

**THIS AGREEMENT** is made the 5<sup>th</sup> day of June Two  
Thousand and seventeen **BETWEEN** ROBERT CHRISTOPHER MATE, ANDREW DAVID  
MATE AND SHIRLEY CLAIRE MATE of Ouselea Farm, 80 Lea Lane, Netherton,  
Huddersfield, HD4 (hereinafter called "the Owner") of the first part **AND THE COUNCIL OF**  
**THE BOROUGH OF KIRKLEES** (hereinafter called "the Council") of the second part

## WHEREAS

1. The Council is the local planning authority and the local highway authority for the Kirklees Metropolitan District within which the Site is situated and by whom the planning obligations within this Agreement are enforceable
- 2.1 The Owner is the freehold owner of the Site
3. By the provisions of Section 106 of the Town and Country Planning Act 1990 ("the Act") any person interested in land in the area of a local planning authority may by deed or otherwise enter into a planning obligation in respect of the land
4. The Council would not have been willing to grant the Planning Permission but for this Deed because of the need to secure:-
  - (1) the provision of a financial contribution towards the provision and future maintenance of public open space to serve the Development in accordance with Policy H18 of the Kirklees Unitary Development Plan and
  - (2) the future ownership of Meltham Greenway

**NOW IT IS HEREBY AGREED** as follows:-

### **1. INTERPRETATION**

- 1.1 In this Agreement unless the context otherwise requires the following words and expressions shall have the meanings respectively assigned to them in this Clause:-

"the Blue Land" means the land coloured blue on Plan B

“the Commencement Date” means the actual date upon which the Development is begun by the carrying out of any material operation as defined by Section 56(4) of the Town and Country Planning Act 1990 and “Commence” shall be construed accordingly

“the Development” means the development of the Site in pursuance of the Planning Permission

“Index” means the All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation or if that Price Index ceases to exist such index as the Council reasonably nominates

“Interest” means interest at 4 per cent above the base lending rate of Barclays Bank Plc from time to time or should this rate cease to exist such other bank lending rate as the Council may reasonably nominate

“The Meltham Greenway Contribution” means the sum of £58000 (fifty eight thousand pounds) plus any sum due under clause 2.10. payable prior to the occupation of 50% of the dwellings to be constructed on the Development and to be used for the purposes of upgrading and future maintenance of the Meltham/Netherton Greenway extension referred to in clause 3.2 below.

“Plan A” means Plan A annexed hereto

“Plan B” means plan no 4235-06-01b annexed hereto and marked Plan B

“the Planning Permission” means the outline planning permission to be granted under Ref No. 2016/90647/W for residential development on the Site

“the Public Open Space Contribution” means the sum of £37950 (thirty seven thousand, nine hundred and fifty pounds) plus any sum due under clause 2.10 payable prior to occupation of 50% of the dwellings to be constructed on the Development

"the Site" means the land known as former railway station and goods yard, Fold Farm, Station Road, Netherton, Huddersfield comprised in title numbers WYK487517, WYK394758 and WYK305982 shown edged red on the Plan A

## **2. GENERAL**

- 2.1 The Owner and the Council covenant with each other to observe the restrictions and perform the obligations contained in the Agreement
- 2.2 The expressions "the Council" and "the Owner" shall include their successors in title and assigns
- 2.3 No person shall be liable for breach of any covenant contained in this Agreement after he shall have parted with all interest in the Site or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest
- 2.4 This Agreement shall come into effect upon the date hereof
- 2.5 If the Planning Permission expires or is revoked or otherwise withdrawn or modified without the consent of the Owner or its successors in title this Agreement shall cease to have effect from the date of the said expiration revocation withdrawal or modification (as the case may be) but without prejudice to any rights liabilities or obligations which may have been incurred by or shall have accrued to any party prior to such date
- 2.6 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission granted (whether or not on appeal) after the date of this Agreement
- 2.7 This Agreement is a local land charge and shall be registered as such
- 2.8 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

- 2.9 The Owner shall pay to the Council its reasonable legal fees in the approval of this Agreement
- 2.10 The Public Open Space Contribution and the Meltham Greenway Contribution 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
- 2.11 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
- 2.12 The provisions of this Agreement are planning obligations made pursuant to section 106 of the Town and Country Planning Act 1990 section 111 and 120 of the Local Government Act 1972 section 2 of the Local Government Act 2000 and all other enabling powers to the intent that they shall bind the Owner and each and every part of the Site

### **3. OWNER'S COVENANT**

Prior to the occupation of 50% of the dwellings on the Site the Owner covenants to:

- 3.1 pay the Council the Public Open Space Contribution and the Meltham Greenway Contribution
- 3.2 transfer the Blue Land to the Council with full title guarantee together with rights of access thereto which rights will allow for access over the Site to the Blue Land for the purposes of repair and maintenance of the Blue Land but shall not interfere with or obstruct the Development of the Site

### **4. COUNCIL'S COVENANT**

The Council covenants with the Owner to:-

- 4.1 to use the Public Open Space Contribution only for the purposes of the provision or maintenance of public open space within the vicinity of the Development

- 4.2 to use the Meltham Greenway Contribution only for the purposes of the upgrading and future repair and maintenance of the Meltham Greenway
- 4.3 to repay to the Owner such sum or sums remaining from the Public Open Space Contribution and Meltham Greenway Contribution as have not been expended within 5 years of the date of receipt by the Council
- 4.4 upon the reasonable written request of the Owner the Council shall provide written confirmation of the discharge of the Owner's obligations contained in this Deed when the Council is satisfied that such obligations have been performed.
- 4.5 following the performance and satisfaction of all the obligations contained in this Deed the Council shall as soon as reasonably practicable effect the cancellation of all entries made in the register of local land charges in respect of this Deed.

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Revision

*Z. White*  
*AJ MDA*  
*S. Lowe*



SE1212  
 SE1112



Proposed Meltham Greenway Extension



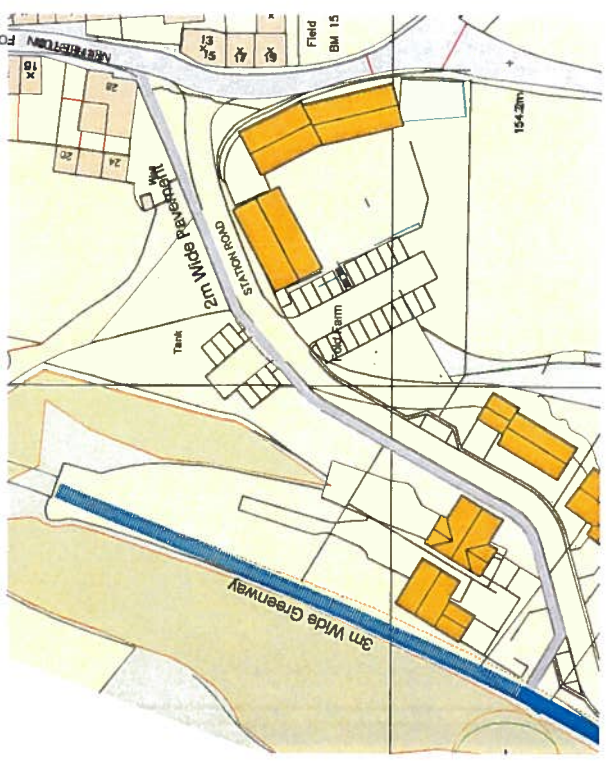
Client Alcuin Homes		
Project Fold Farm, Station Road, Netherton		
Drawing Proposed Meltham Greenway Extension		
Number 4235-05-01	Checked Scale @ A3 1:2500	Date 02/2016



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RIBA Project Management  
 Allisons buildings, 135 Armitage Road, Minsterbridge,  
 Huddersfield, HD3 4JY tel: 01484 556111  
 projects@heppenstalls.net www.heppenstalls.net



**North East End**  
Plan 1:500

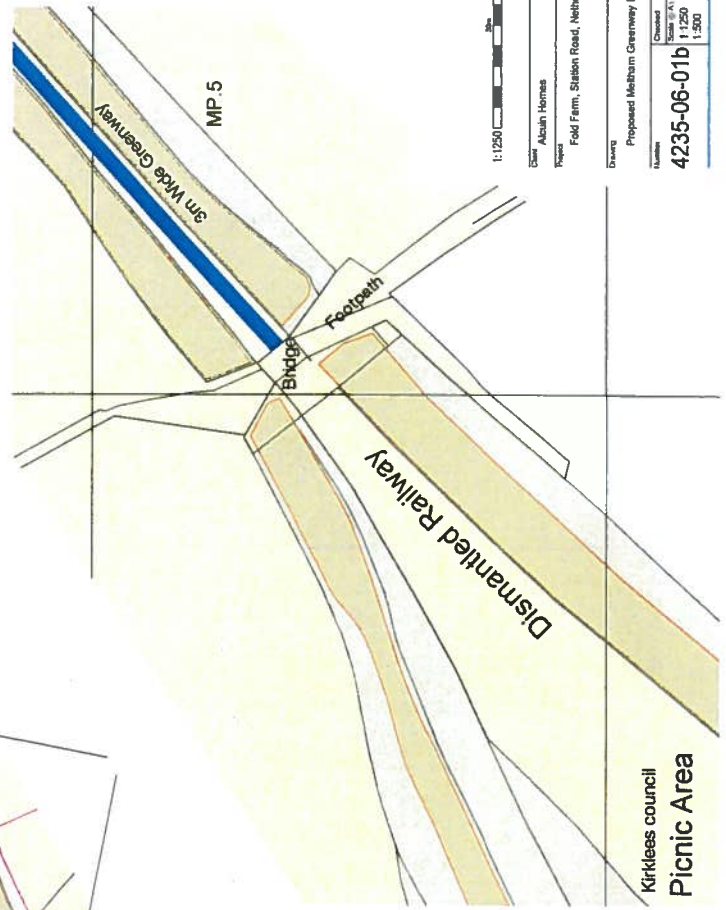
*R. White*  
*Amr Mas*  
*Schwab*

-  3m Wide Greenway
-  2m Wide Footpath
-  3m Wide Greenway  
Future Continuation through tunnel.

**Greenway Plan 1:1250**

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Revisions:  
A 2016-06-12 Public Safety File added  
B 2016-11-18 Cemetery amended from Open to Blue



**South West End**  
Plan 1:500

Scale: 1:1250  
Date: 05/2016  
Checked: 1:500

4235-06-01b

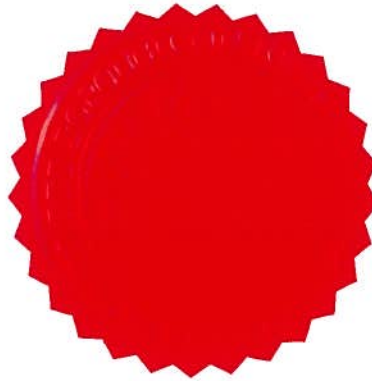
Project: Fold Farm, Station Road, Neitherton  
Client: Alcan Homes

1:1250  
1:500

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IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed as a Deed

**THE CORPORATE COMMON SEAL** of )  
**THE COUNCIL OF THE BOROUGH** )  
**OF KIRKLEES** was hereunto affixed )  
but not delivered until the date hereof )  
In the presence of:- )



009368

*M. A. Allen*

Assistant Director: Legal, Governance and Monitoring/Authorised Signatory

EXECUTED as a Deed by  
**ROBERT CHRISTOPHER MATE**

*R. Mate*

in the presence of:

Witness

Signature:

*J. Oates*

Name:

JOHN OATES

Address:

8 MARKET PLACE

HUDDERSFIELD HD1 2AW

Occupation:

SOLICITOR

EXECUTED as a Deed by  
**ANDREW DAVID MATE**

*A. D. Mate*

in the presence of:

Witness

Signature:

*J. Oates*

Name:

JOHN OATES

Address:

8 MARKET PLACE

HUDDERSFIELD HD1 2AW

Occupation:

SOLICITOR

**EXECUTED as a Deed by  
SHIRLEY CLAIRE MATE**

*S. Mate*, .....

in the presence of:

Witness

Signature: .....

*[Handwritten Signature]*

Name: .....

*JOHN DAVES*

Address: .....

*8 MARKET PLACE*

*HUDDERSFIELD HDL 2AN*

Occupation: .....

*SOLICITOR*

DATED 5th June 2017

**THE COUNCIL OF THE BOROUGH OF KIRKLEES (1)**

and

**R C MATE, A D MATE AND S C MATE (2)**

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**AGREEMENT**

Under Section 106 of the Town & Country Planning Act 1990 relating to land known as the former railway station and goods yard Fold Farm, Station Road, Netherton, Huddersfield

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Julie Muscroft  
Assistant Director –  
Legal, Governance & Monitoring  
Kirklees Council  
Second Floor  
High Street Buildings  
High Street  
Huddersfield  
HD1 2ND