

DATE

3 FEBRUARY

2016

PARTIES

- (1) **RYEDALE DISTRICT COUNCIL** of Ryedale House, Malton, North Yorkshire, YO17 7HH ("Council")
- (2) **SARA ANN LANDERS AND PETER CARL MAXWELL LANDERS AND PHILIP JEREMY JOHN LANDERS** all of Apple Tree Cottage, Barrie Barn Lane, Robin Hood's Bay, Whitby, YO22 4PD and **JEREMY WILLIAM WISKER** of 79 High Street, Hampton-in-Arden, Solihull, West Midlands, B92 0AE ("Owner")
- (3) **NEIL DOUGLAS LANDERS AND SARA ANN LANDERS** of Appletree Cottage, Barrie Barn Lane, Robin Hood's Bay, Whitby, YO22 4PD ("Developer")

INTRODUCTION

- 1 The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.
- 2 The Owner is the freehold owner of the Site and the Blue Land
- 3 The Developer and Owner have submitted the Application to the Council and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
- 4 The Council resolved on 18 November 2014 to grant the Planning Permission subject to the prior completion of this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

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

"Act" the Town and Country Planning Act 1990.

"Affordable Housing Contribution" a sum to be agreed with the Council (or if not agreed determined under Clause 13 of this Agreement) to be calculated as follows:

A – B

Where:

A = Market Value of the Dwelling which could have been achieved if it/they were sold on the open market free of the restrictions set out in Schedule 2 of this Agreement

B = The Discounted Sale Price which would have been paid by the Eligible Occupier had the Discount Sale Dwelling been transferred to an Eligible Occupier in accordance with the provisions of Schedule 2

"Affordable Housing"

affordable housing as defined in the glossary to the NPPF

"Affordable Housing Unit"

the Affordable Housing unit shown edged in red on Plan 3 being a 2bed 4person mid terrace property being Plot 3 of the Development and made available to people in need of affordable housing as a Discount Sale Dwelling

"Affordable Housing Commuted Sum"

the sum of £31,560 (thirty-one thousand five hundred and sixty pounds) to be used by the Council in accordance with the provisions of paragraph 2 of the Fourth Schedule.

"Application"

the application for full planning permission dated 26 July 2013 submitted to the Council for the Development and allocated reference number 13/00885/FUL.

'Blue Land'

the land shown edged in blue on Plan 1

"Commencement of Development"

the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site

clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly.

"Development"

the Development of the Site with Erection of 1no. 3 bedroom dwelling with attached carport and a terrace of 1no. 3 bedroom and 2no. 2 bedroom dwellings with associated parking and amenity areas as set out in the Application.

"Discounted Sale Dwelling"

means Affordable Housing Unit which is to be sold to an Eligible Occupier (subject to the provisions of paragraphs 2 and 3 (inclusive) of 3 at the Discounted Sale Price in accordance with the Resale Covenant Scheme which the Owner shall ensure binds the Discounted Sale Dwelling in perpetuity.

"Discounted Sale Price"

Means the sum of £93,551 (Ninety three thousand five hundred and fifty one pounds

"Disposal"

the transfer of a freehold interest in the Dwelling/first Dwelling or any part thereof or the grant of a lease of the Dwelling/first Dwelling or any part thereof for a term equal to or exceeding 7 years

"Dwelling"

any dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission and 'first Dwelling' shall be construed accordingly

"Eligible Occupier"

persons who cannot afford to rent or buy housing generally available locally on the open market at

	local house prices and identified in accordance with the provisions of Schedule 5
"Housing Services Manager"	the Housing Services Manager of the Council or a person nominated by the Council to discharge functions of the Housing Services Manager
"Index"	All Items Index of Retail Prices issued by the Office for National Statistics.
"Interest"	interest at 4 per cent above the base lending rate of the National Westminster Bank Plc from time to time.
"Occupation" and "Occupied"	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations.
"Plan 1"	the plan attached to this Deed and marked Plan 1
"Plan 2"	the plan attached to this Deed and marked Plan 2
"Plan 3"	the plan attached to this Deed and marked Plan 3
"Planning Permission"	the full planning permission subject to conditions to be granted by the Council pursuant to the Application as set out in the Schedule 2
"Practical Completion"	Means the completion of all the construction of the dwelling that has to be done, notwithstanding that there may be latent defects, for the purpose of allowing a prospective purchaser to take possession of the dwelling and use it as intended.
"Resale Covenant Scheme"	means a scheme approved in writing by the Housing Services Manager which restricts the sale price of the Discounted Sale Dwelling to the Discounted Sale Price and restricts owner-occupation to Eligible Occupiers and the terms upon which such occupation and/or sale or transfer of such Discounted Sale Dwelling may

take place within the parameters set out in Schedule 3.

“Site”

the land against which this Deed may be enforced as shown edged red on the Plan,1

2 CONSTRUCTION OF THIS DEED

2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.

2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.

2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

2.6 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council and County Council the successors to their respective statutory functions.

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

3 LEGAL BASIS

3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000 and Section 1 of the Localism Act 2011 and all other enabling powers.

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

4 CONDITIONALITY

This Deed is conditional upon:

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

save for the provisions of Clauses 7.1, 10, 13, 14 and 15 which shall come into effect immediately upon completion of this Deed.

5 THE OWNER'S COVENANTS

- 5.1 The Owner covenants with the Council as set out in Schedules 3,5,6 and 7 .

6 THE COUNCIL'S COVENANTS

- 6.1 The Council covenants with the Owner as set out in the Schedule 4.

7 MISCELLANEOUS

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

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

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

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

- (i) the Council by the Council Solicitor;

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

- 7.5 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 7.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 7.7 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 7.8 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.9 This Deed shall not be enforceable against owner-occupiers or tenants of Dwellings constructed pursuant to the Planning Permission nor against those deriving title from them, with the exception of the Owner-Occupier of the Discounted sale Dwelling which will remain bound by the covenant in the Schedule 3.
- 7.10 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 7.11 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

8 WAIVER

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

9 CHANGE IN OWNERSHIP

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

10 INDEXATION

Any sum referred to in the Schedule 3 shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable.

11 INTEREST

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

12 VAT

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

13 DISPUTE PROVISIONS

13.1 In the event of any dispute or difference arising between any of the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and falling such determination shall be borne by the parties in equal shares.

13.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 13.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in

such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.

13.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received any file or written representation.

13.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten working days.

13.5 The provisions of this clause shall not affect the ability of the Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Deed and consequential and interim orders and relief.

14 JURISDICTION

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

15 DELIVERY

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

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

SIGNED as a deed by)

Sara Ann Landers)

Sara Ann Landers

In the presence of)

Witness)

Name)

Address)

R. Mitchell
R. Mitchell
Pearsons & Ward
Solicitors
Malton
North Yorkshire
YO17 7AS

SIGNED as a deed by)

Philip Jeremy John Landers +)

Peter Carl Maxwell Condon
In the presence of)

Philip Landers

Witness)

Name)

Address)

CHRISTOPHER DANIEL
19 WILLIAM CHANNING HOUSE
61 CANBERG STREET
LONDON E2 0BN

SIGNED as a deed by)

Jeremy William Wisker)

In the presence of)

J. W. Wisker
SEANA CONNOLLY

Witness)

Name)

Address)

Seana Connolly
SEANA CONNOLLY
THE OLD POST OFFICE COTTAGE
1 SQUIHILL ROAD
HAMPTON IN ARDEN
WEST MIDLANDS
B92 0AT

SCHEDULE 1
[Details of the Owner's Title and description of the Site]
Land and Buildings at Mount Farm, Westgate, York, YO1 1JL (The stream adjacent to the site)
SIGNED as a deed by)
Neil Douglas Landers)
In the presence of)



Witness *R. I. Tulloh*)
Name *R. I. Tulloh*)
Address)

**Pearsons & Ward
Solicitors
Malton
North Yorkshire
YO17 7AS**

EXECUTED AS A DEED when the seal of)
RYEDALE DISTRICT COUNCIL)
was affixed in the presence of)



Council Solicitor



Minute
128 14/15
Reg No.
6884
Initials <i>cus</i>

SCHEDULE 1

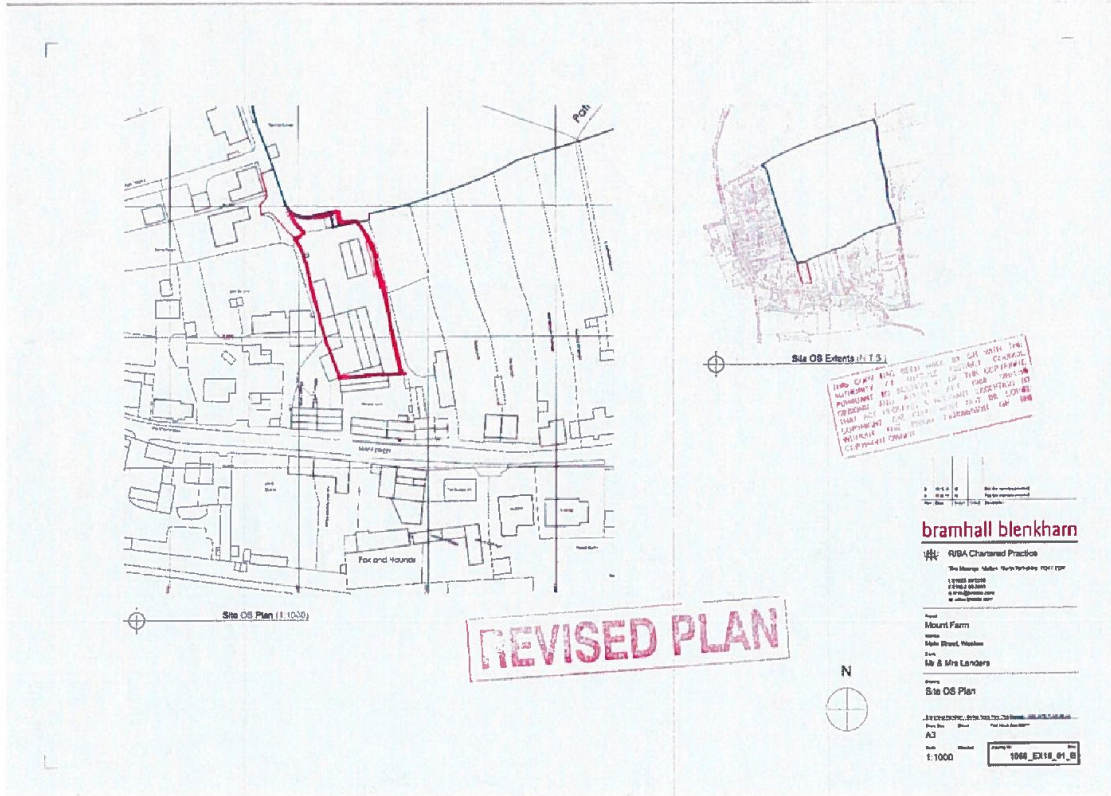
[Details of the Owner's Title, and description of the Site]

Land and Buildings at Mount Farm, Westow, York, YO60 7NE shown edged in red on Plan 1,
being land registered at HM Land Registry with Title Number NYK....



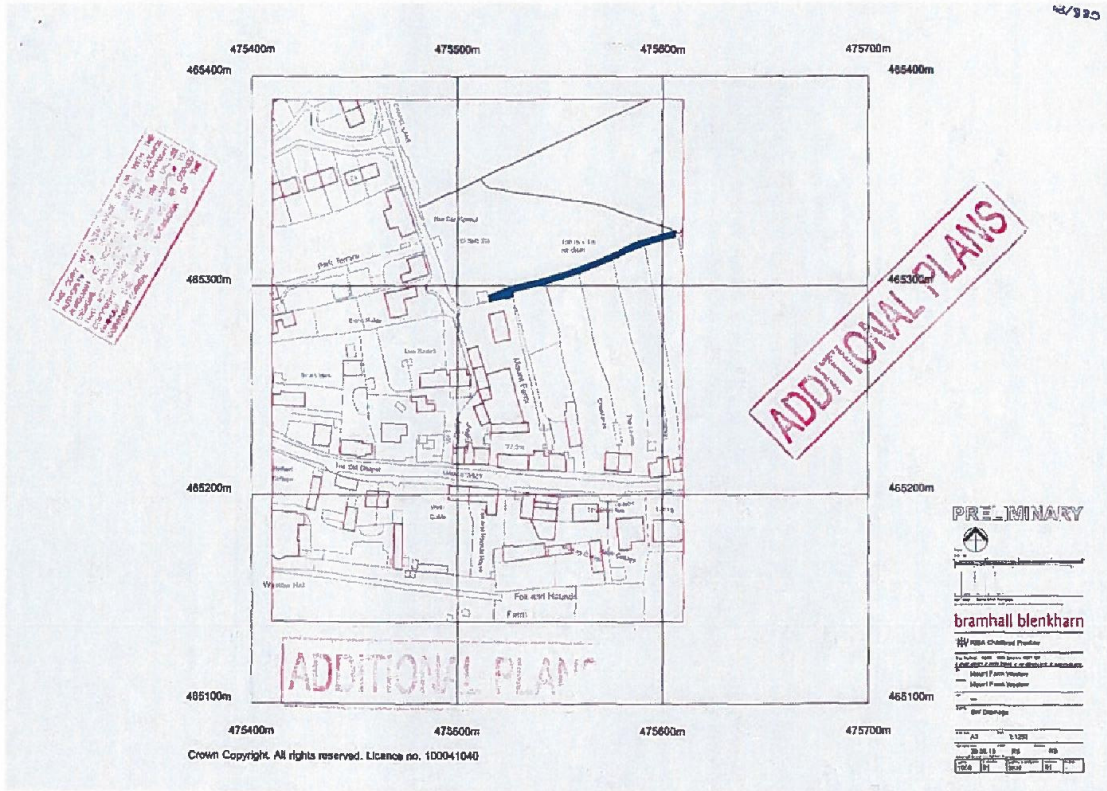
[Handwritten signature]
Council Secretary

Plan 1



W. Swatlands
 J. W. Winton
 R. [Signature]
 [Signature]
 [Signature]

Plan 2



Sweetlands
us
K. W. Winstanley
J. W. Winstanley
R

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: 13/00885/FUL

Proposal: Erection of 1no. 3 bedroom dwelling with attached carport and a terrace of 1no. 3 bedroom and 2no. 2 bedroom dwellings with associated parking and amenity areas.

at: Buildings At Mount Farm Main Street Westow Malton

for: Mount Farm Partnership

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
National Planning Policy Guidance
Local Plan Strategy - Policy SP1 General Location of Development and Settlement Hierarchy
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 SP11 Community Facilities and Services
Local Plan Strategy - Policy SP12 Heritage
Local Plan Strategy - Policy SP16 Design
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 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

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13 The Maltings
Castlegate
Malton
YO17 7DP

- 02 Unless otherwise agreed in writing by the Local Planning Authority, and notwithstanding the submitted plans, a plan at a scale of 1:20 shall be submitted to, and approved in writing by the Local Planning Authority to detail the eaves and verge treatment of the development hereby approved.

Reason: In the interests of enhancing the character of Westow Conservation Area, and to satisfy the requirements of Policy SP12 of the Ryedale Plan - Local Plan Strategy

- 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 Policy SP12 of the Ryedale Plan- 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 Policy SP12 of the Ryedale Plan- Local Plan Strategy

- 05 Notwithstanding the submitted details, precise details of all rainwater goods 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 Policy SP12 of the Ryedale Plan- Local Plan Strategy

- 06 Unless otherwise agreed in writing by the Local Planning Authority, all hard surfacing shall be permeable, details of which shall first be submitted to, and approved in writing by the Local Planning Authority.

Reason: In the interests of an appropriate external appearance, to achieve the satisfactory drainage of surface water, and to satisfy the requirements of Policies SP12 and SP20 of the Ryedale Plan – Local Plan Strategy.

- 07 Notwithstanding the provisions of Schedule 2, Part 1 of the Town & Country Planning (General Permitted development) Order 1995 (or any Order revoking, re-enacting or amending that Order), development of the following classes shall not be undertaken other than as may be approved in writing by the Local Planning Authority following a specific application in that respect:

Class A: Enlargement, improvement or alteration of a dwellinghouse

Class B: Roof alteration to enlarge a dwellinghouse

Class C: Any other alteration to the roof of a dwellinghouse

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Class D: Erection or construction of a domestic external porch

Class E: Provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of a dwellinghouse or the maintenance, improvement or other alteration of such a building or enclosure.

Reason: In the interests of ensuring an appropriate external appearance, and to preserve the existing amenities of neighbouring occupiers, and to satisfy the requirements of Policy SP20 of the Ryedale Plan- Local Plan Strategy.

- 08 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995, (or any Order revoking, re-enacting or amending that Order), no windows, other than those shown on the plans hereby approved, shall be formed in the walls or roof of the extension(s) hereby permitted without the prior written consent of the Local Planning Authority following a specific application in that respect

Reason: To safeguard the privacy and amenity of adjoining residents, and to satisfy Policy SP20 of the Ryedale Plan- Local Plan Strategy

- 09 Notwithstanding the submitted details, the chimneys on the dwellings hereby approved shall be constructed from brick, details of which shall first 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 Policy SP12 of the Ryedale Plan- Local Plan Strategy

- 10 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 a satisfactory external appearance, and to satisfy the requirements of Policy SP12 of the Ryedale Plan- Local Plan Strategy

- 11 Unless specific details have first been submitted to, and approved in writing by the Local Planning Authority, there shall be no external lighting on any part of the development site.

Reason: To reduce light pollution from the development, and to preserve the character of Westow conservation area, and to satisfy the requirements of Policies SP12, and SP20 of the Ryedale Plan-Local Plan Strategy, and para 125 of the NPPF

- 12 Prior to the commencement of the development, details of all windows and 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 a satisfactory external appearance, and to satisfy the requirements of Policy SP12 of the Ryedale Plan- Local Plan Strategy

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- 13 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 ensure a satisfactory external appearance, to preserve the existing amenities of neighbouring occupiers, and to satisfy the requirements of Policies SP12 and SP20 of the Ryedale Plan – Local Plan Strategy

- 14 The development hereby approved shall be carried out in accordance with the submitted report on protected species survey by Julian Hall. Particular attention is drawn to the mitigation and recommendation section of the report.

Reason: In the interests of protecting those species protected under the Wildlife and Countryside Act and the Habitats Directive.

- 15 Prior to the commencement of any work of construction on site, details of biodiversity enhancement shall be submitted to, and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details prior to the occupation of the dwellings.

Reason: to satisfy the requirements of Policy SP14 of Ryedale Plan-Local Plan Strategy

- 16 Prior to the commencement of any works on site, precise details of the turning head shall be submitted to, and approved in writing by the local planning authority, in co ordination with the Highway Authority.

Reason: To ensure a satisfactory external appearance, and to satisfy the requirements of Policy SP12 of the Ryedale Plan- Local Plan Strategy

- 17 Notwithstanding the submitted details, precise details of surface water and foul drainage shall be submitted to, and approved in writing by the Local Planning Authority.

Reason; In the interests of the satisfactory drainage of the site, and to satisfy the requirements of Policies SP17 and SP20 of the Ryedale Plan-Local Plan Strategy.

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- 18 Highway Condition
- 19 Environmental Health condition
- 20 No construction work shall operate onsite outside the hours 8am until 6pm , Monday to Friday, 8am until 1pm on Saturdays and no work on Sundays or Bank Holidays.
- Reason: To protect the amenities of neighbouring occupiers, and to satisfy the requirements of Policy SP20 of the Ryedale Plan – Local Plan Strategy.
- 21 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.

INFORMATIVE(S)

- 01 All bats and their roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) and are further protected under section 41/42 of the Conservation of Habitats and Species Regulations 2010. Should any bats or evidence of bats be found prior to or during development, work must stop immediately and Natural England contacted for further advice. This is a legal requirement under the Wildlife and Countryside Act 1981 (as Amended) and applied to whoever carried out the work.
Contact details: Natural England, 4th Floor, Foss House, Kings Pool, 1 - 2 Peasholme Green, York, YO1 7PX Tel: 0300 060 1911
- 02 The applicant is advised that this decision notice should be read in conjunction with the Agreement made under Section 106 of the Town and Country Planning Act 1990.
- 03 No developmen shall take place which causes an obstruction or hinders the public right of way.

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.

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APPN NO: 13/00885/FUL

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

HEAD OF PLANNING & HOUSING

DRAFT

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SCHEDULE 3

The Owner's Covenants with the Council

1. PROVISION OF AFFORDABLE HOUSING UNIT

The Owner will procure that the Affordable Housing Unit be constructed on the site in accordance with the Planning Permission and approved plans and a physical size of 87m² and specification to comply with Schedule 6 and approved by the Housing Services Manager (such approval not to be unreasonably withheld or delayed) PROVIDED THAT if the Housing Services Manager fails to approve the specification within 21 days from the date certified by the Housing Services Manager as having received the specification the Housing Services Manager's approval will be deemed to approve the specification PROVIDED ALWAYS that the Owner will not be required to provide more than 1 Affordable Housing Unit on the Land.

2. DISPOSAL OF THE DISCOUNTED SALE DWELLING

2.1 Prior to Commencement of Development the Owner will submit to the Housing Services Manager for prior written approval details of a Resale Covenant Scheme for the Disposal of the Discounted Sale Dwelling which:

- 2.1.1 prevents all subsequent sales from taking place in excess of the Discounted Sale Price;
- 2.1.2 restricts purchasers to Eligible Occupiers
- 2.1.3 sets out the nomination rights and eligibility criteria;
- 2.1.4 allows for eligibility but not price restrictions to be lifted in appropriate circumstances;
- 2.1.5 sets out a procedure governing subsequent Disposals including notification of intention to sell, reasonable timescales, assessment of Open Market Value and any other appropriate remarketing provisions;
- 2.1.6 sets out appropriate administrative and conveyancing arrangements for Disposals which shall be tailored according to

the Owner's intention to sell freehold or leasehold title and which include the model transfers or leases which will be used to bring the Resale Covenant Scheme into binding effect

- 2.2 For a period commencing at least six months before the estimated date for completion of the Discounted Sale Dwelling and ending on the date twelve months after the Practical Completion of the Discounted Sale Dwelling ("the Marketing Period") the Owner shall use reasonable endeavours to market the Discounted Sale Dwelling for sale such marketing to include advertising promoting and administering sales of the Discounted Sale Dwelling.
- 2.3 As a result of the marketing referred to at paragraph 2.2 above the Owner will collate the details of persons who may subsequently be approved by the Housing Services Manager as Eligible Occupiers and will forward such details to the Housing Services Manager within 5 working days of receiving such details.
- 2.4 If the person or persons identified in accordance with paragraph 2.3 above are approved by the Housing Services Manager with a certified mortgage offer in principle from a lender known to accept a Discounted Sale Dwelling as security the Owner shall offer to sell the Discounted Sale Dwelling to the Eligible Occupier.
- 2.5 The offer referred to at paragraph 2.4 above shall include but shall not be limited to the following terms:
 - 2.5.1 The Discounted Sale Dwelling shall be offered for sale to the Eligible Occupier at a the Discounted Sale Dwelling Offer Price
 - 2.5.2 Contracts to be exchanged within three calendar months of acceptance of the offer by the Eligible Occupier or, if later, the date on which a full package of contract documentation and title information is delivered by the Owner's solicitor to the Eligible Occupier ("the Title Delivery Date")
- 2.6 The Owner shall leave the or (as appropriate) each offer referred to at paragraph 2.4 above open for acceptance by the Eligible Occupier for a period of four calendar months from the date of such offer.
- 2.7 In the event that an offer referred to in paragraph 2.4 above is rejected by the Eligible Occupier or is not accepted in writing by the Eligible Occupier within the four month period provided in paragraph 2.6 above then such offer shall lapse and shall no longer be capable of acceptance and the terms of paragraph 2.9 below shall apply

2.8 If the Eligible Occupier accepts the offer within the four month period provided by paragraph 2.6 above then the Owner will use reasonable endeavours to exchange contracts for the sale of the Discounted Sale Dwelling being the subject of the offer with the Eligible Occupier within a period of three months from the date of acceptance of the offer by the Eligible Occupier or the Title Delivery Date whichever is the later

2.9 If after the three month period referred to at paragraph 2.8 above contracts have not been exchanged or the offer has lapsed in accordance with paragraph 2.7 above then the following shall apply:

2.9.1 If the Marketing Period has not expired then the provisions of paragraphs 2.3 to 2.8 inclusive shall be repeated to the effect that the process shall be recommenced involving (if applicable) a new Eligible Occupier; or

2.9.2 If the Marketing Period has expired then the obligations set out in paragraphs 2.2 to 2.8 inclusive above shall cease to have effect and the provisions of paragraph 2.10 below shall apply in respect of affordable housing provision.

2.10 If after the Marketing Period has expired any outstanding offers shall continue to be progressed in accordance with paragraphs 2.6 to 2.8 inclusive above and in the event that any offer or (as appropriate) offers has or have been rejected or contracts have not been exchanged within the three month period specified in paragraph 2.8 for the sale of the Discounted Sale Dwelling then the following shall apply:

2.10.1 The Owner will notify the Housing Services Manager in writing that the offers have been rejected or contracts have not been exchanged ("the Notification") PROVIDED that the Housing Services Manager is satisfied that the Owner has exhausted all possible means to dispose of the Discounted Sale Dwelling in accordance with the provisions set out above; then

2.10.2 The Owner shall be at liberty to dispose of the relevant unit on the open market upon such terms as he thinks fit; and

2.10.3 The Owner shall pay to the Council within 28 days of the date of sale on the open market of the Discounted Sale Dwelling that have not been disposed of to an Eligible Occupier an Affordable Housing Contribution.

2.10.4 On payment of the sum referred to in paragraph 2.10.3 above the Owner shall be released from the affordable housing obligations in this paragraph 1 in their entirety in so far as they relate to the Discounted Sale Dwelling PROVIDED ALWAYS that the provisions of paragraph 2.11 shall continue to apply to any of the Discounted Sale Dwelling that have been disposed of to the Eligible Occupier.

2.10.5 The first Disposal of each Discounted Sale Dwelling shall be at the Discounted Sale Price to a Council approved Eligible Occupier and shall secure that the approved Eligible Occupier enters into appropriate covenants direct with the Council pursuant to section 33 Local Government (Miscellaneous Provisions) Act 1982 to ensure the enforceability of the Resale Covenant Scheme

2.11 The following provisions shall only apply and regulate the future disposals of the Discounted Sale Dwelling following disposal to the Eligible Occupier by the Owner. The Owner shall ensure that the document transferring the Discounted Sale Dwelling to the Eligible Occupier incorporates provisions to ensure so far as the law allows that:

2.11.1 The Eligible Occupiers' Estate Interest in the Discounted Sale Dwelling disposed of in accordance with paragraphs 2.3 to 2.8 (inclusive) above shall not be assigned transferred or disposed of other than the Discounted Sale Price

2.11.2 When the Discounted Sale Dwelling becomes available for resale the person seeking to re-sell ("the Vendor") will write to the Housing Services Manager and agree with him the criteria which potential occupiers of the Discounted Sale Dwelling must satisfy ("the Agreed Criteria"). The Vendor will thereafter write to such people (if any) nominated by the Council who satisfy the Agreed Criteria giving sales details.

2.11.3 The Discounted Sale Dwelling offered for sale from time to time it shall not be offered other than to a person or persons residing within the district of Ryedale.

2.11.4 If required by the Council the Vendor shall satisfy the Council that the unit has been actively marketed to persons residing

within the district of Ryedale who cannot afford to purchase a Dwelling of a similar kind generally available on the open market in the district.

2.11.5 In the event that any interest is offered for sale in accordance with the provisions of paragraphs 2.11 and 2.11.4 above and on either:

2.11.5.1 the expiration of a period of 12 Months there is no buyer who has made an offer to purchase the interest in the relevant unit at a price not exceeding the percentage of the Market Value that the Vendor paid for the Property when he acquired it on such interest upon the terms that are reasonably acceptable to the Vendor; or

2.11.5.2 if there is such a person who is prepared to proceed on that basis who has not entered into a contract to purchase upon terms that are reasonably acceptable to the Vendor within 12 Months of the relevant unit having been placed on the open market for sale pursuant to the provisions of paragraphs 2.11.3 to 2.11.6 (inclusive) above then the Vendor may dispose of his interest in the relevant unit in accordance with paragraph 2.11.5 above to a person irrespective of his geographical area of residence who cannot afford to purchase a Dwelling of a similar kind generally available on the open market in the district of Ryedale Provided the Vendor obtains the confirmation Housing Services Manager that such person satisfies the Agreed Criteria (save as to geographical area of residence)

2.11.6 If despite the Vendor using reasonable endeavours he/she cannot dispose of the relevant unit within 18 Months of it being offered for sale and complying with the provisions of paragraphs 2.11.1 to 2.11.5 inclusive above then the Vendor shall be at liberty to dispose of the relevant unit on the open market upon such terms as it thinks fit

2.11.7 In the event of a disposal of 100% of the Open Market Value of the relevant unit pursuant to paragraph 2.11.6 above the

Vendor shall pay the Affordable Housing Contribution to the Council

2.11.8 In the event of a disposal of the relevant unit on the open market in accordance with paragraphs 2.11.6 and 2.11.7 above such Discounted Sale Dwelling shall forthwith cease to be subject to the terms of this planning obligation

2.11.9 In the event that paragraph 2.11.8 above becomes effective the Council (or its successor) will upon written request supply to any interested party confirmation of the effect and events of the above and will remove the entry in the Local Land Charges Register and any other entry in any other register open to public inspection

3. GENERAL PROVISIONS

3.1 Not to permit (unless the Owner is entitled to dispose of the Discounted Sale Unit on the Open Market in accordance with paragraph 2.10.2 of this Schedule) Practical Completion of more than 50% of the Market Dwellings until the Discounted Sale Dwelling has been constructed and made available for Occupation

3.2 Prior to the transfer of each of the Discounted Sale Dwelling pursuant to this Schedule the Owner shall ensure

3.2.1 The Discounted Sale Dwelling is fully serviced and accessible by vehicles and pedestrians.

3.2.2 the grant by the Owner to the Eligible Occupier as the case may be of full and free rights of access (both pedestrian and vehicular) from the public highway to the Discounted Sale Dwelling;

3.2.3 the grant by the Owner to the Eligible Occupier 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 Discounted Sale Dwelling and connect the Discounted Sale Dwelling to the relevant main services

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

3.2.5 a restriction that the Discounted Sale Dwelling cannot be let or sub-let by or on behalf of the Eligible Occupier

3.3 To supply within 14 working days from the date of the relevant transfer of the Discounted Sale Dwelling to an Eligible Occupier as the case may be a copy of the relevant transfer to the Council.

3.4 The restrictions in this Schedule 2 shall not apply to the Discounted Sale Unit:

3.4.1 in the possession of a chargee or mortgagee of an Eligible Occupier in the event of a default under a mortgage or charge or in the possession of any receiver appointed by them or any successors in title to such mortgagee or chargee PROVIDED THAT

3.4.1.1 the chargee or mortgagee has given the Council at least three months written notice of its intention to exercise such power of sale, and

3.4.1.2 the chargee or mortgagee has used reasonable endeavours to first dispose of the Discounted Sale Dwelling to another Eligible Occipier and has provided written evidence of such reasonable endeavours and secured the Housing Services Manager's written approval thereof and, for the avoidance of doubt such chargee or mortgagee shall not be under any obligation to dispose of the dwellings for a sum less than the monies outstanding pursuant to the legal charge or mortgage plus any interest and costs; and

3.4.1.3 if the said mortgagee, chargee or receiver shall not have disposed of the said Discounted Sale Dwelling in accordance with paragraph 3.4.1.2 above, within the said three month period, the said mortgagee or the receiver may (but without imposing any obligation on the said mortgagee or receiver) dispose of the Discounted Sale Dwelling on the open market to a willing buyer, and such buyer shall take free of the restrictions imposed herein in relation to the Discounted Sale Dwelling.

4. AFFORDABLE HOUSING COMMUTED SUM:

4.1 The Owner covenants with the Council as follows:

Not to permit Occupation the first Dwelling on the Site; or effect Disposal of the Dwelling/first Dwelling on the Site, whichever event first occurs until the Affordable Housing Commuted Sum has been paid to the Council

SCHEDULE 4

The Council's Covenants

Repayment of Commuted Sums

The Council hereby covenants with the Owner

- 1 to use all sums received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid or for such other purposes for the benefit of the Development as the Owner and the Council shall agree.

- 2 that the Affordable Housing Commuted Sum and Affordable Housing Contribution (if any) will be used on a broad range of schemes and initiatives, linked to housing needs which may include but not be limited to the following
 - 2.1 support for housing associations for both the development and acquisition of affordable housing including facilitating any necessary works of improvement or repair

 - 2.2 support for specific initiatives to regenerate the existing housing stock eg. Empty Property Grants and Houses in Multiple Occupation Grants which give the Council tenancy nomination rights for qualifying individuals; grants to address fuel poverty and grant assistance to carry out essential repairs for vulnerable households and those on limited incomes

 - 2.3 support for specific schemes which are developed to meet an identified need eg. the lack of suitable temporary accommodation for homeless families or a scheme to meet the accommodation needs of young single people

 - 2.4 support for the Rural Housing Enabler function at the Council

- 4 that it will pay to the Owner such amount of any payment made by the Owner to the Council under this Deed which has not been expended in accordance with the provisions of this Deed (and money shall be deemed to be expended if the Council has properly entered into a contract for the expenditure of the money for the purpose for which it is paid which is reasonably likely to result in the fulfilment of that purpose) within

five years of the date of receipt by the Council of such payment together with interest at the National Westminster Bank Plc base rate from time to time for the period from the date of payment to the date of refund.

- 5 that it shall provide to the Owner with such evidence, as the Owner shall reasonably require in order to confirm the expenditure of the sums paid by the Owner under this Deed.

Discharge of obligations

- 6 At the written request of the Owner the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed

SCHEDULE 5

ELIGIBILITY CRITERIA

1. The Owner shall ensure the Affordable Housing Units are occupied by persons who are in housing need and who cannot ordinarily afford to rent or purchase housing on the open market; and
 - 1.1 who have for a period of at least 3 years been ordinarily resident within the Parish of Westow; or
 - 1.2 who have been permanently employed within the Parish of Westow for 3 years or more; or
 - 1.3 if no such person qualifies under paragraphs 1.1 or 1.2 above for occupation a person ordinarily resident for a period of at least 3 years in any of the surrounding Parishes which adjoin Westow; or
 - 1.4 if no such person qualifies under paragraph 1.3 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
 - 1.5 if no such person qualifies under paragraph 1.4 above then persons who have a strong local connection with Ryedale District by one of the following means:-
 - 1.5.1 family association in the area of Ryedale District,
 - 1.5.2 any period of ordinary residence in the area of Ryedale District not immediately before the date on which any Affordable Housing Unit becomes vacant, or
 - 1.5.3 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
 - 1.6 if no such person qualifies under paragraph 1.5 above then any person in need of affordable housing as approved by the Council.

SCHEDULE 6

AFFORDABLE HOUSING SPECIFICATION

- Family bathroom to have shower over bath
- Full height tiling to all walls around bath
- Close boarded 1800mm high fencing and lockable gate (if required) to all rear gardens of houses
- Anti Slip flooring to all wet areas
- Turf to front and rear gardens
- Digital TV Capability to all houses, with communal digital compatible ariel with booster to apartments
- All properties to have door numerals and letterboxes
- Provision of all necessary refuse and recycling bins
- Apartments to have external communal drying areas and bin stores
- Door entry system for apartments preferably video

**SCHEDULE 7
DRAINAGE RESTRICTION PROVISIONS**

The Owner covenants with the Council not to use the Blue Land in any way which affects or otherwise interferes with or restricts the use of the surface water drain serving the Development and situated in the Blue Land and shown by a blue shaded line on Plan 2

DATED

2016

RYEDALE DISTRICT COUNCIL (1)

AND

**SARA ANN LANDERS, PETER CARL MAXWELL LANDERS, PHILIP JEREMY
JOHN LANDERS AND JEREMY WILLIAM WISKER (2)**

AND

NEIL DOUGLAS LANDERS AND SARA ANN LANDERS (3)

AGREEMENT

PURSUANT TO SECTION 106

OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

**RELATING TO BUILDING AT MOUNT FARM, MAIN STREET, WESTOW, MALTON,
NORTH YORKSHIRE**

**K A Winship
Council Solicitors
Malton**