

THIS AGREEMENT is made the 21st day of November Two Thousand and Eighteen **BETWEEN NIGEL JOHN LEE** of Inglewood Birkby Road Birkby Huddersfield West Yorkshire (hereinafter called "the Owner") of the first part **AND THE COUNCIL OF THE BOROUGH OF KIRKLEES** (hereinafter called "the Council") of the other part

WHEREAS

1. The Council is the local planning authority and the local highway authority for the Kirklees District within which the Site is situated and by whom the planning obligations within this Agreement are enforceable
2. 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 the provision of a financial contribution towards the provision of off site highway improvements to serve the Development in accordance with Policy of the Kirklees Unitary Development Plan
5. Maximum policy density is 18 dwellings for a site of half a hectare

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 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 Plan" means the plan annexed hereto

"the Planning Permission" means the planning permission to be granted under Ref No. 2018/90151 for the erection of residential development on the Site

"the Highways Contribution" means the sum of £790 x 18 dwellings = 14220.00 (Fourteen Thousand Two Hundred and Twenty Pounds) plus any sum due under clause 2.12 payable

"the Site" means the land adjacent to 208 Yew Tree Road Birchenccliffe Huddersfield shown edged red on the Plan

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

- 2.4 The expressions "the Council" and "the Owner" shall include their successors in title and assigns
- 2.5 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
- 2.6 This Agreement shall come into effect upon the date hereof
- 2.7 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
- 2.8 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
- 2.9 This Agreement is a local land charge and shall be registered as such
- 2.10 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement
- 2.11 The Owner shall pay to the Council its reasonable legal fees in the preparation of this Agreement
- 2.12 The Highways 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 and decreased to reflect the actual number of dwellings on the Site approved at reserved matters

- 2.13 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
- 2.14 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 Commencement Date the Owner will pay to the Council the Highways Contribution

4. COUNCIL'S COVENANT

To use the Highways Contribution only for the purposes of the provision highway improvements within the vicinity of the Development

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:-)



01/350

Assistant Director: Legal, Governance and Monitoring/Authorised Signatory

EXECUTED as a DEED by
NIGEL JOHN LEE

presence of:-

Witness Signature

Witness name

Witness Address

Flat 1 Inglewood Birkley Rd
Huddersfield HD2 2DA.

Witness Occupation

Retired midwife / Neonatal SR.

HM LAND REGISTRY		TITLE NUMBER	
		WYK 480951	
ORDNANCE SURVEY PLAN REFERENCE	SE 1118 SE 1119F	SECTION	Scale 1/2500
COUNTY WEST YORKSHIRE	DISTRICT KIRKLEES	© Crown copyright 1990	

The boundaries shown by dotted lines have been plotted from the 1904 Ordnance Survey map. The title plan may be updated from later survey information.



SE 1119
SE 1118



These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

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DATED 21st November 2018

THE COUNCIL OF THE BOROUGH OF KIRKLEES

and

NIGEL JOHN LEE

AGREEMENT

Under Section 106 of the Town & Country Planning Act
1990 relating to land at Yew Tree Road Birchencliffe in
the County of West Yorkshire

Julie Muscroft
Assistant Director –
Legal, Governance & Monitoring
Kirklees Council
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High Street Buildings
High Street
Huddersfield
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