing the Common Seal of **\$SURETY** in the presence of:-

To submit detailed construction drawings of the Works to the Surveyor and to obtain his approval to them prior to commencing the Works

To give at least 14 days notice in writing to the Surveyor of the Developer's intention to commence the Works

To give at least three days notice in writing of the intention to recommence the Works if they are suspended for ten days or more

To afford unrestricted access to the Surveyor on to such parts of the Land as are affected by the Works or which are being used for the storage of Materials

At the request of the Surveyor:-

- (a) To uncover or open up any part of the Works for inspection
- (b) To remove any materials or parts of the Works which are not in accordance with this Agreement or which are in the opinion of the Surveyor defective and to substitute suitable Materials or re-execute such parts of the Works
- (c) To provide such samples of the materials as the Surveyor may require for the purpose of testing
- (d) To provide such labour materials and apparatus as the Surveyor may require for the purpose of carrying out tests to confirm that the surface drainage provided as part of the Works is constructed satisfactorily

[ WARNING 1 ]

During the Maintenance Period:-

- (a) To remedy any defects in the Works immediately or
- (b) Where the Council has itself remedied any defects in the Works in the interests of highway safety to pay the Council the costs of such remedial work

To carry out all works to an Undertakers' apparatus as the Undertaker may require or to pay the Undertakers' costs of carrying out such work

To comply with all instructions which the Surveyor may give relating to the actions necessary to safeguard users of the public highway during the execution of the Works

### SCHEDULE 3

#### **The Bond**

If the Developer:-

- (a) Is in breach of any of its obligations contained in this Agreement other than the obligation to indemnify the Council referred to in Clause 2.1(d); or
- (b) Becomes bankrupt, makes an arrangement with its creditors or other arrangement under the Insolvency Act 1986 or has an administrative receiver or liquidator appointed or has a winding up order made

the Council may (but without prejudice to any other rights whether under this Agreement or not) require the Surety to pay the sum or sums referred to in Clause 2 below

IG

**Only include 6(d) if there is S W drainage**



**EXECUTED as a Deed by the parties on the date which first appears in this Agreement**

**SCHEDULE 1**

**The Works**

1. The Works comprise the following:-

**\$(13) DESCRIPTION OF WORKS (INCLUDING ROAD TITLE)**

2. The Works are described on the Works Drawing

3. The Works include:

- (a) The provision of all alterations to apparatus required by Undertakers
- (b) The provision of such traffic signs road marking and street lighting as the Surveyor may direct **[ WARNING 1 ]**
- (c) The provision of a highway surface water drainage system including an outfall to a publicly maintained sewer **[ WARNING 2 ]**

**SCHEDULE 2**

**The Works Conditions**

The Developer agrees with the Council:-

To design the Works in accordance with the following advice notes and specifications issued by the Department for Transport and the Council (so far as they apply to the Works): -

- (a) TD 42/95 (Geometric Design of Major/Minor Priority Junctions)
- (b) HD25/94 & HD 26/06 (Pavement Design)
- (c) TD16/93 (Design of Roundabouts)
- (d) The Traffic Signs Regulations and General Directions 2002 (as amended by the Traffic Signs (Amendment) Regulations 2005)
- (e) Department for Transport Guidance on Agreements with the Secretary of State under Section 278 of the Highways Act 1980
- (f) Department for Transport Specification for Highway Works contained in the Manual of Contract Documents for Highway Works
- (g) The County Council's Specification for Housing and Industrial Estates and Private Streetworks (December 1995)

**WARNINGS**

**1 & 2 Check with Surveyor if these apply**

3. **Provisional Certificate**

3.1 On completion of the Works in accordance with the Works Conditions to the Surveyor's satisfaction he shall issue a Provisional Certificate and provide a copy to the Developer

3.2 The Provisional Certificate will state that the Works have been completed to the Surveyor's satisfaction

4. **Final Certificate**

4.1 The Surveyor shall issue a Final Certificate to the Developer 12 months after the issue of the Provisional Certificate or at such other times as the Surveyor considers appropriate upon being satisfied that:-

(a) Any defects in the Works have been remedied by the Developer

(b) The Developer has granted or assigned to the Council all necessary rights to drain surface water from the Works into a publicly maintained sewer

4.2 The Final Certificate will release the Developer from any further obligation under this Agreement except the obligation to indemnify the Council in respect of claims made under the Land Compensation Act 1973 referred to in Clause 2.1(d)

5. **Surety's Obligation**

5.1 The Surety agrees to pay to the Council such sum or sums which are payable to the Council in accordance with the provisions of Schedule 3

5.2 The total amount payable under 5.1 shall not exceed the Bond Amount

5.3 After the issue of the Provisional Certificate the Council will at the request of the Developer reduce the Bond Amount by 80%

6. **General**

6.1 The parties agree and declare that:-

(a) This Agreement may not be assigned by the Developer or the Surety without the prior written consent of the Council

(b) All sums referred to in this Agreement are exclusive of Value Added Tax; if at any time after the date of this Agreement VAT is or becomes chargeable in respect of any supply made hereunder then to the extent that VAT has not been charged in respect of that supply the person making it may issue a VAT invoice to the person to whom the supply was made and that person shall be responsible for the payment of such invoice

(c) All notices and other correspondence under this Agreement shall be sufficiently served by one party or another if sent by Recorded Delivery post to the addresses on page one of this Agreement

(d) This Agreement is governed by English Law

(e) None of the provisions of this Agreement are intended to or will operate to confer any benefit pursuant to the Contracts (Rights of Third Parties) Act 1999 on a person who is not a party to this Agreement.

7. **Chargee's Acknowledgement**

7.1 The Chargee consents to the dedication of the Dedication Land in Clause 2.1(f)

**WARNING**

1. **Only include Clause 7 if Chargee exists**

[ WARNING 1 ]

<b>Works</b>	the works in Schedule 1
<b>Works Conditions</b>	the conditions in Schedule 2
<b>Works Drawings</b>	the attached drawings reference number(s) \$(DATA 12)

**RECITALS**

1. The Council is the Highway Authority
2. The Developer intends to carry out the Development on the Land
3. As a consequence of the Development the Developer has agreed to carry out the Works on behalf of the Council
4. The Council is satisfied that this Agreement will be of benefit to the public pursuant to Section 278
5. The Chargee has agreed to join in this Agreement **[ WARNING 1 ]**

**IT IS AGREED:-**

1. **Powers**
  - 1.1 This Agreement is made pursuant to Section 278
  - 1.2 The Developer's obligations in this Agreement are made pursuant to Section 33
2. **Developer's Obligations**
  - 2.1 The Developer agrees with the Council to:-
    - (a) Execute the Works to the satisfaction of the Surveyor in accordance with the Works Conditions and the North Yorkshire County Council Section 278 Procedure Note March 1995 (a copy of which has been supplied to the Developer)
    - (b) Complete the Works prior to the carrying out of any material operation on the Land or at such other time as the Surveyor may agree
    - (c) Complete the Works within the Completion Period or such other period as the Surveyor may agree
    - (d) Indemnify the Council from all actions costs claims proceedings demands and expenses relating to personal injury (including death) or loss of or damage to property (including any claim made under the Land Compensation Act 1973) arising out of the execution of the Works by the Developer and to maintain adequate insurance for this purpose
    - (e) Pay the Supervision Fee and Legal Costs upon completion of this Agreement
    - (f) Dedicate the Dedication Land as a public highway before the commencement of the Works **[ WARNING 2 ]**

**WARNINGS**

1. **Only include if Chargee of Dedication Land**
2. **Include only if Dedication Land**

7  
7  
W  
1.

DATE

201\$(1)YEAR

**PARTIES**

1. **The Council:** NORTH YORKSHIRE COUNTY COUNCIL of County Hall Northallerton  
North Yorkshire DL7 8AH
2. **The Developer:** \$(2) NAME AND ADDRESS
3. **The Surety:** \$(3) NAME AND ADDRESS
4. **The Chargee:** \$(4) NAME AND ADDRESS [ WARNING 1 ]

**DEFINITIONS**

- Bond Amount** the sum of £\$(5) AMOUNT OF BOND
- Completion Period** the period of \$(6) NUMBER OF MONTHS from the time when the Works are commenced
- Dedication Land** the land shown \$(7) PLAN COLOURING on the Works Drawings
- Development** the development of the Land for \$(8) PURPOSE [ WARNING 2 ]
- Final Certificate** the certificate to be issued by the Surveyor to the Developer in accordance with Clause 4
- Land** the land at \$(9) LOCATION shown on the Plan
- Legal Costs** the sum of \$(10) AMOUNT OF COSTS
- Maintenance Period** the period between the date of the Provisional Certificate and the date of the Final Certificate
- Materials** the materials and equipment used by the Developer in connection with the Works
- Plan** the attached plan showing the location of the Land
- Provisional Certificate** the certificate to be issued by the Surveyor to the Developer in accordance with Clause 3
- Section 33** Section 33 of the Local Government (Miscellaneous Provisions) Act 1982
- Section 278** Section 278 of the Highways Act 1980
- Supervision Fee** the sum of £\$(11) AMOUNT OF FEE
- Surveyor** the Corporate Director of Business and Environmental Services and his authorised agents
- Undertaker** has the meaning assigned to it by the New Roads and Street Works Act 1991

**WARNINGS**

1. Only include where Chargee exists of Dedication Land
2. Only include where there is Dedication Land

**SIXTH SCHEDULE**  
**(Section 278 Agreement Template)**