

DATED

28th October

2014

**PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY
PLANNING ACT 1990 RELATING TO**

**LAND AT WESTFIELDS
KIRKBYMOORSIDE
NORTH YORKSHIRE**

between

- (1) RYEDALE DISTRICT COUNCIL**
- (2) NORTH YORKSHIRE COUNTY COUNCIL**
- (3) SIMEON BARKER**
- (4) ELIZABETH ANN JONES-TURNER, JONATHAN THOMAS KENDREW JONES,
MARK BRINLEY KENDREW JONES AND PAUL BENJAMIN KENDREW JONES**
- (5) GLADMAN DEVELOPMENTS LIMITED**

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THIS DEED is dated

2014

- (1) **RYEDALE DISTRICT COUNCIL** of Ryedale House, Malton, North Yorkshire, YO17 7AH (“**the Council**”)
- (2) **NORTH YORKSHIRE COUNTY COUNCIL** of County Hall, Northallerton, North Yorkshire, DL7 8AD (“**the County Council**”)
- (3) **SIMEON BARKER** of Aby Green Farm, Harome, York, YO62 5JH (“**the First Owner**”)
- (4) **ELIZABETH ANN JONES-TURNER** of 29 Heatherbank Road, Bessacarr, Doncaster, South Yorkshire, DN4 6EH, **JONATHAN THOMAS KENDREW JONES** of 4 Nelson Place, Burnscross, Sheffield, S35 1WG, **MARK BRINLEY KENDREW JONES** of 18 Paddock Drive, Bramley, Rotherham, South Yorkshire, S66 3ZE and **PAUL BENJAMIN KENDREW JONES** of 23 Kirkwoods Park, Lisburn, Antrim, BT28 3RR (“**the Second Owners**”)
- (5) **GLADMAN DEVELOPMENTS LIMITED** (Company number 03341567) whose registered office is at Gladman House, Alexandria Way, Congleton Business Park, Congleton, Cheshire, CW12 1LB (“**the Promoter**”)

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Property is situated.
- (B) The County Council is the local highway authority and the local education authority and a local planning authority for the area in which the Property is situated.
- (C) The First Owner is the freehold owner of that part of the Property registered at HM Land Registry under title numbers NYK183238, NYK218138 and NYK369428.
- (D) The Second Owners are the freehold owners of that part of the Property registered at HM Land Registry under title number NYK341798.
- (E) The First Owner the Second Owners and the Promoter have entered into the Promotion Agreement.
- (F) The Promoter submitted the Planning Application and the Council subsequently refused the Application on 13 February 2014.

- (G) The Promoter subsequently lodged the Appeal.
- (H) The First Owner the Second Owners and the Promoter wish to enter into the planning obligations specified in this Deed pursuant to Section 106 of the TCPA 1990 with the intention that if the Secretary of State allows the Appeal and grants Planning Permission pursuant to it, the Council and the County Council will then be able to enforce the respective obligations

AGREED TERMS

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this clause apply in this deed:

Affordable Housing: Social Rented Affordable Rented Housing and Intermediate Affordable Housing provided to eligible households whose needs are not met by the market where eligibility is determined in accordance with the Council's eligibility criteria at that time and which:

- (i) remains at an affordable price for future eligible householders subject to the provisions of this deed;
- (ii) comprises 35% (thirty five percent) of the total number of Residential Dwellings constructed pursuant to the Planning Permission

Affordable Housing Scheme: the scheme submitted in accordance with the Planning Permission which shall include details of:

- (i) the numbers, type, size, tenure and location on the site of the Affordable Housing which shall include the Specified Mix; and
- (ii) the arrangements for the transfer of the Affordable Housing to an RP; and
- (iii) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the Affordable Housing; and
- (iv) the occupancy criteria to be used for determining the identity of occupiers of the Affordable Housing and the means by which such occupancy criteria shall be enforced.

Affordable Housing Unit: any dwelling constructed on the Property for Affordable Housing.

Affordable Rented Housing: affordable rented housing as described in the definition of Affordable Housing set out in the glossary to the NPPF.

Appeal: means the appeal lodged in respect of the refusal of the Planning Application by the Council given the appeal reference APP/Y2736/A/14/2217803

Base Rate: the base rate from time to time of National Westminster Bank plc.

Chargee: any mortgagee or chargee of the RP or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925.

Chargee's Duty: the tasks and duties set out in Schedule 1 paragraph 4.6.

CIL Liability: means the amount imposed on the Development as a "CIL" (as that acronym is defined within the CIL Regulations) including, where applicable, the combined CIL for each Phase of Development

CIL Regulations: means the Community Infrastructure Levy Regulations 2010 (as amended)

Commencement of Development: the carrying out in relation to the Development of any material operation as defined by section 56(4) of the TCPA 1990 but disregarding for the purposes of this deed and for no other purpose, the following operations: demolition works; site clearance; ground investigations; site survey works; temporary access construction works; archaeological investigation; and erection of any fences and hoardings around the Property.

Commence and Commences shall be construed accordingly.

Commencement Date: the date Development Commences.

Contributions: the Education Contribution, Highway Contribution, Traffic Regulation Order Contribution and the Travel Plan Contribution taken together.

Date of Practical Completion: the date of issue of a certificate of practical completion by the First Owner and the Second Owners' architect or, if the Development is constructed by a party other than the First Owner and the Second Owners, by that other party's architect.

Decision Letter: means the decision letter issued by the Planning Inspector or the Secretary of State confirming whether or not the Appeal is allowed

Default Interest Rate: 1% per annum above the Base Rate.

Development: the development of the Property authorised by the Planning Permission.

Education Contribution: the sum payable in accordance with paragraph 1 of Schedule 1 of this deed.

Highway Contribution: the sum payable in accordance with paragraph 2 of Schedule 1 of this deed.

Housing Services Manager: the Housing Services Manager of the Council or such other official as may from time to time be nominated by him/her to carry out functions at the date hereof carried out by him/her.

Index Linked: increased in accordance with the following formula:

Amount payable = the payment specified in this deed x (A/B) where:

A= the figure for the Retail Prices Index (All Items) (or in the case of the Education Contribution the Department of Business Innovation and Skills Tender Price Index of Public Sector Building Non-Housing) that applied immediately preceding the date the payment is due.

B= the figure for the Retail Prices Index (All Items) (or in the case of the Education Contribution the Department of Business Innovation and Skills Tender Price Index of Public Sector Building Non-Housing) that applied when the index was last published prior to the date of this deed.

Intermediate Housing: intermediate housing as described in the definition of Affordable Housing set out in the glossary to the NPPF.

Management Company: a private limited company which is incorporated in England and Wales, which has its registered office in England and Wales and whose primary objects permit it to maintain and renew the Open Space

Management Plan: means a scheme to be submitted to and approved by the Council as part of the reserved matters application, which sets out the future management and maintenance of the Open Space, that identifies the maintenance requirements for the Open Space including all ongoing maintenance operations, specifically identifying the management objective, task and the timing and frequency of the operation for all the features of the Open Space, to include hard and soft landscaping, surfacing materials, furniture, play equipment, refuse or other storage units, signs, lighting, boundary treatments, trees, shrubs and hedge plants and details of who is to undertake the on-going future maintenance of the Open Space

Market Housing Units: dwellings for sale on the open market and which are not Affordable Housing.

NPPF: the Communities and Local Government National Planning Policy Framework dated March 2012.

Occupation: the physical use of land or buildings for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction or fitting out or occupation for marketing or display or occupation in relation to security operations and **Occupy, Occupied** and **Occupier** shall be construed accordingly.

Open Space: means the formal open space and landscaping including the Play Area for use by the general public to be provided on the Property in accordance with the Planning Permission

Phase of Development: a phase of development which shall be in accordance with the planning conditions to which the Planning Permission is subject.

Plan 1: the plan marked Plan 1 attached at Appendix 1.

Plan 2: the plan marked Plan 2 attached at Appendix 2

Planning Application: the application for outline planning permission registered by the Council on the 15th of November 2013 under reference number 13/01314/MOUT.

Planning Inspector: means the inspector appointed by the Secretary of State to preside over the public inquiry in relation to the Appeal

Planning Obligations means the planning obligations specified in schedule 1 and a "Planning Obligation" means any one of them

Planning Permission: any planning permission to be granted pursuant to the Appeal subject to conditions.

Play Area: the local equipped area of play for use by the general public to be provided on the Property in accordance with the Planning Permission.

Primary School Land: the land comprising 5,250 sq m in area in two parcels shown hatched green on Plan 2.

Property: the land at Westfields, Kirkbymoorside, North Yorkshire shown edged red on Plan 1 and registered at HM Land Registry with absolute title under title numbers NYK341798, NYK369428, NYK183238 and NYK218138.

Promotion Agreement: a planning promotion agreement in respect of the Property dated the 3rd of November 2011 made between (1) the First Owner and the Second Owners and (2) the Promoter.

Protected Tenant: any tenant who:

- (a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;
- (b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;
- (c) has been granted a shared ownership lease by the RP (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the RP) in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the RP all the remaining shares so that the tenant owns the entire Affordable Housing Unit.

Residential Dwelling: any dwelling, flat or other residential unit of accommodation including Affordable Housing within the Development.

RP: a Registered Provider as defined in the Housing and Regeneration Act 2008.

Secretary of State: means the Secretary of State for Communities and Local Government or any other minister or authority for the time being entitled to exercise the powers given under section 77, 78 and 79 of the 1990 Act

Serviced: free of buildings structures contamination and encumbrances

Social Rented Housing: means housing let at a rent which is comparable to the rents charged in the Ryedale District Council administrative area by RPs for properties of equivalent type, age and floor area and location and which sum shall be agreed for lettings between the Housing Services Manager the First Owner and the Second Owners and RP and thereafter any increases or decreases in accordance with the Homes and Communities Agency or any successor body's guidance at the time.

Specified Mix: unless otherwise agreed in writing by the Council at least 80% (eighty percent) of the Affordable Housing shall be Social Rented/Affordable Rented Housing and up to 20% (twenty percent) shall be Intermediate Housing.

TCPA 1990: Town and Country Planning Act 1990(as amended)

Traffic Regulation Order Contribution: the sum payable in accordance with paragraph 6 of Schedule 1

Travel Plan: the travel plan to be submitted to the Council in accordance with the terms of the framework travel plan submitted with the Planning Application

Travel Plan Contribution: the sum payable in accordance with paragraph 3 of Schedule 1.

VAT: value added tax chargeable under the Value Added Tax Act 1994.

Working Day: a day (other than a Saturday, Sunday or public holiday in England) when banks in London are open for business.

- 1.2 Clause headings shall not affect the interpretation of this deed.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 Save in respect of clause 27 of this deed, a reference to any party shall include that party's personal representatives, successors or permitted assigns and in the case of

the Council and the County Council the successors to their respective statutory functions.

- 1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time provided that, as between the parties, no such amendment, extension or re-enactment shall apply to this deed to the extent that it would impose any new or extended obligation, liability or restriction, on, or otherwise adversely affect the rights of, any party.
- 1.9 A reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** does not include faxes or e-mail.
- 1.11 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.
- 1.12 References to clauses, plans, schedules and appendices are to the clauses, plans, schedules and appendices of this deed.
- 1.13 An obligation in this deed on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.14 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2. STATUTORY PROVISIONS

- 2.1 This deed constitutes a planning obligation for the purposes of section 106 of the TCPA 1990, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers.
- 2.2 The covenants, restrictions and obligations contained in this deed are Planning Obligations for the purposes of section 106 of the TCPA 1990 and are entered into by the First Owner and the Second Owners with the intention that they bind the interests held by those persons in the Property and their respective successors and assigns.

2.3 The covenants, restrictions and obligations contained in this deed are enforceable by the Council and County Council in accordance with section 106 of the TCPA 1990.

2.4 Except for the Planning Obligations contained in this deed specifically regulating the use of land or buildings after occupation, no Planning Obligations contained in this deed shall be binding on any freehold or leasehold owners or occupiers of individual dwellings constructed pursuant to the Planning Permission (or their respective mortgagees) or land held by any of the statutory utilities for their operational purposes.

3. CONDITIONALITY

3.1 With the exception of clauses 2.1, 2.2, 2.4, 3, 4(b), 10, 11, 13, 16, 20, 21, 22, 24 and 26 (which take effect immediately), this deed is conditional on the grant and issue of the Planning Permission and the Planning Obligations contained in Schedule One shall only come into effect on Commencement of the Development (save for paragraph 8.1 of Schedule One which shall come into effect on the grant of Planning Permission) provided that if the Planning Inspector or the Secretary of State in the Decision Letter concludes that any of the Planning Obligations (or relevant part of a Planning Obligation) are incompatible with any one or more of the tests for planning obligations set out at Regulation 122 of the CIL Regulations and accordingly attaches no weight to that Planning Obligation in determining the Appeal then the relevant Planning Obligation(s) (or part of the Planning Obligation as appropriate) shall from the date of the Decision Letter immediately cease to have effect and the First Owner and the Second Owners or any of them shall be under no obligation to comply with it

4. COVENANTS TO THE COUNCIL AND THE COUNTY COUNCIL

The First Owner and Second Owners covenant with the Council and the County Council that they will be jointly and severally liable to:

- (a) observe and perform the covenants, restrictions and obligations contained in Schedule 1;
- (b) give at least 14 (fourteen) Working Days written notice to the Council of the intended Commencement Date.

5. COVENANTS BY COUNCIL AND THE COUNTY COUNCIL

The Council and County Council covenant with the First Owner and the Second Owners to observe and perform the relevant covenants, restrictions and obligations contained in Schedule 2.

6. PROMOTER'S CONSENT

The Promoter acknowledges that this deed has been entered into with its consent and that the Property will be bound by the Planning Obligations contained in Schedule 1 and that the interest of the Promoter in the Property shall take effect subject to this deed.

7. INDEXATION

7.1 All financial contributions payable to the Council and the County Council shall be Index Linked.

7.2 Where reference is made to an index and that index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this deed) or in the event the index is not replaced, to an alternative reasonably comparable basis or index as the Council shall advise the First Owners and the Second Owners in writing.

8. RELEASE

No person shall be liable for any breach of a covenant, restriction or obligation contained in this deed after parting with all of its interest in the Property, except in respect of any breach subsisting prior to parting with such interest.

9. DETERMINATION OF DEED

The obligations in this deed (with the exception of clause 11) shall cease to have effect if before the Commencement of Development, the Planning Permission:

- (a) expires;
- (b) is varied or revoked other than at the request of the First Owner and the Second Owners; or
- (c) is quashed following a successful legal challenge.

10. LOCAL LAND CHARGE

This deed is a local land charge and shall be registered as such by the Council.

11. COUNCIL'S AND COUNTY COUNCIL'S COSTS

The Promoter shall pay to the Council and County Council on or before the date of this deed the Council's and the County Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, negotiation, completion and registration of this deed.

12. INTEREST ON LATE PAYMENT

Where any sum or amount has not been paid to the Council or the County Council by the date on which it is due, the First Owner and the Second Owners shall pay the Council or the County Council as appropriate interest at the Default Interest Rate on that amount for the period from the due date to and including the date of payment.

13. OWNERSHIP

13.1 The First Owner and the Second Owners warrant that subject to their knowledge and the entries on the title numbers for their respective interests in the Property no person other than the First Owner and the Second Owners have any legal or equitable interest in the Property.

13.2 Until the covenants, restrictions and obligations in Schedule 1 have been complied with, the First Owner and the Second Owners will give to the Council within 14 (fourteen) Working Days, the following details of any conveyance, transfer, lease, assignment, mortgage or other disposition entered into in respect of all or any part of the Property:

- (a) the name and address of the person to whom the disposition was made; and
- (b) the nature and extent of the interest disposed of

Provided that such information shall not be required upon the disposal of Residential Dwellings to individual owners

14. REASONABLENESS

Any approval, confirmation, consent, direction, authority, agreement or action to be given by the Council or County Council under this deed shall not be unreasonably withheld or delayed.

15. CANCELLATION OF ENTRIES

15.1 On the written request of the First Owner and the Second Owners at any time after each or all of the obligations have been performed or otherwise discharged (and subject to the payment of the Council's reasonable and proper costs) the Council will issue a written confirmation of such performance or discharge.

15.2 Following the performance and full satisfaction of all the terms of this agreement or if this deed is determined pursuant to clause 9 (and subject to the payment of the Council's reasonable and proper costs and charges) the Council will on the written request of the First Owner and the Second Owners cancel all entries made in the local land charges register in respect of this deed.

16. DISPUTES

If any dispute arises out of this deed, the dispute shall be referred to an arbitrator appointed jointly by the parties. If the parties cannot agree on the arbitrator's identity the arbitrator shall be appointed on either party's request by the President for the time being of the Royal Institution of Chartered Surveyors. The arbitrator shall act in accordance with the Arbitration Act 1996 and the costs of the arbitration shall be payable by the parties in the proportions determined by the arbitrator (or if the arbitrator makes no direction, then equally).

17. NO FETTER OF DISCRETION

Nothing (contained or implied) in this deed shall fetter or restrict the Council's or the County Council's statutory rights, powers, discretions and responsibilities.

18. NO COMPENSATION PAYABLE

No compensation shall be payable by the Council or the County Council as a result of the obligations contained in this deed.

19. WAIVER

No waiver (whether express or implied) by the Council or the County Council of any breach or default by the First Owner and the Second Owners in performing or observing any of the covenants, restrictions or obligations of this deed shall constitute a continuing waiver and no such waiver shall prevent the Council or the County Council from enforcing any of the relevant terms or conditions contained in this deed or acting on any subsequent breach or default of this deed.

20. FUTURE PERMISSIONS

Nothing in this agreement shall prohibit or limit the right to develop any part of the Property in accordance with any planning permission (other than the Planning Permission or modification, variation or amendment thereof) granted after the date of the Planning Permission whether or not on appeal.

21. AGREEMENTS AND DECLARATIONS

The parties agree that:

- (a) nothing in this deed constitutes a planning permission or an obligation to grant planning permission; and
- (b) nothing in this deed grants planning permission or any other approval, consent or permission required from the Council in the exercise of any other statutory function.

22. NOTICES

22.1 Any notice or other communication required to be given under this deed shall be in writing and shall be delivered personally, or sent by pre-paid first class post or recorded delivery or by commercial courier, to any person required to receive the notice or communication at its address as set out below:

- (a) Council: The Development Manager Ryedale House, Malton, North Yorkshire, YO17 7AH;
- (b) The County Council: Director of Business and Environmental Services, County Hall, Northallerton, North Yorkshire, DL7 8AD;
- (c) The First Owner: Simeon Barker, Aby Green Farm, Harome, York, YO62 5JH;
- (d) The Second Owners: Jonathan Kendrew Jones, 4 Nelson Place, Burnscross, Sheffield, S35 1WG
- (e) Promoter: Gladman Legal Department (ref TJ), Gladman House, Alexandria Way, Congleton Business Park, Congleton, Cheshire, CW12 1LB

or as otherwise specified by the relevant person by notice in writing to each other person.

22.2 Any notice or other communication shall be deemed to have been duly received:

- (a) if delivered personally, when left at the address and for the contact referred to in this clause;

- (b) if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Working Day after posting; or
- (c) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

23. THIRD PARTY RIGHTS

No person other than a party to this deed and their respective successors and permitted assigns, shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

24. SEVERANCE

24.1 If any court or competent authority finds that any provision of this deed (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this deed shall not be affected.

24.2 If any invalid, unenforceable or illegal provision of this deed would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

25. VALUE ADDED TAX

25.1 All consideration given in accordance with the terms of this deed shall be exclusive of any VAT properly paid.

25.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this deed then to the extent that VAT has not been previously charged in respect of that supply the party making the supply shall have the right to issue a VAT invoice to the party to whom the supply was made and the VAT shall be paid accordingly.

26. GOVERNING LAW

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

27. INDEMNITY

The Promoter (to the extent that the First Owner and the Second Owners have not been released from the Planning Obligations set out in this deed pursuant to clause 8) hereby indemnifies and shall keep indemnified the First Owner and the Second Owners during the term of the Promotion Agreement against all or any actions, judgments, penalties, damages, losses, costs, claims, expenses, liabilities and demands arising from the obligations of the First Owner and the Second Owners under this deed and any breach or non-performance of those obligations.

28. CIL

28.1 Where a CIL Liability affects, or may affect, the Development then notwithstanding any other provision of this deed:

28.1.1 None of the Contributions payable by the First Owner and the Second Owners pursuant to the terms of this deed (or any unpaid part of any of the Contributions already partly paid) shall become due for payment until the whole of the amount of that CIL Liability is determined and made known to the First Owner and the Second Owners (and a liability notice (within CIL Regulation 65) or the final liability notice in a series of such liability notices has been issued for the CIL Liability; and

28.1.2 The Contributions (or any remaining part or parts) shall be reduced by the amount of the CIL Liability until either the Contributions are extinguished or the amount of the CIL Liability is entirely off-set

28.2 Subject to clause 3.1 of this deed, the parties to this deed have given due consideration to the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (SI 2010 No. 948) and agree that the planning obligations it contains are:

- a. necessary to make the Development acceptable in planning terms;
- b. directly and fairly related to the Development; and
- c. fairly and reasonably related in scale and kind to the Development

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Minute
152-13/14
Reg No.
6783
Initials
AMS

The common seal of **RYEDALE DISTRICT COUNCIL**
was affixed to this document in the
presence of:



Authorised signatory

The common seal of **NORTH YORKSHIRE COUNTY COUNCIL**
was affixed to this document in the
presence of:



Authorised signatory

Signed as a deed by **SIMEON BARKER** in the presence of:

.....
SIGNATURE OF OWNER

SIGNATURE OF WITNESS

NAME HELEN ALISA DASSA
ADDRESS GREENDALE HOUSE
APPLETON LE MOORS
YORK
YO62 6TE
OCCUPATION ACCOUNTS & TAX SERVICE

Signed as a deed by **ELIZABETH ANN JONES-TURNER** in the presence of:

.....
SIGNATURE OF SECOND OWNER

SIGNATURE OF WITNESS

NAME CAROL CHADWICK
ADDRESS S. MAYFIELD CRESNT
ROSSINGTON
DONCASTER
OCCUPATION CHEMIST

Signed as a deed by **JONATHAN THOMAS KENDREW JONES** in the presence of:

.....
SIGNATURE OF SECOND OWNER

.....
SIGNATURE OF WITNESS

NAME Judith Allam
ADDRESS 28 Fore Hill Ave
West Bossnass
Doncaster
DN4 7EU
OCCUPATION seamstress

Signed as a deed by **MARK BRINLEY**
KENDREW JONES in the presence of:

.....

SIGNATURE OF SECOND OWNER

.....
SIGNATURE OF WITNESS

NAME Judith Allam
ADDRESS 28 Fore Hill Ave
West Bessacarr
Doncaster
DN4 7EU
OCCUPATION Seamstress

Signed as a deed by **PAUL BENJAMIN**
KENDREW JONES
in the presence of:

.....

SIGNATURE OF SECOND OWNER

.....
SIGNATURE OF WITNESS

NAME Judith Allam
ADDRESS 28 Fore Hill Ave
West Bessacarr
Doncaster
DN4 7EU
OCCUPATION Seamstress

Signed as a deed by **GLADMAN DEVELOPMENTS LIMITED** acting by a director in the presence of:

Director

SIGNATURE OF WITNESS

NAME *J.M. Johnson*
ADDRESS *Gladman House*
Alexandra Way
Conington, Cheshire
CV12 1UB
OCCUPATION *Solicitor*

Schedule 1 Covenants to the Council and the County Council

1. EDUCATION CONTRIBUTION

To pay to the County Council the Education Contribution in the sum of £610,985 (Six hundred and ten thousand nine hundred and eighty five pounds) towards the cost of providing, expanding or improving primary school provision in the vicinity of the Development, which sum shall be paid in instalments of fifty percent prior to the Occupation of the 51st (fifty first) Residential Dwelling and fifty percent prior to Occupation of the 101st (one hundred and first) Residential Dwelling; and not to Occupy or permit the Occupation of more than 50 (fifty) Residential Dwellings until the first fifty percent of the Education Contribution has been paid or to Occupy or permit the Occupation of more than 100 (one hundred) Residential Dwellings until the second fifty percent of the Education Contribution has been paid.

2. HIGHWAY CONTRIBUTION

To pay to the County Council the Highway Contribution in the sum of £102,000 (One hundred and two thousand five hundred pounds) for the enhancement of the existing number 128 Bus Service or in the event that it ceases to operate an alternative for such service which sum shall be paid in instalments of £20,400 (twenty thousand four hundred pounds) prior to the Occupation of the 1st (first) Residential Dwelling ("First Payment") and £20,400 (twenty thousand pounds) on each anniversary of the due date relating to the First Payment for a period of 4 (four) years only; and not to Occupy or permit to be Occupied any Residential Dwellings until the first such instalment has been paid.

3. TRAVEL PLAN CONTRIBUTION

To pay to the Council the Travel Plan contribution in the sum of £40,000 (forty thousand pounds) to enable the travel plan coordinator appointed as the result of the implementation of the Travel Plan to meet the targets in the Travel Plan by the implementation of sustainable transport measures and such sum shall be paid in instalments of £20,000 (twenty thousand pounds) on Commencement and £20,000 (twenty thousand pounds) prior to Occupation of the 101st (one hundred and first) residential dwelling.

4. AFFORDABLE HOUSING

- 4.1 Not to Commence Development until the Affordable Housing Scheme has been submitted to and approved in writing by the Council.

- 4.2 Not to Occupy more than 10 (ten) Market Housing Units in any Phase of Development until a contract has been entered into with an RP for the transfer of the Affordable Housing Units in that Phase of Development to the RP and written notice of that has been received by the Council.
- 4.3 The Affordable Housing Units for any Phase of Development will be constructed in parallel with the Market Housing Units for that Phase of Development and no more than 95% (ninety five percent) of the Market Housing Units for that Phase of Development shall be Occupied until all the Affordable Housing Units for that Phase of Development have been transferred to the RP.
- 4.4 From the Date of Practical Completion of the Affordable Housing Units they shall not be used other than for Affordable Housing, save that this obligation shall not be binding on:
- (a) any Protected Tenant, any mortgagee or chargee of a Protected Tenant or any person deriving title from a Protected Tenant, or any successor in title to a Protected Tenant and their respective mortgagees and charges; or
 - (b) any Chargee provided that he has first complied with the Chargee's Duty; or
 - (c) any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor.
- 4.5 The transfer to the RP shall include the following:
- (a) the grant by the First Owner and the Second Owners to the RP of full and free rights of access both pedestrian and vehicular from the public highway to the Affordable Housing;
 - (b) the grant by the First Owner and the Second Owners to the RP 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 shall be in the adjoining land up to and abutting the boundary to the Affordable Housing all such services to be connected to the mains
 - (c) a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purposes of the Development
 - (d) a covenant by the RP with the First Owner and the Second Owners not to use the Affordable Housing other than for Affordable Housing other than by any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees, or any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor

- (e) reasonable provisions ensuring that the Affordable Housing Units remain available at an affordable price for future eligible households or if these restrictions are lifted for the subsidiary to be recycled for alternative affordable housing provision.

4.6 The Chargee shall, before seeking to dispose of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge, give not less than 3 (three) months' prior notice to the Council of its intention to dispose, and the following provisions shall apply, provided that the rights and obligations in this paragraph shall not require the Chargee to act contrary to its duties under the charge or mortgage and the Council must give full consideration to protecting the interest of the Chargee in respect of money outstanding under the charge or mortgage:

- (a) If the Council responds within 3 (three) months from receipt of the Chargee's notice and indicates that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as Affordable Housing, the Chargee shall co-operate with those arrangements and use its reasonable endeavours to secure the transfer;
- (b) If the Council or any other person cannot within 3 (three) months of the date of service of its response under paragraph 4.6 (a) secure the transfer then, provided that the Chargee has complied with its obligations under paragraph 4.6, the Chargee shall be entitled to dispose of the Affordable Housing Units free of the restrictions set out in this paragraph 4.6 which shall then cease to apply to those units;
- (c) If the Council does not serve its response to the Chargee's notice within 3 (three) months, the Chargee shall be entitled to dispose of the Affordable Housing Units free of the restrictions set out in this paragraph 4.6 which shall then cease to apply to those units.

5. PRIMARY SCHOOL LAND

- 5.1 Prior to the Occupation of the 10th (tenth) Residential Dwelling to transfer the Serviced Primary School Land to the County Council for the consideration of £1 (One pound) unless the County Council has given prior written notification to the First Owner and the Second Owners that it does not require the Primary School Land to be transferred to it.
- 5.2 Not to Occupy or permit Occupation of more than 9 (nine) Residential Dwellings before transferring the Serviced Primary School Land to the County Council for the consideration of £1 (One pound) unless the County Council has given prior written notification to the First Owner and the Second Owners that it does not require the Primary School Land to be transferred to it.

6. TRAFFIC REGULATION ORDER CONTRIBUTION

Immediately upon Commencement of Development to pay to the County Council the Trafford Regulation Order Contribution in the sum of £2,000 (two thousand pounds) as a contribution towards the costs of making amendments to highway speed limits in the vicinity of the Development .

7. OPEN SPACE

- 7.1 Not to allow or permit Occupation of the Development until the Management Plan has been submitted to the Council and such Management Plan has been approved in writing by the Council.
- 7.2 To maintain the Open Space in accordance with the Management Plan approved by the Council at all times from Occupation of the Development to the satisfaction of the Council
- 7.3 Not to amend the Management Plan without the Council's written consent
- 7.4 To keep the Open Space open, unbuilt upon (save for permitted play equipment) and available for public recreational use in perpetuity

8. MANAGEMENT COMPANY

- 8.1 As part of the first reserved matters application to submit to the Council for approval evidence of the formation of a Management Company
- 8.2 Not to permit the Occupation of more than ninety five percent (95%) of the Residential Dwellings that form part of the Development until the Open Space has been transferred to a Management Company in accordance with the details approved by the Council under the Management Plan and on the terms set out in paragraph 8.4 below
- 8.3 Not to wind up the Management Company or alter its constitution without the prior written consent of the Council unless the whole of the Development shall have been demolished or unless the Council has otherwise first agreed in writing
- 8.4 The transfer of the Open Space to the Management Company shall:
 - i. be a transfer of the entire freehold interest of the Open Space
 - ii be free from any pre-emption or option agreement
 - iii. be free from any mortgage, charge, lien or other such incumbrance

- iv. include all usual and necessary rights of way with or without vehicles
- v. be subject to rights of reasonable access to the public
- vi. reserve in favour of the First Owner and the Second Owners any usual and necessary rights and easements to enable the proper construction, maintenance and use of the Development and to use existing services and to lay and use new services together with any rights of entry to inspect, repair, renew, cleanse and maintain the same
- vii. declare that boundary structures shall belong to and be maintained by adjoining owners
- viii. not require consideration in excess of one pound (£1)
- ix. contain covenants by the Management Company in favour of the Council and pursuant to Section 33 of the Local Government (Miscellaneous provisions) Act 1982 to the effect that the Management Company shall maintain, repair, replace as necessary and generally manage the Open Space in strict accordance with the Management Plan and the principles of good estate management to the intent that the Open Space remains fit for purpose and available for safe use by the public at all times during which any part of the Development is Occupied

Schedule 2 Covenants by the County Council

1. EDUCATION CONTRIBUTION

- 1.1 The County Council covenants to pay the Education Contribution into a separately identified section of the County Council's combined accounts as soon as reasonably practicable.
- 1.2 Not to use any part of the Education Contribution other than for the purposes for which it was paid (whether by the County Council or another party).
- 1.3 In the event that the Education Contribution has not been spent or committed for expenditure by the County Council within five years following the date of receipt of the last instalment of the Education Contribution the County Council shall refund to the party who paid it any part of the Education Contribution which has not been spent or committed for expenditure.
- 1.4 Any transfer of the Primary School Land to the County Council shall contain a covenant from the County Council that the Primary School Land shall only be used for the purposes of education or children's services

2. HIGHWAY CONTRIBUTION

- 2.1 The County Council covenants to pay the Highway Contribution into a separately identified section of the County Council's combined accounts as soon as reasonable practicable
- 2.2 Not to use any part of the Highway Contribution other than for the purposes for which it was paid (whether by the County Council or another party).
- 2.3 In the event that the Highway Contribution has not been spent or committed for expenditure by the County Council within five years following the date of receipt of the last instalment of the Highway Contribution the County Council shall refund to the party who paid it any part of the Highway Contribution which has not been spent or committed for expenditure.

3. TRAVEL PLAN CONTRIBUTION

- 3.1 The County Council covenants to pay the Travel Plan Contribution into a separately identified section of the County Council's combined accounts as soon as is reasonably practicable.
 - 3.2 Not to use any part of the Travel Plan Contribution other than for the purposes for which it was paid (whether by the County Council or another party.)
 - 3.3 In the event that the Travel Plan Contribution has not been spent or committed for expenditure by the County Council within ten years following the date of receipt of the first instalment of the Travel Plan Contribution the County Council shall refund to the party who paid it any part of the Travel Plan Contribution which has not been spent or committed for expenditure together with any accrued interest.
4. The County Council will accept the transfer of the Primary School Land from the First Owner and the Second Owners unless it has given a prior written notification to the First Owner and the Second Owners that it does not require the Primary School Land to be transferred to it.
- 5. TRAFFIC REGULATION ORDER CONTRIBUTION**
- 5.1 The County Council covenants to pay the Traffic Regulation Order Contribution into a separately identified section of the County Council's combined accounts as soon as is reasonably practicable.
 - 5.2 Not to use any part of the Traffic Regulation Order Contribution other than for the purposes which it was paid (whether by the County Council or another party).
 - 5.3 In the event that the Traffic Regulation Order Contribution has not been spent or committed for expenditure by the County Council within five years following the date of receipt the County Council shall refund to the party who paid it any part of the Traffic Regulation Order Contribution which has not been spent or committed for expenditure.

Appendix 1: Plan 1



Appendix 2: Plan 2



Plan 2



AUTHORISED SIGNATORY
 Location and use of Safeguarded Land at Kirkbymoorside Community Primary School

GLADMAN Gladman House 100, The Quadrant Colchester Essex CO1 1JL Tel: 01206 300000 Fax: 01206 300001 www.gladman.co.uk	A Rev Status	Nov 12 Date By	dmf dmf Revision notes	Land area amended	Project Kirkdale Road Kirkbymoorside	Drawn By dmf dmf Scale(s)	Issue date 08-11-12
	Legal			Title Safeguarded Land for Kirkbymoorside Community Primary School		Drawing No 2011-001-KCPSLP Rev A	1:12500A4



DEPARTMENT OF
ANTHROPOLOGY





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Planning

Rev	Date	By	Revision notes
*			*

AUTHORISED SIGNATORY

**Kirkdale Road
 Kirkbymoorside**

Location Plan

Project
 Title
 Drawing No
 2013-090-100



Drawn by
 Issue date
 17.10.13

Scales
 1:2500@A3

1/2/13