

DATED 2nd FEBRUARY 2018

**PLANNING OBLIGATION BY WAY OF UNILATERAL UNDERTAKING UNDER
SECTION 106 OF THE TOWN & COUNTRY PLANNING ACT 1990
RELATING TO LAND AT THIRSTIN ROAD, HONLEY, HOLMFIRTH**

between

NORTH PARK (GREETLAND) LIMITED

and

CLIVE LLOYD AND VIRGINIA ANNABLE LLOYD

THIS DEED is dated 2nd FEBRUARY 2018

- (1) **North Park (Greetland) Limited** incorporated and registered in England and Wales with company number 05764997) whose registered office is at West House, King Cross Road, Halifax, West Yorkshire, HX1 1EB (**Owner**)
- (2) **Clive Lloyd and Virginia Annable Lloyd** both of Peel House, Stocks Lane, Luddenden, Halifax, West Yorkshire HX2 6SP (**Mortgagee**)

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 Owner owns the Property subject to a mortgage in favour of the Mortgagee.
- (C) The Owner has made the Planning Application and is proposing to carry out the Development.
- (D) The Owner intends to develop the Property pursuant to the Planning Permission.
- (E) The Mortgagee is the registered proprietor of the charge dated 14 March 2011 referred to in entry number 2 of the charges register of Title number WYK786387 and in entry number 5 of the charges register of Title number WYK 767326 and has agreed to enter into this deed to give its consent to the terms of the unilateral undertaking.

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this deed.

1.1 Definitions:

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

Council: The Council of the Borough of Kirklees of the Town Hall Huddersfield West Yorkshire

Development: the development of the Property described in the Planning Application.

Disposal: a transfer of a freehold interest or the grant of a leasehold interest of more than 25 years

Dwellings: the dwellings within the Development and Dwelling shall be any one of them.

Embankment: the embankment shown coloured green on the Plan.

Management Company : a limited company or companies which may be in existence at the date hereof or incorporated by the Owner for the purpose of carrying out the future maintenance of the Watercourse in accordance with the Schedule :-

- (i) is incorporated in England and Wales; and

(ii) has its registered office in England.

Plan: the plan attached to this deed.

Planning Application: an application for planning permission registered by the Council on 20 September 2016 under reference number 2016/62/93243/W.

Planning Permission: the planning permission to be granted by the Council in respect of the Planning Application.

Property: the freehold land at Thirstin Road, Holmfirth, Honley shown edged blue on the Plan and registered at HM Land Registry under title number(s) WYK767326 and WYK786387.

TCPA 1990: Town and Country Planning Act 1990.

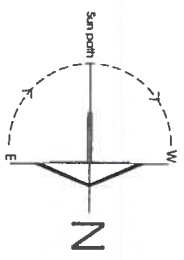
Transfer: a transfer effecting a Disposal

Watercourse :the watercourse shown by the broken blue line on the Plan within the Watercourse Area.

Watercourse Area: the land shown edged red on the Plan.

Working Day: any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

- 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 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.6 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.7 A reference to the Council shall include the successors to its respective statutory functions.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 Unless the context otherwise requires, 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** excludes faxes and e-mail.



- Proposed area administered by management company
- Individual flats responsible for covenor maintenance
- Domestic Garden
- Bin collection point

V.A. Lloyd
[Signature]
[Signature]

Residential Development

at
 Thirstin Mills
 Thirstin Road
 Honley

Unilateral Undertaking
 Consultation

Farrar Bamforth Associates Ltd.

Chartered Architectural Technologists
 51, Trinity Street, Huddersfield HD1 4DN
 Tel: (01484) 424008 Fax: (01484) 512305
 E-mail: cas@farrarbamforth.co.uk
 Website: www.farrarbamforth.co.uk

Drawn: I/SC
 Date: January 2018
 Scales: 1:500 @ A2
 Drawing No.: 16/D/15/35 Rev:

- 1.11 References to clauses are to the clauses of this deed.
- 1.12 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.13 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

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 and any other enabling powers.
- 2.2 The obligations contained in clause 3 of this deed are planning obligations for the purposes of section 106 of the TCPA 1990 and are entered into by the Owner with the intention that they bind the interests held by those persons in the Property and their respective successors and assigns.
- 2.3 This deed shall come into effect on the date of grant of the Planning Permission.
- 2.4 The obligations contained in clause 3 of this deed are enforceable by the Council in accordance with section 106 of the TCPA 1990.

3. COVENANTS WITH THE COUNCIL

- 3.1 The Owner covenants with the Council to:-
- 3.1.1 following the sale of the last Dwelling within the Development transfer the Watercourse Area to the Management Company and procure that the Transfer contains a covenant from the Management Company to maintain the Watercourse in accordance with the provisions of the Schedule;
- 3.1.2 procure that the transfer of any Dwelling includes such part of the Embankment as it situated at the rear of that Dwelling; and
- 3.1.3 to notify the Council as soon as practicable following the transfer of the Watercourse Area to the Management Company.
- 3.2 The Management Company shall not transfer responsibility for the maintenance of the Watercourse without giving not less than 25 Working Days' notice to the Council and obtaining the Council's consent, such consent not to be unreasonably withheld, refused or delayed.

3.3 The Owner shall pay to the Council its legal fees reasonably incurred in the preparation of this Deed,

4. MORTGAGEE'S CONSENT

4.1 The Mortgagee consents to the completion of this deed and declares that its interest in the Property shall be bound by the terms of this deed as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Property.

4.2 The Mortgagee shall not be personally liable for any breach of the obligations in this deed unless committed or continuing at a time when the Mortgagee is in possession of all or any part of the Property.

5. RELEASE

5.1 No person shall be liable for any breach of an obligation, restriction or covenant 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.

5.2 This deed shall not be binding against any statutory undertaker or authority who acquires any part of the Property or an interest in it for the purposes of Statutory Undertakings or functions.

5.3 This deed is not binding upon any owner/occupier of the Dwellings.

6. DETERMINATION OF DEED

This deed shall be determined and have no further effect if the Planning Permission:

- (a) expires before the Commencement of Development;
- (b) is varied or revoked other than at the request of the Owner; or
- (c) is quashed following a successful legal challenge.

7. LOCAL LAND CHARGE

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

8. OWNERSHIP

The Owner warrants that no person other than the Owner and the Mortgagee has any legal or equitable interest in the Property.

9. NOTICES

9.1 A notice or other communication to be given under or in connection with this deed must be in writing and must be:

- (a) delivered by hand; or
- (b) sent by pre-paid first class post or other next working day delivery service.

9.2 Any notice or other communication to be given under this deed must be sent to the relevant party as follows:

- (a) to the Council at: Kirklees MC, Legal Services, P O BOX 1274, Civic Centre III, Huddersfield, HD1 2WZ marked for the attention of Deborah Wilkes;
- (b) to the Owner at: West House, King Cross Road, Halifax, West Yorkshire, HX1 1EB marked for the attention of Ben Marsden; and
- (c) to the Mortgagee at: Peel House, Stocks Lane, Luddenden, Halifax, West Yorkshire HX2 6SP marked for the attention of Clive Lloyd and Virginia Lloyd;

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

9.3 Any notice or other communication given in accordance with clause 9.1 and clause 9.2 will be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address provided that if delivery occurs before 9.00 am on a Working Day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9.00 am on the next Working Day;
- (b) if sent by pre-paid first class post or other next working day delivery service at 9.00 am on the second Working Day after posting.

9.4 A notice or other communication given under this deed shall not be validly given if sent by e-mail.

9.5 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

10. **THIRD PARTY RIGHTS**

A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

11. 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.

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


SCHEDULE

Maintenance of Watercourse

1. To maintain and repair as necessary the Watercourse to ensure the free flowing of water through the same.
2. To inspect at least annually the trash screens within the Watercourse to ensure the same are free of blockages and maintained in good repair.

Executed as a deed by
North Park (Greetland) Limited
acting by Ben Marsden, a director, in
the presence of:

Director


Signature of witness

.....
Print name of witness

.....
Julia Dawn Lees
Ramsdens Solicitors LLP
Oakley House
1 Hungerford Road
Huddersfield
HD3 3AL

.....
Address of Witness

Executed as a Deed by

Clive Lloyd
In the presence of

Signature of witness

.....
Print name of witness

.....
Julia Dawn Lees
Ramsdens Solicitors LLP
Oakley House
1 Hungerford Road
Huddersfield
HD3 3AL

.....
Address of Witness

Executed as a Deed by
Virginia Annable Lloyd
in the presence of :-

Virginia Annable Lloyd

Signature of witness

.....
Print name of witness

..... Julia Dawn Lees
..... Ramsdens Solicitors LLP
..... Oakley House
..... 1 Hungerford Road
..... Huddersfield
..... HD3 3AL

.....
Address of Witness