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Landcharges

PT 21054694.

From: Jo Holmes
Sent: 12 March 2014 11:54
To: Landcharges
Subject: FW: Completed Section 106 Agreement - Low Moorgate, Rillington
Attachments: 2747 - Section 106 Agreement Low Moorgate Rillington.pdf
Importance: High

From: Charlotte Smith
Sent: 12 March 2014 10:25
To: Gary Housden; Peter Johnson; Jill Thompson; David Wiseman; Karen Hood; Kim Robertshaw; Daniel Wheelwright; Roger Barnsley; Jo Holmes; Alan Hunter; Rachel Smith
Subject: Completed Section 106 Agreement - Low Moorgate, Rillington
Importance: High

Dear All,

The following s.106 agreement was completed on 11 March 2014 and I attach a copy for you records.

- S.106 agreement and planning obligation made between Ryedale District Council (1), William Matthew Wrigley (2) and William Matthew Wrigley and John Bradford Cook (3), relating to land at Low Moorgate, Rillington, Malton, North Yorkshire.

Please could it be ensured that the agreement is place on the relevant registers.

PLEASE NOTE THAT PLAN 2 IS NOT ATTACHED TO THE DOCUMENT AS IT IS TOO BIG, IF YOU WOULD LIKE TO SEE PLAN 2 PLEASE COME INTO LEGAL.

Thank you

Charlotte Smith
Legal Assistant
Legal Services
Ryedale District Council
Ryedale House
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North Yorkshire
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Reference: S106-13-000002 / 002749

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THIS AGREEMENT is made the 11 day of March, 2014

BETWEEN: -

- (1) RYEDALE DISTRICT COUNCIL of Ryedale House, Malton, North Yorkshire YO17 7HH ("Council") of the first part; and
- (2) WILLIAM MATTHEW WRIGLEY of 19 Cookridge Street, Leeds LS2 5AG (The First Owner)
- (3) WILLIAM MATTHEW WRIGLEY of 19 Cookridge Street, Leeds LS2 5AG, and JOHN BRADFORD COOK of Stillingfleet Lodge Stillingfleet York YO19 6HP as Executors of Margaret Wrigley (deceased) together (The Second Owner)

1 DEFINITIONS

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

- | | |
|--|---|
| "1990 Act" | means the Town and Country Planning Act 1990 as amended. |
| "Affordable Dwellings" | means together the Social Rented Dwellings and the Affordable/Intermediate Dwellings and reference to "Affordable Dwelling" shall be construed accordingly. |
| "Affordable Housing" | means housing provided to eligible households whose needs are not met by the market in accordance with the definition in Annex 2 NPPF (or any future guidance that replaces it). |
| "Affordable Housing Commuted Sum" | means the sum of £27,500 (twenty seven thousand five hundred pounds only) to be paid by the Owners to the Council (in lieu of the provision of 0.5 units of Affordable Housing 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 within the Council's administrative area which may include but not be limited to the following:-

1. Support for Housing Associations operating within the Council's administrative area for both the development and acquisition of Affordable Housing within the Council's administrative area , including facilitating any necessary works of improvement or repair.
2. Support for specific initiatives to regenerate the existing housing stock within the Council's administrative area 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 within the Council's administrative area 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.

in each case the need for which directly arises from the Development

"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 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); 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 Rent and the Market Value of that Intermediate Dwelling on the date that it is sold on the Market in accordance with the provisions of paragraph 1.5 of the First Schedule (less the costs of any "finishing touches" / sales extras)

in both cases such sum to be agreed between the Owners and the Council and to be used by the 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 Ryedale

" Social Rented Dwellings"

means the 2 x two bed houses, being Plots 5 and 6 shown on Plan 2, 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 Rented Framework to the Social Rented Dwellings and which sum shall be agreed for lettings between the Owners the Housing Services Manager and the Relevant Housing Association or Substitute Housing Association which has taken the transfer of the Social Rented Dwelling in accordance with Government Social Rents at the time and thereafter any increases or decreases shall be in accordance with the Relevant Housing Association's or Substitute Housing Association's rent-setting policy and the Homes and Communities Agency's guidance at the time and approved in writing by the Council.

"Agreement"

means this Agreement.

"Application"

means the written application made on behalf of the Owners to the Council under reference 13/00652/MOUT for outline planning permission for residential development for erection of 10 dwellings, associated vehicular access and double garage for no 56.

"Commencement of Development"

means the date upon which the Development shall commence by the carrying out on the Land pursuant to the Planning Permission of a material operation as specified in Section 56 of the 1990

Act **Save That** the term "*material operation*" shall not include operations in connection with any work of or associated with archaeological investigation demolition site clearance remediation works environmental investigation site and soil surveys ground grouting erection of contractors work compound erection of site office erection of fencing to site boundary nor any operations in connection with the erection of the detached double garage to the south of and intended to be used by the occupiers of number 56 Low Moorgate Rillington as permitted by the Planning Permission and reference to "**Commence Development**" shall be construed accordingly.

- "Development"** means the development proposed by the Application and any development pursuant to the Application of all or part of the Land.
- "Dwellings"** mean those houses to be constructed on the Land and "**Dwelling**" shall be construed accordingly.
- "Eligible Occupier"** means a person or household identified by the Council or a Housing Association 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 body or 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 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 the Council or carry out the functions at the date hereof carried out by him / her.

"Independent Chartered Surveyor"

means a member of the Royal Institution of Chartered Surveyors appointed in accordance with the provisions of clause 4.6 of this Agreement and the phrase **"Independent Chartered Surveyors"** shall be construed accordingly.

"Affordable/Intermediate Dwelling"

means the 1 three bed house being Plot 7 shown on Plan 2 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 housing (other than Social Rented Dwellings) that meets the criteria of Annex 2 to National Planning Policy Framework (or any future guidance or initiative

that replaces or supplements it) agreed in writing with the Council and which, for the avoidance of doubt, should include any initiative subject to receipt of Homes and Communities Agency funding or such other funding that is in accordance with government policy relating to Housing Association rent levels at the time and first approved in writing by the Council suitable for those unable to meet their housing needs on the 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 Rillington ("**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 Rillington ("**Affordable Rent**")

or such other rent that is in accordance with government policy relating to Housing Association rent levels at the time and first approved in writing by the Council.

"Land"

means land at 56 Low Moorgate, Rillington, Malton, North Yorkshire as shown for identification purposes only edged red on Plan 1.

| | |
|---|---|
| "Market Value" | means a figure to be agreed between the Owners and the Council calculated having regard to the estimated amount for which a relevant Dwelling should exchange on the date of valuation between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion. |
| "Substitute Housing Association" | means a housing association nominated by the Owners in substitution for the Housing Association pursuant to clause 1.5 of Schedule 1 of this Agreement. |
| "Occupation" | means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in the construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations. |
| "Off-Site POS Contribution" | means the sum of £23,270.00.00 (twenty three thousand two hundred and seventy pounds only) to be paid by the Owners to the Council as a contribution to be applied by the Council towards the provision of and / or improvements to open space within Rillington |
| "Market Dwellings" | means those units to be constructed on the Land excluding the Affordable Dwellings for sale on the open market and "Market Dwelling" shall be construed accordingly. |
| "Owners" | means collectively the First Owner and the Second Owners. |
| "Plan 1" | means the Plan marked 1 annexed to this |

Agreement.

"Plan 2" means the Plan marked 2 annexed to this Agreement.

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

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 and in the case of the Council the successors to its respective statutory functions.

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

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

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

1.2.6 A reference to a statute or statutory provision is a reference to it as it is in force at the date of this deed.

1.2.7 A reference to a statute or statutory provision shall include any subordinate legislation made as at the date of this deed

1.2.8 A reference to **writing** or **written** does not include faxes or e-mail.

- 1.2.9 A reference to "this deed" or to any other agreement or document referred to in this deed is a reference to this deed or such other document or deed as varied or novated (in each case, other than in breach of the provisions of this deed) from time to time.

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 and the Second Owner are the registered proprietors of the Land with freehold title absolute registered at HM Land Registry.
- 2.3 The First Owner is the registered proprietor of the part of the Land shown for the purposes of identification only hatched yellow on Plan 1 with freehold title absolute registered at HM Land Registry under Title Number NYK274325.
- 2.4 The Second Owners are the Executors of the estate of Margaret Wrigley (deceased) who is the registered proprietor of that part of the Land shown for the purposes of identification only hatched purple on Plan 1 with freehold title absolute registered at H M Land Registry under Title Number NYK308183.
- 2.5 The Owners have made the Application to the Council for the Planning Permission.
- 2.6 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.
- 2.7 The Owners by entering into this Agreement do so to bind the Land and to create planning obligations in favour of the Council pursuant to Section 106 of the 1990 Act and to be bound by and observe and perform the covenants agreements conditions and stipulations hereinafter contained on the terms of this Agreement.

3 OPERATIVE PROVISIONS

- 3.1 This Agreement is a planning obligation made in pursuance of Section 106 of the 1990 Act as substituted by Section 12 of the Planning and Compensation Act 1991 and to the extent that the covenants in this Agreement are not made under Section 106 of the 1990 Act they are made under Section 111 or section 139 of the Local Government Act 1972 and all other powers so enabling.
- 3.2 The planning obligations comprised in this Agreement on the part of the Owners shall not become effective until the following conditions are satisfied: -
- 3.2.1 The Planning Permission has been granted; and
- 3.2.2 Except where otherwise stated in this Agreement the Commencement of Development.
- 3.3 The Owners hereby covenant with the Council that the Land shall from the date of completion of this Agreement, set out at the start of this Agreement be permanently subject to, and the Owner acknowledges that the Land shall be bound by, the restrictions and provisions regulating the Development and use thereof specified in the First Schedule to this Agreement.
- 3.4 The Council covenants with the Owners to comply with its obligations in the Third Schedule.

4 IT IS AGREED AND DECLARED AS FOLLOWS: -

- 4.1 No party shall be bound by the terms of this Agreement or be liable for the breach of any covenants restrictions or obligations contained in this Agreement (but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest): -
- 4.1.1 Occurring after he or it has parted with his or its interest in the Land or the part in respect of which such breach occurs.
- 4.1.2 In respect of any part or parts of the Land in respect of any period during which it or they shall no longer have an interest in such part or parts of the Land.
- 4.1.3 If he or it shall be an occupier or owner or tenant of a Dwelling

- 4.1.4 If he or it shall be an occupier or tenant or a purchaser of a site or sites for statutory infrastructure purposes in relation to the Development.
- 4.2 If the Planning Permission shall expire before the Commencement of Development or shall at any time be revoked or modified (without the consent of the Owners) or quashed following a successful legal challenge this Agreement shall forthwith determine and cease to have effect.
- 4.3 It is hereby declared that this Agreement is a planning obligation and that the land subject to the obligation is the Land and that the Agreement is enforceable by the Council.
- 4.4 This Agreement is a local land charge and shall be registered as such.
- 4.5 Any dispute arising between the parties as to their respective rights duties or obligations or as to the failure of the Council to give or confirm its consent where required under this Agreement or as to failure to agree Market Value or as to any other matter or thing arising out of or connected with the subject matter of this Agreement or any failure to agree upon any matter may be referred in accordance with clause 4.6 below to the determination of an Independent Chartered Surveyor.
- 4.6 Any reference to an Independent Chartered Surveyor in accordance with clause 4.5 above shall be to a reputable Independent Chartered Surveyor unconnected to any of the parties hereto and experienced in commercial development matters who shall be agreed between the parties to the dispute or appointed on the application of any party to the dispute made at any time by the President of the Royal Institution of Chartered Surveyors or his duly appointed deputy and if the parties to the dispute shall agree in writing such reference shall be deemed to be a reference to an expert (and not an arbitrator) but shall otherwise be deemed to be a reference to an arbitrator pursuant to the Arbitration Act 1996 and if any Independent Chartered Surveyor shall act as an expert pursuant to the terms of this clause 4.6 then each of the parties to the dispute shall be entitled to submit to him representations and cross representations with such supporting evidence as they shall consider necessary and he shall have regard thereto in making his decision which he shall deliver in writing as expediently as possible and the reference to him shall include authority to determine in what manner all the costs of the referral (whether incurred by the parties to the dispute or the Independent Chartered

Surveyor himself) shall be paid.

- 4.7 Wherever this Agreement requires the approval agreement determination or consent of the Council or the Owners such approval agreement determination or consent is not to be unreasonably withheld or delayed.
- 4.8 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than one relating to the Development) granted (whether or not on appeal) after the date of this Agreement.
- 4.9 The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement as provided for by Section 1 of that Act provided that this clause shall not affect any right of action of any person to whom this Agreement has been lawfully assigned or becomes vested in law.

FIRST SCHEDULE
(Owners' Covenants)

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

1 AFFORDABLE DWELLINGS

On-Site Provision

1.1 To procure that the Affordable Dwellings be constructed on the Land in accordance with the Planning Permission and approved plans and a physical specification negotiated with a Relevant Housing Association and approved by the Housing Services Manager in accordance with the provisions of clause 1.2 below for offer of disposal to a Relevant Housing Association or a Substitute Housing Association at a price which enables the Relevant Housing Association and / or a Substitute 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 Dwelling

on terms and conditions approved in writing by the Council **PROVIDED ALWAYS** that the Owners will not be required to provide more than 3 Affordable Dwellings on the Land.

1.2 The physical specification shall be approved by the Housing Services Manager whose approval shall not be unreasonably withheld or delayed **PROVIDED THAT** if the Housing Services Manager fails to respond substantively within 21 days from the date when the specification is delivered to the Council the Housing Services Manager's approval of the specification will be deemed to have been given. In the event that the approval is not granted within the initial period of 21 days, then a further 21 days period shall be allowed for any necessary amendments to be negotiated and agreed between the parties after which time the Housing Services Manager's approval of the specification will be deemed to have been given).

- 1.3 As soon as reasonably practicable following the Commencement of Development to nominate in writing to the Council for approval by the Housing Services Manager (which approval shall not be unreasonably withheld or delayed) the Housing Associations to some of which the Owners will market the Affordable Dwellings("Nomination") **PROVIDED THAT** if the Council fails to respond substantively to the Nomination within 21 days from the date when the Nomination is delivered to the Council approval of the nomination by the Housing Services Manager will be deemed to have been given. **AND PROVIDED FURTHER THAT** it is agreed that with the Council's prior approval (which approval shall not be unreasonably withheld or delayed) the Owners will be entitled to amend the Nomination by adding or removing Housing Associations from time to time during the course of carrying out the Development.
- 1.4 Within 10 working days of the Council receiving from the Owners a Nomination the Council may notify to the Owners in writing any additional Housing Associations to whom the Owners shall market the Affordable Dwellings.
- 1.5 The Owners shall as soon as reasonably practicable following a Nomination pursuant to paragraph 1.3 of this Schedule enter into negotiations with those Housing Associations which it has selected from its Nomination and those the Council has added pursuant to paragraph 1.4 (together "the Relevant Housing Associations") and use reasonable endeavours to contract to transfer the Affordable Dwellings to be constructed within the Development to such of the Relevant Housing Associations which express an interest in acquiring those dwellings as it shall choose at a price which enables those Relevant Housing Association to charge:-
- 1.5.1 a Social Rent in respect of the Social Rented Dwellings; and
- 1.5.2 an Affordable/Intermediate Rent in respect of the Affordable/Intermediate Dwelling.
- 1.6 In the event that the Relevant Housing Associations declines or are unable to accept the transfer of some or all of the Affordable Dwellings to be constructed within the Development on the terms of this Agreement or if in the Owners' or the Council's opinion (acting reasonably) insufficient progress is being made towards exchange of contracts with the Relevant Housing Associations 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 1.5 of this Schedule the Owners or the Council may give written notice to the other ("Notice") and the Owners may select one or more additional Housing Associations from the Nomination (each such Housing Association being a "Substitute Housing Association").

- 1.7 The Owners shall offer to enter into negotiations with the Substitute Housing Association(s) for the transfer to it of the Affordable Dwellings to be constructed within the Development (or any individual unit or units comprised in the Affordable Dwellings that has/have not been transferred or may not have been contracted to be sold to another Relevant Housing Association) on the terms of this Agreement and if the Substitute Housing Association declines or is unable to accept the transfer of some or all of the Affordable Dwellings to be constructed within the Development (or 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 a Relevant Housing Association) within a period of three months from the date of the offer referred to in paragraph 1.6 of this Schedule and the Council acting reasonably is satisfied on the evidence provided by the Owners that the Owners have used reasonable endeavours to transfer the Affordable Dwellings (or any individual unit or units comprised in the Affordable Dwellings that has/have not been transferred or may not have been contracted to be sold to a Relevant Housing Association) to the Substitute Housing Association and there is no reasonable prospect of securing the transfer of any of the Affordable Dwellings to be constructed within the Development to a Substitute Housing Association then the Owners shall be permitted to dispose of the Affordable Dwellings to be constructed within the Development that may not have been contracted to be sold to a Relevant Housing Association or a Substitute Housing Association (or any of the Affordable Dwellings that has/have not been transferred or may not have been contracted to be sold to a Relevant Housing Association or a Substitute Housing Association) individually on the open market free from the restrictions and obligations contained in this Agreement and the Owners shall within 6 weeks of a sale of any of the Affordable Dwellings on the open market pay to the Council the Affordable Housing Contribution attributable to the relevant Affordable Dwelling sold on the open market

- 1.8 Not to permit (unless the Owners are entitled to dispose of the Affordable

Dwellings on the open market in accordance with the provisions of paragraph 1.7 of this Schedule): -

1.8.1 Occupation of more than 2 of the Market Dwellings until the Owners have entered into a binding contract with one or more Relevant or Substitute Housing Associations for the disposal of the Affordable Dwellings;

1.8.2 Occupation of more than 6 of the Market Dwellings until the Affordable Dwellings have been constructed and transferred to one or more Relevant or Substitute Housing Associations;

1.9 It shall be a term of the sale of each of the Affordable Dwellings that the Relevant Housing Association and / or the Substitute Housing Association as the case may be shall not dispose of or cause or permit the disposal of the Affordable Dwelling other than for the purpose of providing a tenancy at: -

1.9.1 a Social Rent in respect of the Social Rented Dwellings; and

1.9.2 an Affordable/Intermediate Rent in respect of the Affordable/Intermediate Dwellings

to an Eligible Occupier.

1.10 Prior to the transfer of each of the Affordable Dwellings pursuant to this Schedule the Owners shall ensure

1.10.1 The relevant Affordable Dwelling is fully serviced and accessible by vehicles and pedestrians.

1.8.2 the grant by the Owners to the Relevant Housing Association or Substitute Housing Association of full and free rights of access (both pedestrian and vehicular) from the public highway to the relevant Affordable Dwelling;

1.8.3 the grant by the Owners to the Relevant Housing Association or Substitute Housing Association of full and free rights to the passage of water soil electricity gas and other services through the pipes drains channels wires cables and conduits which serve the relevant Affordable Dwelling and connect the relevant Affordable Dwelling to the relevant main services

1.8.4 a reservation in favour of the Owners of all rights of access and passage of services and rights of entry reasonably necessary for the purposes of the Development

1.11 To supply within 14 working days from the date of the relevant transfer of the Affordable Dwellings to a Relevant Housing Association and / or a Substitute Housing Association as the case may be a copy of the relevant transfer to the Council.

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

1.12.1 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 Agency's model lease; or

1.12.2 The exercise of its power of sale by a mortgagee of any of the Affordable Dwellings or the sale by a receiver appointed by a mortgagee of any of the Affordable Dwellings pursuant to statutory powers or the provisions of any mortgage or charge as required by a Court Order; or

1.12.3 Any subsequent disposition of the properties following a disposal falling within paragraphs 1.11.1 or 1.11.2 above.

Off-Site Housing Provision

1.13 Not to allow the Occupation of more than 5 Market Dwellings until the Affordable Housing Commuted Sum has been paid to the Council.

2 OFF-SITE POS CONTRIBUTION

2.1 Not to allow the Occupation of more than 5 Market Dwellings until the Off-Site Public Open Space Contribution has been paid to the Council.

SECOND SCHEDULE

(Occupancy Criteria)


Save where the Owners have disposed of the Affordable Dwellings on the open market in accordance with the provisions of clause 1.6 of the First Schedule the Owners shall ensure the Affordable Dwellings are occupied only by persons identified by the Council or a Relevant or Substitute Housing Association as persons

1. Who have for a period of at least 3 years been ordinarily resident within the Parish of Rillington and/or
2. Who have been permanently employed in the Parish of Rillington 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 adjoin the Parish of Rillington; or
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; or
5. If no such person qualifies under paragraph 4 above then persons who have a strong local connection with Ryedale District by one or more of the following means:-
 - 5.1 Family associations 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 the relevant Affordable Dwelling becomes vacant, or
 - 5.3 Through their work provide important services to Ryedale District and who need to live closer to the local community or who have employment within the area of Ryedale District

THIRD SCHEDULE
(Council's Covenants)

The Council covenants with the Owners as follows: -

- 1 To issue the Planning Permission as soon as is reasonably practicable but in any event no later than 5 working days after the date of this Agreement.
- 2 To issue a receipt for each instalment of the Affordable Housing Commuted Sum, the Off-Site POS Contribution and if applicable the Affordable Housing Contribution.
- 3 Upon receipt to place the sums referred to in paragraph 2 of this Schedule in an interest bearing account or in separate accounts as the Council shall in its discretion decide.
- 4 To apply the Affordable Housing Commuted Sum towards the purposes specified in the definition of Affordable Housing Commuted Sum the need for which directly arises from the Development and not to apply the Affordable Housing Commuted Sum for any other purposes and the Council shall (on the reasonable request of the payee or the payee's nominee) provide evidence that the monies have been so applied.
- 5 To apply the Off-Site POS Contribution towards the purposes specified in the definition of Off-Site POS Contribution the need for which directly arises from the Development and not to apply the Off-Site POS Contribution for any other purposes and the Council shall (on the reasonable request of the payee or the payee's nominee) provide evidence that the monies have been so applied.
- 6 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.
- 7 In the event the Affordable Housing Commuted Sum or the Off-Site POS Contribution and if applicable the Affordable Housing Contribution or any part or parts thereof are not expended within five years of the date on which such monies were received by the Council, then the sum or sums not expended plus interest accrued will be repaid to the person who paid the sum or sums or its nominee.

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- 8 The Council will on the written request of the Owners made after any of the planning obligations under this Agreement have been fulfilled issue written confirmation thereof and on the written request of the Owners made at any time after this Agreement ceases to have effect issue written confirmation of the same and as soon as reasonably practicable cancel all relevant entries in the Register of Local Land Charges.

FOURTH SCHEDULE
(Draft Decision Notice)

RYEDALE DISTRICT COUNCIL

TOWN & COUNTRY PLANNING ACT 1990

OUTLINE APPLICATION FOR PERMISSION TO CARRY OUT DEVELOPMENT

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

Application No: 13/00652/MOUT
Proposal: Erection of 10no. dwellings, associated vehicular access and erection of detached double garage for no. 56 (site area 0.42ha)
at: 56 Low Moorgate Rillington Malton YO17 8JW
for: Mr M Wrigley & Mr J Cook
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:

National Planning Policy Framework
Local Plan Strategy - Policy SP2 Delivery and Distribution of New Housing
Local Plan Strategy - Policy SP3 Affordable Housing
Local Plan Strategy - Policy SP4 Type and Mix of New Housing
Local Plan Strategy - Policy SP14 Biodiversity
Local Plan Strategy - Policy SP16 Design
Local Plan Strategy - Policy SP18 Renewable and Low Carbon Energy
Local Plan Strategy - Policy SP19 Presumption in Favour of Sustainable Development
Local Plan Strategy - Policy SP20 Generic Development Management Issues
Local Plan Strategy - Policy SP21 Occupancy Restrictions

CONDITIONS AND ASSOCIATED REASONS

01 Application for approval of reserved matters shall be made to the Local Planning Authority not later than .

The development hereby permitted shall be begun on or before whichever is the later of the following dates:-

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HG1 1LE

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The expiration of two years from the final approval of the reserved matters or (in the case of approval on different dates) the final approval of the last such matters approved.

Reason:- To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

02 No development shall take place without the prior written approval of the Local Planning Authority of all details of the following matters:-

(i) a schedule of external materials to be used

(ii) the landscaping of the site

Reason:- To safeguard the rights of control by the Local Planning Authority in respect of the reserved matters.

03 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.

Reason: To ensure a satisfactory external appearance and to satisfy the requirements of Policies SP16 and SP20 of the Local Plan Strategy.

04 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 Policies SP16 and SP20 of the Local Plan Strategy.

05 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 Policies SP16 and SP20 of the Local Plan Strategy.

06 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,

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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 SP20 of the Local Plan Strategy.

- 07 Before the commencement of the development hereby permitted, or such longer period as may be agreed in writing with the Local Planning Authority, full details of the materials and design of all means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. Thereafter these shall be erected prior to the occupation of any dwelling to which they relate.

Reason:- To ensure that the development does not prejudice the enjoyment by the neighbouring occupiers of their properties or the appearance of the locality, as required by Policy SP20 of the Local Plan Strategy.

- 08 No development shall take place until works have been carried out to provide adequate facilities for the disposal of domestic waste, in accordance with details to be submitted to and approved by the Local Planning Authority.

Reason:- To ensure that the development can be properly drained without damage to the local water environment, and to satisfy Policy SP20 of the Local Plan Strategy and the National Planning Policy Framework.

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

Reason:- In the interests of satisfactory and sustainable drainage, and to satisfy Policy SP20 of the Local Plan Strategy and the National Planning Policy Framework.

- 10 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved by the Local Planning Authority before development commences.

Reason:- To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading, and to satisfy Policy SP20 of the Local Plan Strategy and the National Planning Policy Framework.

- 11 Unless otherwise agreed in writing with the Local Planning Authority, development shall not commence until actual or potential land contamination at the site has been investigated and a Phase 1 Desk Study Report has been submitted to and approved in writing by the Local Planning Authority. Should further intrusive investigation be recommended in the Phase 1 Report or be required by the Local Planning Authority, development shall not commence until a Site Investigation Report and if required, or requested by the Local Planning Authority, a Remediation Scheme has been submitted to and approved in writing by the Local Planning Authority. Reports shall be prepared in accordance with Contaminated Land Report 11 and BS 10175(2011) Code of Practice for the Investigation of Potential Contaminated Sites. The development shall not be occupied until the approved remediation scheme has been implemented and a verification report

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detailing all works carried out has been submitted to and approved in writing by the Local Planning Authority.

Reason:- In order to fully take account of potential contamination and to satisfy Policy SP20 of the Local Plan Strategy and the National Planning Policy Framework.

- 12 Notwithstanding the submitted drainage feasibility study and prior to the commencement of the development full details of the method of draining the site shall be submitted to and approved in writing with the Local Planning Authority.

Reason: To ensure the site can be effectively drained and to satisfy Policy SP20 of the Local Plan Strategy and the National Planning Policy Framework.

- 13 No development shall take place within the application site until the developer has secured the implementation of a programme of archaeological works known as a watching brief 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 and to satisfy Policy SP12 of the Local Plan Strategy and the National Planning Policy Framework.

- 14 The development shall be undertaken in accordance with Section 9 of the Ecological Assessment by MAB dated February 2013 with details to be submitted to and approved in writing by the Local Planning Authority prior to such relevant works.

Reason:- In order to fully address the impact upon protected species and to satisfy Policy SP14 of the Local Plan Strategy and the National Planning Policy Framework.

- 15 Prior to the commencement of the development, an Arboricultural Method Statement in accordance with the Tree Survey Report (Rocetta Landscape Design July 2013) for the protection and integration of trees to be retained within the development shall be submitted to the Local Planning Authority for approval in writing.

Reason:- To ensure that the trees to be retained are not damaged as a consequence of the development, and in accordance with Policy SP20 of the Local Plan Strategy.

- 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

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- (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.
- (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 accordance with Policy SP20 of the Local Plan Strategy and to secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of highway users.

- 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.

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Reason:- In accordance with Policy SP20 of the Local Plan Strategy and to ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.

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

Reason:- In accordance with Policy SP20 of the Local Plan Strategy and in the interests of highway safety.

- 19 No dwelling shall be occupied until the related parking facilities have been constructed in accordance with the approved drawing AP 180: 02 Rev C. Once created, these parking areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:- In accordance with Policy SP20 of the Local Plan Strategy 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.

- 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 splays are provided giving clear visibility of 43 metres measured in each direction along the adjacent channel line along both channel lines of the major road Low Moorgate from a point measured 2.4 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 1.05 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 SP20 of the Local Plan Strategy and in the interests of road safety.

- 21 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 SP20 of the Local Plan Strategy 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.

- 22 Notwithstanding the provisions of the Town & Country Planning General Permitted Development Order 1995 or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

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Reason:- In accordance with Policy SP20 of the Local Plan Strategy and to ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity of the development.

- 23 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 SP20 of the Local Plan Strategy and to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.

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

(i) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway

(ii) on-site materials storage area capable of accommodating all materials required for the operation of the site.

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

Reason:- In accordance with Policy SP20 of the Local Plan Strategy 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.

- 25 Prior to the commencement of the development hereby approved precise details of the existing ground levels and the proposed finished ground floor levels measured in relation to a fixed datum point 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 SP20 of the Local Plan Strategy.

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

Drawing No. AP 180: 01 - Site location plan;
Drawing No. AP 180: 02C - Proposed Site Layout Plan;
Drawing No. AP 180: 03B - Proposed Streetscape Elevations;
Drawing No. 2425/2 - Trees in Relation to Development; and
Drawing No. E12/5666/01A - Proposed Soakaways

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

INFORMATIVE(S)

- 01 An explanation of terms used above is available from the Highway Authority.
02 An explanation of the terms used above is available from the Highway Authority.

Footnote :

In dealing with and determining this application, the Local Planning Authority have sought to take a positive approach to foster the delivery of sustainable development in accordance with the requirements of the National Planning Policy Framework. As such, the Local Authority has taken steps to work proactively with the applicant to seek solutions to problems that may have arisen in dealing with this application with a view to improving local economic, social and environmental conditions.

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

HEAD OF PLANNING

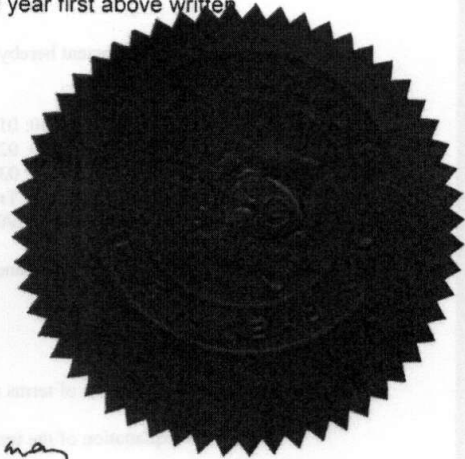
Mr M Wrigley & Mr J Cook
C/O Directions Planning Consultancy Ltd (Mrs Lilian Coulson)
18 Raglan Street
Harrogate
North Yorkshire
HG1 1LE

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:-)

K. W. Wrigley

Council Solicitor



SIGNED as a Deed by the said)
WILLIAM MATTHEW WRIGLEY)
in the presence of:)

M. Kirk

Witness:
Signed

M. Kirk

Print Full Name

MARY EUGENETH KIRK

19 Cookridge Street, Leeds LS2 5AG

Occupation

Solicitor

SIGNED as a Deed by the said)
WILLIAM MATTHEW WRIGLEY)
in the presence of:)

M. Kirk

Witness
Signed

M. Kirk

Print Full Name

as above

19 Cookridge Street, Leeds LS2 5AG

Occupation

SIGNED as a Deed by the said
JOHN BRADFORD COOK
in the presence of:

JBC
} X John Cook e

Witness:

Signed

Sarah Guthrie

Print Full Name

SARAH GUTHRIE

Address complete

Brasidale House

Azamb, YORK YORK UT Z

Occupation

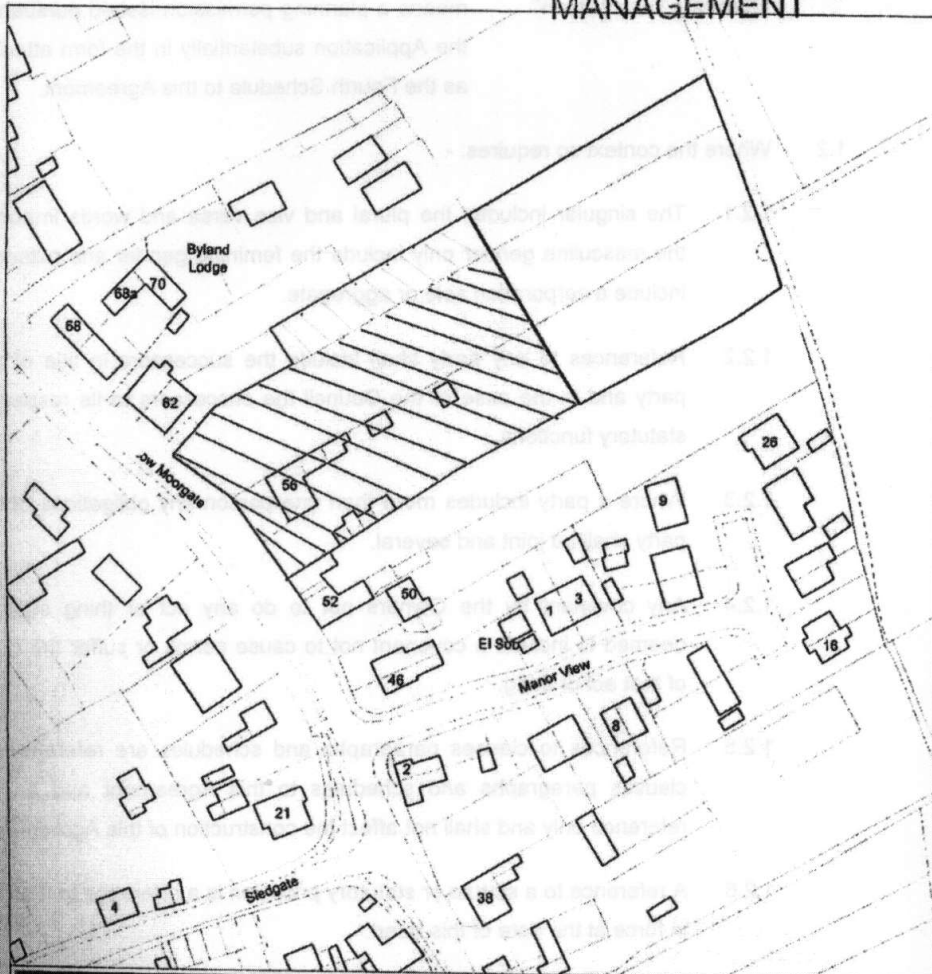
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RYEDALE DM

Proposed Residential Development On Land At
56 Low Moorgate, Rillington, Malton YO17 8JW

- 5 JUN 2013

DEVELOPMENT
MANAGEMENT



| | | |
|---|--|--------------------------------|
|  AP DESIGN SERVICES 8 St. Matthews Close, Naburn, York YO194RT Tel: 01904 678045 Mobile: 07759 547773 E-mail: andy.perkin@tiscali.co.uk | DRAWING TITLE: Proposed Residential Development On Land At 56 Low Moorgate, Rillington, Malton YO17 8JW | |
| | Location Plan | |
| CLIENT: Mr J B Cook | SCALE: 1:1250 @ A4 | DATE: July 2012 |
| | DRAWN: AP | DWG NO.: AP 180 : 01 |

Handwritten signatures and initials:
K. W. W. (likely K. W. W. W. W.)
L. H. (likely L. H. H. H.)
W. J. (likely W. J. J. J.)