

THIS AGREEMENT is made the *twentieth* day of <sup>December</sup> Two Thousand and Twenty-One

**BETWEEN:-**

- (1) **ALLAN JAMES DAVIES** of Savile Estate Office, Hall Lane, Thornhill, Dewsbury, WF12 0QL as trustee of the Savile Trust 1965, **ANDREW DAVID WRIGLESWORTH** of Savile Estate Office, Hall Lane, Thornhill, Dewsbury, WF12 0QL as trustee of the Savile Trust 1965 and **THOMAS FRANCIS FAWCETT** of Savile Estate Office, Hall Lane, Thornhill, Dewsbury, WF12 0QL as trustee of the Savile Trust 1965 (hereinafter called "the Owner") of the first part
- (2) **VISTRY PARTNERSHIPS LIMITED** (Company Registration Number 00800384) whose registered office is at 11 Tower View, Kings Hill, West Malling, Kent ME19 4UY (hereinafter called "the Developer") of the second part
- (3) **THE COUNCIL OF THE BOROUGH OF KIRKLEES** of the Town Hall Huddersfield West Yorkshire (hereinafter called "the Council") of the third part

**WHEREAS**

1. The Council is the local planning authority pursuant to the Act and the local highway authority for the purposes of the Highways Act 1980 for the Kirklees district within which the Site is situated and by whom the planning obligations within this Deed are enforceable.
2. The Owner is the freehold owner of such part of the Site registered under title numbers WYK861251 and WYK610723.
3. The Developer is the beneficiary of a contract to purchase the Site.
4. By the provisions of Section 106 of 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.
5. The Owner and the Developer submitted the Planning Application.
6. The Council would not have been willing to grant the Planning Permission but for this

Deed because of the need to:-

- (i) secure the provision of Affordable Housing as part of the Site in accordance with the policies of the Kirklees Unitary Development Plan SPD2 and NPPF;
- (ii) secure the provision of a financial contribution; and
- (iii) secure the establishment of a Management Company for the management and maintenance of the on-site public open space in perpetuity and maintenance of any land not within private curtilage or adoption by other parties and of infrastructure (including drainage) until formally adopted by the statutory undertaker

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

## **1. INTERPRETATION**

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

**“the Act”** means the Town and Country Planning Act 1990 (as amended)

**“Administration Charge”** means 1% (one percent) of the Affordable Housing Contribution

**“the Affordable Dwellings”** means eleven (11) Dwellings within the Development consisting of six (6) Affordable Rented Dwellings or Social Rented Dwellings and five (5) Intermediate Dwellings

**“Affordable Housing”** means the Affordable Dwellings to be built on the Site and provided to eligible households whose needs are not met by the market as defined by Annex 2 of the NPPF

**“Affordable Housing Contribution”** means the payment to be made in lieu of the provision of on-site Affordable Dwellings (or a full complement thereof) calculated as described in paragraph 11.4 of SPD2 and used by the Council for the purpose of supplying affordable housing (as defined in Annex 2 of the NPPF) within the vicinity of

the Development

**"Affordable Housing Plan"** means the plan being Drawing Number 301 Rev. 14 annexed hereto within Annex 2

**"the Affordable Price"** means the sum to be paid by the Registered Provider (or Alternative Registered Provider (as the case may be)) to the Owner which shall reflect the range of prices prevailing in SPD2 or such other sum as may be reasonably agreed between the Owner and the Registered Provider (or Alternative Registered Provider (as the case may be))

**"Affordable Rent"** means an affordable rent that is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable), as defined in Annex 2 of the NPPF

**"Affordable Rented Dwellings or Social Rented Dwellings"** means six (6) Affordable Dwellings shown coloured yellow within the Affordable Housing Plan or in such other location that may be agreed in writing between the Council and the Owner from time to time to be constructed in accordance with the Planning Permission to be made available at an Affordable Rent or Social Rent

**"the Alternative Registered Provider"** means such other Registered Provider as shall be nominated by the Council under Clause 3.3 of this Deed

**"Approved Scheme"** means the landscaping scheme comprised in Drawing Numbers MR20-139/101 Revision A and MR20-139/102 Revision B contained in Annex 4 together with such amendments as the Council and the Owner agree (acting reasonably)

**"Development"** means the erection of a residential development (55 dwellings) on the Site including access and associated infrastructure

**"Drainage Maintenance and Management Plan"** means the maintenance and management plan for the Drainage Works as further detailed in clause 6, 7 and 8 of this Deed

**"Drainage Works"** means the shared surface and foul drainage to be constructed pursuant to the Development

**"Dwellings"** means the dwellings to be constructed on the Site pursuant to the Planning Permission

**"Education Contribution"** means the sum of Sixty-Seven Thousand One Hundred and Eighty-Seven Pounds (£67,187) to be paid to the Council as a contribution to accommodate pupil growth, which directly arises from the Development

**"Highways Contribution"** means the sum of Forty Thousand Three Hundred and Seven Pounds (£40,307.00) to be paid to the Council as a contribution towards Leeds Road A653/Challenge Way/John Ormsby VC Way junction improvement works required as a result of the Development

**"Homes England"** means Homes England or any bodies undertaking the existing functions of Homes England within the meaning of Part I of the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment of such Act)

**"Implementation"** means the implementation of the Planning Permission by the carrying out of any material operation as defined by Section 56(4) of the Act PROVIDED THAT (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, site survey, 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 shall not constitute material operations and **Implement** and **Implemented** shall be construed accordingly

**"Intermediate Dwellings"** means five (5) Affordable Dwellings shown coloured light blue within the Affordable Housing Plan or in such other location that may be agreed in writing between the Council and the Owner from time to time to be constructed in accordance with the Planning Permission and comprising Dwellings for sale or rent provided at a cost above Social Rent, but a minimum of 20% below market levels, as

defined as Discounted Market Sales Housing and Other Affordable Routes to Home Ownership in Annex 2 of the NPPF and can include shared equity (shared ownership and equity loans) or discounted sale and reference to "**Intermediate Dwelling**" shall be construed accordingly

**"Inspection and Certification Charge"** means £250 towards the administrative cost to the Council in inspecting the Open Space Area Works and certifying that they are in accordance with the Approved Scheme

**"Management Company"** means a limited company or companies registered at Companies House which may already be in existence or which may be formed by the Owner and where the Owner holds the majority shareholding in that Company for the purpose of carrying out future maintenance of the Open Space Area, the maintenance and management of SUDs serving the development and maintenance and management of any land not within private curtilage or adopted by other parties and of infrastructures including the Drainage Works until formally adopted by the statutory undertaker.

**"Market Dwellings"** means those Dwellings within the Development excluding the Affordable Dwellings

**"Metro Contribution"** means the sum of Twenty-Eight Thousand One Hundred and Thirty-Two Pounds and fifty pence (£28,132.50) to be paid to the Council as a contribution towards encouraging residents of the Development to use sustainable modes of transport, which may include off-site measures and funding of relevant projects required as a result of the Development

**"Mortgagee"** means a mortgagee or chargee of a Registered Provider or any Alternative Registered Provider or a receiver appointed by such a mortgagee or chargee (including administrative receivers)

**"NPPF"** means the National Planning Policy Framework published by the Department for Communities and Local Government (as amended from time to time)

**"Occupation"** means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in the construction, fitting out or

decoration or occupation for marketing or display or occupation in relation to security operations and reference to **"Occupy"** and **"Occupied"** shall be construed accordingly

**"Off-Site Open Space Contribution"** means the sum of Eighty Four Thousand Two Hundred and Thirty Three Pounds (£84,233.00) to be paid to the Council in lieu of on-site provision to be used by the Council to facilitate improvements to off-site open space in the vicinity of the Development

**"Open Market Value"** means the open market value agreed between the Council and the Owner as being the open market value of an Affordable Dwelling or if not agreed shall mean an average price based on the opinions of two (2) independent surveyors of the price at which the sale of an interest in the Affordable Dwelling would have been completed unconditionally for cash consideration on the date of valuation assuming:

- (a) a willing seller;
- (b) that any restrictions imposed on the Dwelling by reason of this Deed are disregarded;
- (c) that there are no restrictions as to the persons who may occupy the Affordable Dwelling or to whom a transfer or lease may be granted or assigned; and
- (d) that both parties to the transaction had acted knowledgeably prudently and without compulsion.

**"Open Space Area"** means that area of land within the Development shown edged green on the Open Space Area Plan or such other area as may be agreed between the Council and the Owner

**"Open Space Area Management Plan"** means such plan to be approved by the Council in accordance with the terms of this Deed for the maintenance and management of the Open Space Area in perpetuity subject to such amendments as shall be agreed between the Owner and the Council from time to time.

**"Open Space Area Plan"** means the plan being Drawing Number 301 Rev. 14 annexed hereto within Annex 3

**"Open Space Area Works"** means those works within the Approved Scheme to be carried out on the Open Space Area

**“Plan”** means the plan annexed hereto being Drawing Number 300 Rev 01 within Annex 1

**“Planning Application”** means the planning application submitted on 4 May 2021 to the Council for the Development under reference number 2021/62/91871/E

**“Planning Permission”** means the planning permission to be granted pursuant to the Planning Application

**“Protected Tenant”** means a tenant of a particular Affordable Dwelling who:

- (a) Has exercised the right to acquire pursuant to the Housing Act 1996 or any other statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Dwelling; or
- (b) Has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Dwelling; or
- (c) Has staircased out to 100% of the equity pursuant to a shared ownership lease.

**“Registered Provider”** means a housing association or registered provider of social housing registered with Homes England

**“Site”** means the land adjacent to High Street and Challenge Way, Hanging Heaton, Batley shown for indicative purposes edged red on the Plan

**“Social Rent”** means a social rent as defined in Annex 2 of the NPPF

**“SPD2”** means the Council's Interim Supplementary Planning Document number 2 – Affordable Housing adopted by Kirklees Council on 14 January 2020

**“Statutory Provider”** means such body or organisation responsible in accordance with statute for the adoption of the Drainage Works

“**Working Day**” means any day of the week other than a Saturday, Sunday and any public holiday

## **2. GENERAL**

- 2.1 The Owner covenants with the Council to observe the restrictions and perform the obligations contained in this Deed
- 2.2 The provisions of this Deed are planning obligations made pursuant to Section 106 of the Act and all other powers so enabling to the intent that they shall bind the Owner and their interest in each and every part of the Site
- 2.3 The expressions “the Council” and “the Owner” shall include their successors in title and assigns
- 2.4 No person shall be liable for breach of any covenant, restriction or obligation contained in this Deed 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
- 2.5 This Deed shall not be binding upon:
  - 2.5.1 the owner/occupiers of the Market Dwellings and their mortgagees and successors in title;
  - 2.5.2 the owner/occupiers of the Affordable Dwellings and their mortgagees and successors in title with the exception of clause 3.6 which shall continue to bind such parties;
  - 2.5.3 the Registered Provider or any Alternative Registered Provider with the exception of clause 3.6 which shall continue to bind such parties;
  - 2.5.4 a Mortgagee and its successors in title;

- 2.5.5 a Protected Tenant and its mortgagees and successors in title; and
- 2.5.6 a statutory undertaker who acquires an interest in the Site for the purpose of its statutory undertaking
- 2.6 This Deed shall come into effect upon the date of grant of the Planning Permission and Implementation with the exception of this clause 2 which shall come into effect on the date hereof
- 2.7 If the Planning Permission lapses prior to Implementation or is revoked or otherwise withdrawn or modified without the consent of the Owner this Deed shall cease to have effect from the date of the said lapse 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 Deed 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 Deed
- 2.9 This Deed is a local land charge and shall be registered as such by the Council
- 2.10 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed
- 2.11 In the event that an application is made pursuant to Section 73 of the Act for an amendment of the Planning Permission and Planning Permission is granted (whether or not on appeal) in respect of the Application (and the Council is satisfied that no revised planning obligations are required as a result of such amendment) references to Planning Permission in this Agreement shall also be to the new Planning Permission granted pursuant to Section 73 of the Act and this agreement shall apply to and remain in full force in respect of that new planning permission without the need for a further agreement to be entered into pursuant to Section 106 of the Act
- 2.12 The Developer shall pay to the Council its legal fees reasonably incurred in the

preparation of this Deed

- 2.13 Any Notice or other information required or authorised by this Deed to be given by any party may be given by hand or sent by first class pre-paid post and if sent by post shall be deemed to be served two days after being sent unless returned to the sender as undelivered mail by the Post
- 2.14 Where in this Deed there is reference to the need to obtain the Council's consent or approval such consent or approval shall not be unreasonably withheld or delayed
- 2.15 Any dispute arising between the parties with regard to their respective rights and obligations as to any matter or thing in any way arising out of or connected with this Deed shall be referred to the decision of a single arbitrator to be agreed by the parties or failing agreement between them to be nominated by the President for the time being of the Law Society and any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1996 or any statutory modification or re-enactment for the time being in force
- 2.16 On written request of the Owner 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 promptly issue a written confirmation of such performance of discharge.
- 2.17 Following the performance and full satisfaction of all the terms of this Deed the Council will promptly on the written request of the Owner cancel all entries made in the local land charges register in respect of this Agreement.
- 2.18 The Owner at the date of this Deed comprises trustees ("the Trustees") who do not have any beneficial ownership in the Site and as such whilst the Site remains vested in the Trustees, the liability of the Owner pursuant to this Deed shall be limited to the assets of the Lord Savile 1965 Trust and none of the Trustees (including any replacement or successor trustees) nor their personal representatives shall have any personal liability in respect of this Deed.

### **3. AFFORDABLE HOUSING**

The Owner covenants with the Council:-

3.1 Not to permit:

3.1.1 in excess of twenty-two (22) of the Market Dwellings to be first Occupied until three (3) of the Affordable Dwellings have been completed in accordance with Clause 3.2 and made available for sale to the Registered Provider or Alternative Registered Provider; and

3.1.2 in excess of forty (40) of the Market Dwellings to be first Occupied until all of the Affordable Dwellings have been completed in accordance with Clause 3.2 hereof and made available for sale to the Registered Provider or Alternative Registered Provider

3.2 To construct the Affordable Dwellings to Homes England's design and quality standards or Housing Corporation scheme development standards (or such other standards as may be agreed between the Owner and the Registered Provider or Alternative Registered Provider in accordance with the Planning Permission and approved plans) unless otherwise agreed with the Registered Provider or the Alternative Registered Provider

3.3 If a Registered Provider shall not confirm in writing to the Owner its willingness subject to contract to accept the Affordable Dwellings at the Affordable Price within twelve (12) calendar months of Implementation then the Council upon receipt of notice in writing from the Owner to that effect shall as soon as reasonably practicable nominate another Registered Provider (the "Alternative Registered Provider") and this provision may be repeated as often as is necessary (subject to Clause 3.4 below) until such time as one of the nominated Alternative Registered Providers shall have confirmed its willingness subject to contract to purchase the Affordable Dwellings

3.4 If neither the Registered Provider or Alternative Registered Provider shall have exchanged contracts to purchase the Affordable Dwellings at the Affordable Price within a period of twenty four (24) calendar months from Implementation and the Owner shall have produced evidence in writing to the reasonable satisfaction of the Council that the

Owner has made reasonable endeavours to secure the exchange of contracts of the Affordable Dwellings by the Registered Provider and/or Alternative Registered Provider then the Owner will be free to offer such Dwellings for sale on the open market free from the provisions of this clause 3 provided that the Owner shall within 28 (twenty eight) days thereof pay to the Council:-

3.4.1 the Affordable Housing Contribution; and

3.4.3 the Administration Charge

3.5 The Open Market Value of the Affordable Dwellings referenced in clause 3.4 shall be used to determine the Affordable Housing Contribution and should the opinions of two (2) independent surveyors be required one shall be selected by the Owner and the other by the Council and the parties shall each bear their own costs in respect of such

3.6 Subject to clause 3.4, the Affordable Dwellings shall be used for the purposes of Affordable Housing only provided that this shall not apply to a Mortgagee or a Protected Tenant or any of their successors in title.

3.7 The Owner will notify the Council (an email to [housing.regeneration@kirklees.gov.uk](mailto:housing.regeneration@kirklees.gov.uk) will be sufficient to confirm notification) as soon as reasonably practicable following the completion of the Affordable Dwellings and disposal of the Affordable Dwellings to the Registered Provider or Alternative Registered Provider.

#### **4. ON-SITE PUBLIC OPEN SPACE AND MANAGEMENT THEREON**

The Owner covenants with the Council:

4.1 To provide the Open Space Area Works in accordance with the Approved Scheme and the Planning Permission.

4.2 Not to allow Occupation of:

4.2.1 more than fourteen Dwellings until it has submitted for the written approval of the Council a draft Open Space Area Management Plan for the future

maintenance and management of the Open Space Area; and

4.2.2 the last Dwelling until the Open Space Area Works have been completed

- 4.3 As soon as is reasonably practicable after the completion of the Open Space Area Works specified in Clause 4.2.2 of this Deed (and in any event within 21 days of completion) the Owner shall notify the Council in writing that such works have been completed.
- 4.4 Not later than 1 (one) calendar month following receipt of the relevant notice referred to in paragraph 4.3 of this Deed, the Council shall inspect the Open Space Area to ensure that it has been provided in accordance with the Planning Permission and this Deed (such procedure being repeated as often as is necessary until such time as the Council confirms (acting reasonably) satisfactory completion thereof) PROVIDED THAT it is agreed that in the event that the Council do not inspect the Open Space Area within 1 (one) calendar month following receipt of the relevant notice referred to in paragraph 4.3 of this Agreement the Open Space Area shall be deemed to be approved by the Council.
- 4.5 Following written confirmation or deemed approval by the Council of the satisfactory completion of the Open Space Area pursuant to clause 4.4 of this Deed the Owner shall thereafter maintain the Open Space Area in accordance with the approved Open Space Area Management Plan until such time as it shall be transferred to a Management Company.
- 4.6 Within 6 (six) months of the completion of the last of the Dwellings (or such other date agreed with the Council) the Owner shall transfer the Open Space Area to a Management Company PROVIDED THAT it is agreed that the transfer shall contain a covenant so as to bind the Open Space Area in accordance with the approved Open Space Area Management Plan and shall not permit it to be used for anything other than open space (within the meaning of Open Space Act 1906) and to allow the public reasonable access thereto.
- 4.7 Responsibility for the maintenance of the Open Space Area shall not at any time be transferred to an alternative management company unless the Council has given a minimum of twenty-eight Working Days written notice that such a transfer is to take place

and has issued its approval in writing thereto (such approval not to be unreasonably withheld or delayed)

- 4.8 Within 21 days of written confirmation or deemed approval by the Council of the satisfactory completion of the Open Space Area pursuant to clause 4.4 of this Deed the Owner shall pay the Inspection and Certification Charge to the Council.
- 4.9 The Council hereby covenant to apply the Inspection and Certification Charge towards the administrative costs of the Council in inspecting the works undertaken to the Open Space Area and certifying that they are in accordance with the Approved Scheme PROVIDED THAT if the whole or any part of the sum has not been spent on such purposes in five years of the date of the final payment of the relevant sum then the whole sum or any unspent part plus interest will be repaid to the person who paid the sum of its nominee.

## **5. FINANCIAL CONTRIBUTIONS**

- 5.1 The Owner shall pay to the Council the Education Contribution on the Occupation of thirty (30) Market Dwellings.
- 5.2 No more than thirty (30) Market Dwellings shall be Occupied until the payment of the Education Contribution in accordance with clause 5.1
- 5.3 The Owner shall pay to the Council the Metro Contribution on the Occupation of thirty (30) Market Dwellings.
- 5.4 No more than thirty (30) Market Dwellings shall be Occupied until the payment of the Metro Contribution in accordance with clause 5.3
- 5.5 The Owner shall pay to the Council the Highways Contribution on the Occupation of thirty (30) Market Dwellings.
- 5.6 No more than thirty (30) Market Dwellings shall be Occupied until the payment of the Highways Contribution in accordance with clause 5.5
- 5.7 The Owner shall pay to the Council the Off-Site Open Space Contribution on the

Occupation of thirty (30) Market Dwellings.

- 5.8 No more than thirty (30) Market Dwellings shall be Occupied until the payment of the Off-Site Open Space Contribution in accordance with clause 5.7

## **6. SUDs DRAINAGE WORKS, MAINTENANCE AND MANAGEMENT PLAN**

The Owner covenants with the Council:-

### **DRAINAGE MAINTENANCE AND MANAGEMENT PLAN**

- 6.1 Prior to Implementation, the Owner shall submit to the Council for approval (to the extent not already approved under the Planning Permission) the Drainage Works and the Drainage Maintenance and Management Plan.

- 6.2 The Drainage Maintenance and Management Plan shall include detailed measures setting out how the Drainage Works shall be maintained and managed and shall include:

6.2.1 Details and a programme for the interim management and maintenance works to include all aspects of the Drainage Works until such time it is placed on maintenance by the Statutory Provider including:

- (a) a detailed maintenance schedule and methodology for all individual components to maintain the functionality of the Drainage Works;
- (b) a detailed schedule and methodology for the inspection and measuring of water levels in the attenuation tank to ensure the stated drain-down times are accurate;
- (c) a detailed schedule and methodology for the inspection, maintenance and replacement as required of engineering features including inlet and outlet structures, flow control devices, attenuation tanks and channels;
- (d) a detailed schedule and methodology for the inspection, maintenance and replacement as required of the Drainage Works;
- (e) a detailed schedule and methodology for the inspection, maintenance and replacement as required of the outfall pipe from the attenuation tank outlet to the existing watercourse.
- (f) plans at 1:1200 scale which shows the extent of the Drainage Works,

the extent of the drainage features and outfall and details of connection to the local watercourse.

- 6.2.2 Detailed maintenance schedules to be provided shall include details of the frequency of all actions and routine maintenance activities, the timing of all inspections (including annual routine inspections) and the timing of management works arising from inspections.
  - 6.2.3 Details of the maintenance regime that will be adopted during the construction phase until the point that the Drainage Works are signed off as complete in accordance with the approved design.
  - 6.2.4 Details of vehicular and pedestrian access arrangements relating to the inspection and maintenance of the Drainage Works.
- 6.3 In the event that the Council (acting reasonably) considers that it is unable to approve the submitted version of the Drainage Maintenance and Management Plan then the Owner shall submit a revised version to the Council taking into account any reasonable comments that that Council has provided, for the Council's approval and this procedure shall be repeated as often as is necessary until the Council approves the Drainage Maintenance and Management Plan PROVIDED THAT if the Council fails to either approve or provide reasons for not approving the Drainage Maintenance and Management Plan within ten (10) Working Days of the Drainage Maintenance and Management Plan being submitted to the Council then the Council shall be deemed to have approved the submitted Drainage Maintenance and Management Plan.
- 6.4 The Owner covenants not to carry out any above-groundworks comprised in the Development unless and until the Drainage Works and the Drainage, Maintenance and Management Plan have been approved by the Council.
- 6.5 The Drainage Works and the approved Drainage, Maintenance and Management Plan shall (in each case) only be varied or amended with the further written approval of the Council.

## **7. MAINTENANCE AND MANAGEMENT OF THE DRAINAGE WORKS**

- 7.1 The Owner will fully comply with the approved Drainage, Maintenance and Management Plan with effect from Implementation and at all times thereafter to manage and maintain

the Drainage Works in accordance with the details set out in the approved Drainage, Maintenance and Management Plan until the date when the Drainage Works have been adopted by the Statutory Provider where appropriate. Any unadopted shared Drainage Works shall remain the responsibility of the Owner.

- 7.2 Until such time as the adoptable Drainage Works are adopted by the Statutory Provider the Council may upon reasonable notice enter the Site in order to check and monitor compliance with the approved Drainage, Maintenance and Management Plan PROVIDED THAT any such access shall not extend on to completed and Occupied Dwellings and the Council shall comply with the Owner's reasonable site rules and any appropriate health and safety requirements.
- 7.3 In the event that the Council (acting reasonably) considers that the requirements of the approved Drainage, Maintenance and Management Plan are not being complied with (and unless and until the Drainage Works have been adopted by the Statutory Provider) then the Council may serve a notice on the Owner requiring the Owner to undertake such reasonable remedial steps as are specified in such notice.
- 7.4 The Owner shall comply with the terms of any notice served by the Council pursuant to clause 7.3 above within 20 Working Days of the date of service of the same by the Council on the Owner or within such longer period (as in all the circumstances shall be fair and reasonable) which maybe agreed by the Council in writing.
- 7.5 No part of the Site on which the Drainage Works are located (excluding any Dwellings and their curtilage) shall be transferred or leased including to a Management Company established to manage the same (other than to the Statutory Provider) unless the identity of the transferee or lessee has been approved by the Council in writing (acting reasonably) PROVIDED THAT if the Council fails to either approve or provide reasons for not approving the transferee or lessee within ten (10) Working Days of the identity of the transferee or lessee being submitted to the Council then the Council shall be deemed to have approved the transferee or lessee.
- 7.6 In seeking approval from the Council to the identity of the transferee or lessee to which the Owner intends to transfer or lease any part of the Site upon which the Drainage Works are located including to a Management Company established to manage the

same as the Owner shall provide the Council with the following details in respect of such intended transferee or lessee:-

- Its assets;
- How the on-going maintenance and management works will be funded;
- Its structure and voting rights; and
- Such other information as the Council (acting reasonably) may reasonably require.

7.7 The Owner shall ensure that the Council is provided with up-to-date contact details (including a contact name, address, email address and telephone number) or any third party or person which is engaged or contracted to carry out any maintenance or management works in respect of the Drainage Works.

## **8. ADOPTION BY THE STATUTORY PROVIDER**

8.1 Upon receipt by the Council of satisfactory evidence that the adoptable Drainage Works have been transferred to the Statutory Provider the Planning Obligations in clauses 6 and 7 of this Deed shall cease to have effect.

## **9. COVENANTS BY THE COUNCIL**

9.1 The Council covenants with the Owner to:

- (a) pay the Affordable Housing Contribution (where received), the Education Contribution, the Highways Contribution, the Off-Site Open Space Contribution and the Metro Contribution ("the Contributions") into the Council's interest earning bank account;
- (b) expend the Contributions and the interest accruing thereon only for the purposes specified in this Deed
- (c) repay any of the Contributions to the paying party such sum or sums remaining that have not been expended by the Council within five (5) years of the date of receipt by the Council with the exception of the Education Contribution whereby any such sum or sums remaining that have not been expended by the Council within ten (10) years of the date of receipt by the Council shall be repaid.

**IN WITNESS WHEREOF** the parties hereto have caused this Deed 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:- )



014560

Service Director - Legal, Governance & Monitoring /Authorised Signatory

**SIGNED AS A DEED** by )  
**ANDREW DAVID WRIGLESWORTH** )  
as attorney for )  
**ALLAN JAMES DAVIES** as Trustee of )  
the Lord Savile 1965 Trust under a power of )  
attorney in the presence of:- )

Witness Name:

Witness Signature

Witness Address: Strategic Business Centre, Thunderhead Ridge  
Glasshoughton WF10 4UA

Witness Occupation: Development Manager

**SIGNED AS A DEED** by )  
**ANDREW DAVID WRIGLESWORTH** )  
as Trustee of the Lord Savile 1965 Trust )  
in the presence of:- )

Witness Name:

Witness Signatu

Witness Address: Strategic Business Centre, Thunderhead Ridge  
Glasshoughton WF10 4UA.

Witness Occupation: Development Manager

**SIGNED AS A DEED** by )  
**THOMAS FRANCIS FAWCETT** )  
as Trustee of the Lord Savile 1965 Trust )  
in the presence of:- )

Witness Name: \_\_\_\_\_

Witness Signature \_\_\_\_\_

Witness Address: *Strategic Business Centre, Thunderhead Ridge  
Glasborough, WF10 4EA*

Witness Occupation: *Development Manager*

**EXECUTED AS A DEED** by affixing the common )  
of seal of **VISTRY PARTNERSHIPS** )  
**LIMITED** )  
in the presence of two authorised signatures:- )



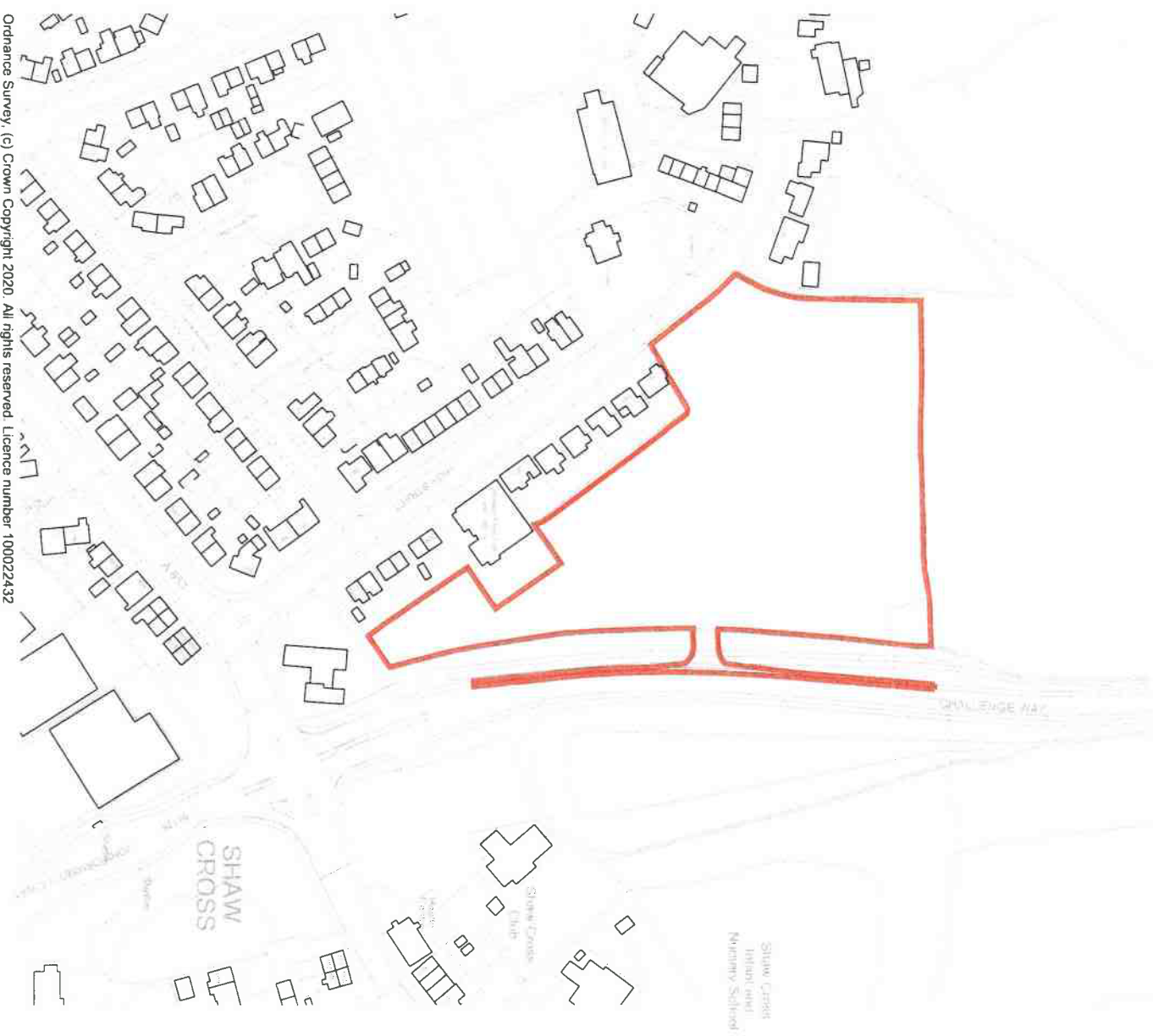
Authorised Signature \_\_\_\_\_

Authorised Signature \_\_\_\_\_

*(Handwritten signature)*      *(Handwritten signature)*

## **Annex 1**

### **Plan**



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Scale Bar (Meters)  
 0 10 20 40 60 80

This layout is based on Ordnance Survey data  
 The red line boundary indicates the land to which the Planning Application relates and is based on information provided by Vistry Partnerships Yorkshire.  
 This plan shall not be used to define legal boundaries  
 All legal boundaries shall be confirmed by the Applicant / land-owner.

01	26.03.21	Revised to accommodate larger visibility splay	TS
REV	DATE	NOTES	CHK
VISTRY PARTNERSHIPS (YORKSHIRE)			
Project			
HANGING HEATON, DEWSBURY			
Drawing Title			
LOCATION PLAN			
Drawn	Checked	Paper Size	Scale
TS	LL	A2	1:1250
Project No	Drawing No	Revision	
20520	300	01	
Date	MAR 2021		

**CORSTORPHINE + WRIGHT ARCHITECTS**

The Old Library, Hagley Road, Stourbridge, DY8 1QH  
 Tel: 01359 509350 www.corstorphine-wright.com

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 London  
 Birmingham  
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 Leeds  
 Canterbury  
 Glasgow  
 Dublin

**Annex 2**

**Affordable Housing Plan**



**Annex 3**

**Open Space Area Plan**



**Annex 4**  
**Approved Scheme**





DATED 20 December 2021

THE COUNCIL OF THE BOROUGH OF  
KIRKLEES

and

ALLAN JAMES DAVIES, ANDREW DAVID  
WRIGLESWORTH and THOMAS FRANCIS  
FAWCETT as Trustees of the Savile Trust 1965

and

VISTRY PARTNERSHIPS LIMITED

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**DEED**

**Under Section 106 of the Town & Country  
Planning Act 1990 relating to land adjacent to  
High Street and Challenge Way, Hanging  
Heaton, Batley**

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Julie Muscroft  
Service Director: Legal, Governance & Monitoring  
Kirklees Council Fourth Floor  
Civic Centre 1  
Huddersfield  
HD1 2NF