Dated 25 January 2024

THE COUNCIL OF THE BOROUGH OF KIRKLEES

and

RUTH ELIZABETH BENTLEY & SUSAN JANE HILL

and

JAMES EDWARD DYSON

and

WIGGETT HOMES LIMITED

Deed of Agreement under Section 106 of the Town and Country Planning Act 1990

Land at Burn Road, Birchencliffe, Huddersfield

Application Ref: 2018/91838

ward hadaway

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THIS DEED is made 25 January 2024

BETWEEN

(1) **THE COUNCIL OF THE BOROUGH OF KIRKLEES** of Town Hall, Huddersfield, West Yorkshire (**the Council**); and

(2) **RUTH ELIZABETH BENTLEY** of 7a Taylor Lane, Golcar, Huddersfield HD7 4PQ and **SUSAN JANE HILL** of 64 Kirkwood Drive, Huddersfield HD3 3WJ (**"the First Owner"**); and

(3) **JAMES EDWARD DYSON** of Deanbridge Farm, Dean Bridge Lane, Hepworth, Holmfirth HD9 1TD (**"the Second Owner")**; and

(4) **WIGGETT HOMES LIMITED** (CRN: 1970223) of Viking House, 449 Middleton Road, Chadderton, Oldham OL9 9LB (**"the Developer").**

BACKGROUND

(A) For the purposes of the 1990 Act the Council is the local planning authority for the area in which the Site is situated and by whom the Planning Obligations in this Deed are enforceable.

(B) The First Owner is the registered freehold proprietor of the Site which is registered at HM Land Registry under Title Number YK8909.

(C) The Second Owner is the registered freehold proprietor of the part of the Site which is registered at HM Land Registry under Title Number WYK147850.

(D) The Developer is the beneficiary of a conditional contract for sale in respect of the First Owner's land and the Second Owner's land dated 14 January 2022.

(E) The Site benefits from the Outline Planning Permission pursuant to which the Developer has applied for the Reserved Matters Approvals.

(F) The Council is inclined to grant the Reserved Matters Approvals subject to the terms of this Deed.

(G) On 2 October 2019 the First Owner, Second Owner and the Council entered into the Original Agreement and the Owners are the persons against whom the obligations in the Original Agreement are enforceable.

(H) The parties by entering into this Deed do so to:

(i) Revoke the Original Agreement in its entirety; and

(ii) create replacement planning obligations in respect of the Site pursuant to section 106 of the 1990 Act.

(I) The parties agree to be bound by and to observe and perform the covenants agreements conditions and stipulations hereinafter contained.

OPERATIVE PROVISIONS

1. **DEFINITIONS AND INTERPRETATION**

1.1. In this Deed the following expressions have the following meanings:

1990 Act	the Town and Country Planning Act 1990
Additional First Homes Contribution	means in circumstances where a sale of a First Home other than as a First Home has taken place in accordance with paragraphs 3.8, 3.9 or 5 of Schedule 4, the lower of the following two amounts: (a) 30% of the proceeds of sale; and (b) the proceeds of sale less the amount due and outstanding to any Mortgagee of the relevant First Homes Unit under relevant security documentation which for this purpose shall include all accrued principal monies, interest and reasonable costs and expenses that are payable by the First Homes Owner to the Mortgagee under the terms of any mortgage but for the avoidance of doubt shall not include other costs or expenses incurred by the First Homes Owner in connection with the sale of the First Home and which for the avoidance of doubt shall in each case be paid following the deduction of any SDLT payable by the First Homes Owner as a result of the disposal of the First Homes Unit other than as a First Home.
Administration Charge	1% (one percent) of the Affordable Housing Contribution)
Affordable Housing Contribution	A financial contribution which is (if applicable) to be calculated in accordance with paragraph 7.7 of the SPD and paid by the Owners to the Council in accordance with and in the circumstances specified in Clauses 2 and 5 of Schedule 3 to this Deed as a contribution towards the cost of providing new Affordable Housing within the Council's administrative area.
Affordable Housing	affordable housing as defined in Annex 2 of the National Planning Policy Framework September 2023 (or as redefined by any amendment, replacement or re-enactment thereof).

Affordable Housing Scheme	a scheme for the provision of the Affordable Housing Units which shall include the number, location, type and tenure of the Affordable Housing Units.
Affordable Housing Units	the 5 Dwellings to be built on the Site as part of the Development to be provided as Affordable Housing (of which three shall be Social Rent Dwellings, one shall be a First Home and one shall be an Intermediate Dwelling) in accordance with the provisions of Schedule 3 of this Deed, and **Affordable Housing Unit** shall mean any one of them.
Affordable Housing Price	the price to be paid by the Registered Provider to the Owners for the Affordable Housing Units to be agreed at a price that is no less than the price set out in accordance with the SPD (or such other policy concerning affordable housing which shall supersede or modify this document) or such other sum as may be reasonably agreed between the Developer and the Council.
Armed Service Member	a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the 5 (five) years prior to the purchase of the First Home, a divorced or separated spouse or civil partner or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service;
Chargee	a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a **Receiver**)) of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver.
Close Family	a spouse, civil partner, partner, parent, son, daughter, sibling, grandparent;
Commencement of Development	the date upon which the Development is begun by the carrying out on the Site pursuant to the Planning Permission of a material operation as specified in section 56(4) of the 1990 Act **SAVE THAT** for the purposes of this Deed the term 'material operation' shall not include any operations undertaken in connection with or associated with

	demolition, site clearance, archaeological investigations, investigations for the purpose of assessing ground conditions, remediation works, environmental investigation, site and soil surveys, diversion and laying of services, erection of a contractor's work compound, erection of a site office, erection of fencing to the site boundary and/or the temporary display of site notices or advertisements and Commence Development shall be construed accordingly.
Compliance Certificate	the certificate issued by the Council confirming that a Dwelling is being disposed of as a First Home to a purchaser meeting the Eligibility Criteria (National) and unless paragraph 3.2 of Schedule 4 applies the Eligibility Criteria (Local).
Default Interest Rate	4% per annum above the base rate from time to time of the Bank of England.
Development	the development of the Site in accordance with the Planning Permission and the Reserved Matters Approvals.
DMS Administration Charge	the reasonable and proper costs incurred by the Council in consideration of the following: (a) consideration of the DMS Unit's Open Market Value and Discounted Price; (b) the issuing of any approvals required pursuant to Clause 4 of Schedule 3 to this deed.
DMS Unit(s)	the Affordable Housing Units (if applicable) to be provided on the Site which shall be sold to a Qualifying Resident(s) at a price equal to 70% (seventy per cent) of the Open Market Value
DMS Unit Commuted Sum	(if applicable) the sum to be paid by the Owners to the Council in lieu of the provision of a DMS Unit(s) which shall be calculated at 30% of the Open Market Value of the relevant DMS Unit as at the date of calculation pursuant to paragraph 5.6 of Schedule 3.
Discounted Price	means 70% (seventy per cent) of the Open Market Value that in any event the price shall not exceed £250,000
Dwelling	a residential unit that may be built on the Site as part of the Development.

Education Contribution	the sum of £26,726.30 (twenty six thousand seven hundred and twenty six pounds and thirty pence) to be paid by the Developer to the Council towards the provision of educational facilities or school places, the need for which directly arises from the Development.
Eligibility Criteria (National)	criteria which are met in respect of a purchase of a First Home Unit if: (a) the purchaser is a First Time Buyer (or in the case of a joint purchase each joint purchaser is a First Time Buyer); and (b) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed the Income Cap (National).
Eligibility Criteria (Local)	criteria published by the Council in the document entitled "First Homes Provision Statement Kirklees Council December 2021" (or any subsequent updating/replacing documentation) at the date of the relevant disposal of a First Home which are met in respect of a First Homes Disposal of a First Home if: (a) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed the First Homes Income Cap (Local) (if any); and (b) either or both of criteria (i) and (ii) below are met: (i) the purchaser meets the First Homes Local Connection Criteria (or in the case of a joint purchase at least one of the joint purchasers meets the First Homes Local Connection Criteria); and/or (ii) the purchaser is (or in the case of a joint purchase at least one of the joint purchasers is) an Armed Services Member;
Eligible Person	an individual who: (a) Has an annual income of no greater than £80,000.00; and

(b) Is unable to afford to purchase a home that meets their needs on the open market.

Expert a person of at least 10 years post qualification continual and continuing experience in the subject matter of the dispute.

Financial Contributions any one of the financial contributions required to be paid by the Owners to the Council pursuant to Schedule 5 of this Deed.

First Homes Discount Market Price a sum which is the First Homes Market Value discounted by at least 30%;

First Homes Disposal a transfer of the freehold or (in the case of a flat only) the grant or assignment of a leasehold interest in a First Home other than:

(a) a letting or sub-letting in accordance with Clause 4 of Schedule 4;

(b) a transfer of the freehold interest in a First Home Unit or land on which a First Home Unit is to be provided before that First Home Unit is made available for occupation except where the transfer is to a First Home Owner; or

(c) a First Homes Exempt Disposal

and Dispose, **Disposed** and **Disposing** shall be construed accordingly.

First Homes Exempt Disposal a First Homes Disposal of a First Homes Unit in one of the following circumstances:

(a) a First Homes Disposal to a spouse or civil partner upon the death of the First Home Owner;

(b) a First Homes Disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of the First Home Owner;

(c) A First Homes Disposal to a former spouse or former civil partner of a First Home Owner in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce, annulment or dissolution of the marriage or civil partnership or the making of a nullity, separation or presumption of death order;

(d) A First Homes Disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling (and for the avoidance of doubt paragraph 5 of Schedule 4 shall apply to such sale);

PROVIDED THAT in each case other than (d) the person to whom the disposal is made complies with the terms of Clause 3 of Schedule 4.

First Home(s) a dwelling which may be disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at the Discount Market Price and which on its Initial Disposal does not exceed the First Home Price Cap.

First Home Owner the person or persons having the freehold or leasehold interest (as applicable) in a First Homes Unit other than:

(a) the Developer; or

(b) another developer or other entity to which the freehold interest or leasehold interest in a First Home Unit or in the land on which a First Home Unit is to be provided has been transferred before that First Home Unit is made available and is disposed of for occupation as a First Home; or

(c) a tenant or sub-tenant of a permitted letting under Clause 4 of Schedule 4;

First Home Price Cap the amount for which a First Home Unit is sold after the application of the Discount Market Price which on its Initial Disposal shall not exceed Two Hundred and Fifty Thousand Pounds (£250,000) or such other amount as may be published from time to time by the Secretary of State;

First Homes Administration Charge the reasonable and proper costs incurred by the Council in consideration of the following:

(a) the consideration of the evidence supplied by any purchase meeting the First Home Eligibility Criteria (National) and (Local);

(b) the consideration of the evidence supplied by the Owners of the First Home in relation to the First Homes Discount Market Price; and

(c) the provision of any certificate to confirm that there has been compliance with paragraph 3.4.2 of the Fourth Schedule of this Deed.

First Homes Market Value	the open market value as assessed by an independent Valuer of a First Home Unit as confirmed to the Council by the First Home Owner and assessed in accordance with the RICS Valuation Standards (January 2014 or any such replacement guidance issued by RICS) and for the avoidance of doubt shall not take into account the 30% discount in the valuation but shall be based on an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion on the basis that: a) it has vacant possession; b) it is assumed with be free from all encumbrances specified in the registers relating to the First Home Unit maintained by Land Registry; and c) it is free from all restrictions contained in this deed;
First Homes Unit	the one (1) Affordable Dwelling which shall be provided as a First Home in accordance with Schedule 4.
First Time Buyer	means a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003
Homes England	the Homes and Communities Agency (trading as Homes England) or any body or bodies undertaking the existing functions of the Homes and Communities Agency 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).
Income Cap (Local)	£80,000.00 (eighty thousand pounds) or such other local income cap as may be published from time to time by the Council and is in force at the time of the relevant disposal of the First Home it being acknowledged at the date of this agreement that the Council has not set an Income Cap (Local);
Income Cap (National)	£80,000.00 (eighty thousand pounds) or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant disposal of the First Home;

Index	the BCIS All-In Tender Price Index.
Index Linked	increased in accordance with the following formula: **Amount payable** = the figure specified in this Deed x (A/B) where: **A** = the figure for the Index that applied immediately preceding the date the payment is due; and **B** = the figure for the Index that applied when that index was last published prior to the date of this Deed (or prior to the date of calculation where this Deed provides for a figure to be calculated at a later point in time).
Initial Disposal	means the first disposal of a freehold or leasehold interest in a Dwelling following Practical Completion;
Intermediate Dwelling	the one (1) Affordable Housing Unit which shall be either a DMS Unit, a Shared Ownership Unit or a Rent to Buy Unit and the relevant clause of Schedule 3 shall apply accordingly;
Local Connection Criteria	criteria which are met by a person who satisfies one or more of (a) to (g) below: (a) currently lives in Kirklees as their primary residence and has done so for the past 3 years; (b) previously lived in Kirklees as their primary residence for at least 5 years cumulatively within the past 10 years; (c) has Close Family ordinarily resident in Kirklees and that Close Family has been ordinarily resident in the Locality for the past 3 years; (d) needs to move to Kirklees to receive or provide care or support; (e) is employed full time on a permanent basis for more than 16 hours per week in Kirklees or is about to take up an offer of permanent full-time employment in Kirklees; (f) needs to move to Kirklees to be close to local facilities because of a specific identified need;

(g) has some other connection to Kirklees as approved by the Council in writing;

OR

Such other local connection criteria as may be published by the Council from time to time as its "First Homes Local Connection Criteria" (or equivalently so titled) and which is in operation at the time of the relevant disposal of the First Home and for the avoidance of doubt any such replacement criteria in operation at the time of the relevant disposal of the First Home shall be the "Local Connection Criteria" which shall apply to that First Homes Disposal;

Local Plan the Kirklees Local Plan adopted 27 February 2019 and any document supplementing replacing or updating it.

Locality the district of Kirklees.

Management Company a limited company or companies registered at Companies House which may already be in existence or which may be formed by the Owners for the purposes carrying out future maintenance of the Public Open Space and:

(a) which is incorporated in England and Wales;

(b) which has its registered office in England or Wales; and

whose primary objects permit it to maintain and renew the Public Open Space.

Market Dwellings a Dwelling which is not an Affordable Housing Unit;

Marketing Strategy The strategy to be approved by the Council pursuant to paragraph 3.13 of schedule 4 of this Deed and to detail the marketing measure to be undertaken to dispose of the First Home to a Qualifying Person upon a first disposal.

Mortgagee any financial institution or other entity regulated by the Prudential Regulation Authority and the Financial Conduct Authority to provide facilities to a person to enable that person to acquire a First Home including all such regulated entities which provide Shariah compliant finance for the purpose of acquiring a First Home.

NPPF the National Planning Policy Framework published by the Department for Levelling Up, Housing and

	Communities dated September 2023 and any document that supplements or replaces it.
Occupy	means to occupy for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration, marketing, display or security of the Development, and **Occupation** and **Occupied** shall be construed accordingly.;
Off-Site Highways Contribution	a sum of £22,653.25 (twenty two thousand six hundred and fifty three pounds and twenty five pence) to be paid to the Council by the Developer and applied by the Council towards improvements at the Halifax Road/East Street (Cavalry Arms) junction, the need for which directly arises as a result of the Development.
Open Market Value	the open market value of the relevant Affordable Housing Unit(s) (having regard to the market area, local incomes and local house prices) free from the restrictions in Schedule 3 **SUCH OPEN MARKET VALUE TO BE DETERMINED:** (a) (in relation to Paragraph 2.6 and Paragraph 5.2 of Schedule 3) in the first instance by agreement between the Owners and the Council or (in default of such agreement in 20 Working Days) by the average of two (2) valuations provided by two (2) valuers who are members of the Royal Institute of Chartered Surveyors and one of which shall be selected by the Owners and the other by the Council and the parties shall each bear their own costs in respect of such valuations; AND (b) (in relation to Paragraph 5.5) by an independent valuer who is a member of the Royal Institute of Chartered Surveyors.
Original Agreement	an agreement entered into under Section 106 of the 1990 Act dated 2 October 2019 between (i) James Edward Dyson; (ii) Ruth Elizabeth Bentley; (iii) Susan Jane Hill; and (iv) The Council of the Borough of Kirklees.
Outline Planning Permission	the outline planning permission granted by the Council on 11 October 2019 with reference number 2018/91838.
Owners	together the First Owner and the Second Owner.

Planning Permission	together the Outline Planning Permission and the Reserved Matters Approvals.
Plan 1	the plan titled "Location Plan" attached to this Deed at Schedule 1 with drawing reference 1354/LP.
Plan 2	the plan titled "Landscape Proposal" attached to this Deed at Schedule 1 with drawing reference 672403G.
Planning Obligations	the obligations, conditions and stipulations set out in Schedules 3 – 6 of this Deed.
POS Inspection Fee	a sum of £250.00 (two hundred and fifty pounds) to be paid by the Owners to the Council as a contribution towards the costs involved in inspecting the Public Open Space.
Practical Completion	the issue of a building regulations completion certificate certifying the completion of any part of the Development so that such part can be used for the purpose and operate in the manner for which it was designed, and **Practically Complete** and **Practically Completed** shall be construed accordingly;
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 enforced (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 acquired an Affordable Housing Unit from a Registered Provider through Social Homebuy funded pursuant to section 19(3) of the Housing and Regeneration Act 2008, or any amendment or replacement thereof; d) has been granted a Shared Ownership Lease by a Registered Provider (or similar arrangement where a share of the Affordable Housing Unit is owned by the Tenant and a share is owned by the Registered Provider) in respect of a particular Affordable Housing Unit and the Tenant has subsequently purchased from the Registered Provider all the remaining

shares so that the tenant owns the entire Affordable Housing Unit;

and

any person or body and/or their mortgagee deriving title through or from any of the parties mentioned in paragraphs (a) to (d) above;

Public Open Space — on-site public open space to be provided as part of the Development and shown on Plan 2 annexed hereto.

Public Open Space Contribution — a sum of £41,148.50 (forty one thousand one hundred and forty eight pounds and fifty pence) to be paid by the Developer to the Council towards the enhancement of existing play facilities in the vicinity of the Development, the need for which directly arises as a result of the Development.

Public Open Space Scheme — the plan appended to this Deed as Plan 2.

Qualifying Resident — a person(s) who:

(a) Is a first-time buyer (or in the case of joint purchasers, one of whom is a first-time buyer) which shall have the meaning given by Section 57AA(2) of the Finance Act 2003;

(b) Has an annual household income of £80,000.00 or less; and

(c) Will Occupy the DMS Unit as their sole or main residence.

Registered Provider — a registered provider of social housing as defined in Section 80(2) of the Housing and Regeneration Act 2008 and listed in the registers kept by Homes England under Chapter 3 of that Act.

Rent to Buy Landlord — the landlord (being a Registered Provider) of a Rent to Buy Tenancy and its successors in title;

Rent to Buy Tenancy — in relation to a Rent to Buy Unit any assured shorthold tenancy entered into between a Rent to Buy Landlord and a Rent to Buy Tenant in respect of that Rent to Buy Unit.

Rent to Buy Tenant — a person to whom a Rent to Buy Unit is let pursuant to the provisions of the Third Schedule;

Rent to Buy Unit	an Affordable Housing Unit to be let pursuant to a Rent to Buy Tenancy
Reserved Matters Approvals	together a reserved matters approval for layout, appearance & scale as reserved by the Outline Planning Permission which may be granted by the Council pursuant to application reference 2021/61/94719/W and a reserved matters approval for landscaping as reserved by the Outline Planning Permission which may be granted by the Council pursuant to application reference 2022/61/92780/W.
RP Dwelling	all of the Affordable Housing Units that are to be transferred to a Registered Provider, and **RP Dwellings** shall be construed accordingly.
SDLT	Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect.
Secretary of State	the Secretary of State for Levelling Up, Housing and Communities from time to time appointed and includes any successor in function.
Shared Ownership Lease	such lease as shall from time to time be in accordance with the Homes England model form of shared ownership lease or such other successor bodies model form of lease;
Shared Ownership Units	Affordable Housing Units to be owned and managed by an Registered Provider such that they shall be occupied on the basis of a Shared Ownership Lease;
Site	the land at Burn Road, Birchencliffe, Huddersfield shown edged red on Plan 1.
Social Rent	means a rent set in line with the Government's rent policy for social rented affordable housing to be owned and let by a Registered Provider;
Social Rent Dwellings	the three (3) Affordable Housing Units to be made available for letting by a Registered Provider, at a Social Rent and to be constructed on the Site in accordance with the Planning Permission
SPD	The Council's 'Affordable Housing and Housing Mix SPD' dated March 2023 (or any successor or replacement document as may be agreed in writing between the Owners and the Council).
Statutory Undertaker	any company corporation board or authority at the date of this Deed authorised by statute to carry on an undertaking for the supply of telephone or

	television communications, electricity, gas, water, or drainage and any authorised successor to any such undertaking.
SuDS	means the sustainable urban drainage systems to be provided by the Owner as part of the Development;
SuDS Maintenance and Management Plan	means a detailed management plan or plans setting out measures to be undertaken to ensure SuDS are properly maintained and managed, which shall include the information set out in paragraph 1.1 of Schedule 7 to this Deed, or such plan as may be agreed in writing with the Council from time to time;
SuDS Management Company	means a limited company or companies registered at Companies House (including a residents management company) which may already be in existence or which may be formed by the Owners for the purposes of the management of the SuDS provisions at the Site in accordance with the provisions in this Schedule and: a) which is incorporated in England and Wales or Scotland; b) which has/have its/their registered office in England or Wales ; and c) whose primary objects permit it/them to maintain and renew the SuDS. And for the avoidance of doubt it is agreed that there may be more than one management company across the Site as a whole and/or a different management company responsible for the SuDS.
Sustainable Travel Contribution	a sum of £14,194.12 (fourteen thousand one hundred and ninety four pounds and twelve pence) to be paid to the Council by the Developer as a contribution to promote connectivity and sustainable means of travel to improve accessibility to local amenities and public transport to enhance the sustainability of the Development consistent with LP3 of the Local Plan and guidance in the NPPF.
Valuation	a report prepared by a RICS surveyor employed/instructed by the Rent to Buy Landlord containing details of the surveyor's opinion as to

	the Open Market Value in respect of a Rent to Buy Unit.
Valuer	a member or fellow of the Royal Institute of Chartered Surveyors being a Registered Valuer appointed by the First Homes Owner and acting in an independent capacity.
Working Day	any day from Monday to Friday inclusive which is not Christmas Day, Boxing Day, Good Friday, Easter Monday or a Statutory Bank Holiday

1.2. Reference in this Deed to any enactment shall be construed as a reference to that enactment as amended extended or re-enacted by or under any other enactment and shall include all instruments orders and regulations for the time being made, issued or given under that enactment.

1.3. References to clauses paragraphs and schedules are references to clauses paragraphs and schedules in this Deed.

1.4. Words importing one gender shall be construed as importing any gender and words importing the singular shall be construed as importing the plural and vice versa.

1.5. Any words denoting natural person shall include legal persons and vice versa.

1.6. The expression "the Owners" shall include its respective successors in title and assigns.

1.7. The expression "the Council" shall include any successor authority to its statutory functions under the 1990 Act.

1.8. Where a covenant, restriction or requirement is expressed to be given by more than one party, or where a party is comprised of more than one person, liability for such covenant, restriction or requirement shall be joint and several.

1.9. Clause headings and the contents list shall not affect the construction of this Deed.

1.10. Any phrase introduced by the terms 'including' 'include' 'in particular' or any similar expression and shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.11. Any covenant by the Owners or the Council not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.

2. STATUTORY BASIS

2.1. This Deed is made pursuant to section 106 of the 1990 Act and binds the Site and as such is enforceable pursuant to section 106(3) of the 1990 Act against the Owners and any person claiming or deriving title to the Site (or any part or parts thereof) through or under the Owners as if that person had been an original covenanting party to this Deed.

2.2. This Deed is enforceable by the Council as the local planning authority for the purposes of the 1990 Act.

2.3. To the extent that the covenants, restrictions and requirements in this Deed are not made under section 106 of the 1990 Act they are made under section 1 of the Localism Act 2011 and section 111 of the Local Government Act 1972 and all other powers so enabling.

3. COVENANTS & DECLARATIONS

3.1. The Owner covenant with the Council to comply with the Planning Obligations.

3.2. The Council covenants with the Owners to comply with the provisions of Schedule 8.

4. THE ORIGINAL AGREEMENT

4.1. The Parties hereby agree that on the date of this Deed hereof the Original Agreement shall determine and cease to have effect and the obligations provisions and covenants contained therein shall be replaced in its entirety by the obligations provisions and covenants contained in this Deed.

5. EXCLUSIONS & RELEASE

5.1. No party shall be bound by the terms of this Deed or be liable for a breach of any Planning Obligation:

5.1.1. after it has parted with its interest in the Site or the part in respect of which such breach occurs (but without prejudice to liability for any subsisting breach prior to parting with such interest);

5.1.2. if it is a Statutory Undertaker which has an interest in any part of the Site for the purposes of its undertaking; or

5.1.3. if that party is an owner or occupier of an individual Dwelling.

5.2. If the Planning Permission expires before the Commencement of Development or is at any time modified (without the consent of the Owners), quashed or revoked this Deed shall determine and cease to have effect.

5.3. No obligation in this Deed shall be binding on or enforceable against any chargee or mortgagee from time to time who shall have the benefit of a charge or mortgage of or on any part of the Site (or any receiver appointed by such chargee or mortgagee) unless and until such chargee, mortgagee or receiver (or any person appointed by them) has taken or entered into possession of the Site or part thereof in which case it will also be bound by the covenants, restrictions and obligations in this Deed as if it were a person deriving title from an original covenanting party.

6. REGISTRATION

6.1. This Deed is a local land charge and may be registered as such by the Council.

6.2. Following either:

6.2.1. the performance and satisfaction of all the Planning Obligations contained in this Deed; or

6.2.2. the determination of this Deed in accordance with Clause 5.2;

the Council shall as soon as reasonably practicable upon the written request of the Owners effect the cancellation of all entries made in the Register of Local Site Charges in respect of this Deed.

7. NON-FETTER & WAIVER

7.1. Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers, functions or discretions.

7.2. No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants, terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

7.3. Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted before or after the date of this Deed.

8. VAT

8.1. All payments given in accordance with this Deed shall be exclusive of any value added tax properly payable.

9. SEVERABILITY

9.1. If any provision in this Deed shall in whole or in part be held to be invalid, illegal or unenforceable under any enactment or rule of law such provisions shall to the extent required be severed from this Deed and shall not affect the validity or enforceability of the remaining provisions of this Deed.

10. CHANGE OF OWNERSHIP

10.1. The Owner agrees with the Council to give written notice to the Council within 20 Working Days of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site purchased by reference to a plan **PROVIDED THAT** this obligation shall not apply to a sale or disposal of an individual Dwelling or to the disposal of part of the Site to a Statutory Undertaker for the purposes of its undertaking.

11. DISPUTES

11.1. Where the agreement, approval, consent or expression of satisfaction is required by any party under the terms of this Deed such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed.

11.2. Any dispute or disagreement arising under this Deed which has been identified by notice in writing by one party to the other(s) and which has not been resolved within 20 Working Days (or such lesser period as may be agreed) of the date of receipt by the other party(s) of such written notice may be referred at the instance of any party for determination by an Expert whose decision (except in cases of manifest error or fraud) shall be final and binding on the parties.

11.3. The following provisions and terms of appointment shall apply to such disputes or disagreements:-

11.3.1. the Expert shall be agreed between the parties or, in default of agreement within 10 Working Days of receipt of the notice in Clause 11.2 above, shall be appointed or identified by the following persons:

11.3.1.1. in the case of disputes relating to land or valuation matters the President of the Royal Institution of Chartered Surveyors;

11.3.1.2. in the case of disputes relating to planning or design matters the President of the Royal Town Planning Institute; or

11.3.1.3. in the case of any other dispute the President of the Bar Council.

11.3.2. the Expert shall act as an expert and not as an arbitrator

11.3.3. the Expert shall be required to give notice of their appointment to each of the parties (**Expert's Notice**) and thereafter:

11.3.3.1. the persons calling for the determination shall make written submissions to the Expert and the other parties within 20 Working Days of receipt of the Expert's Notice;

11.3.3.2. the other parties shall have 20 Working Days from the receipt of such written submission (or such extended period as the Expert shall allow) to respond;

11.3.3.3. the Expert shall disregard any representations made out of this time; and

11.3.3.4. the Expert may request further information or documentation and the parties shall comply with any requests by the Expert for further information or documentation within a reasonable time;

11.3.3.5. to the extent not provided for by this clause the Expert may in their reasonable discretion determine such other procedures to assist with the conduct of the determination as they consider just or appropriate including (to the extent considered necessary) instructing professional advisers to assist them in reaching their determination

11.3.4. the Expert shall make his decision within 20 Working Days of the close of the period for submissions of written representations;

11.3.5. the Expert's decision shall be in writing and shall give reasons for the decision; and

11.3.6. each party shall bear its own costs and the Expert's costs will be payable in the determination of the Expert.

11.4. The decision of the Expert shall be binding on the parties.

11.5. If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by this clause then:

11.5.1. either party may apply to the relevant body as per Clause 11.3.1 to discharge the Expert and appoint a replacement Expert with the required expertise; and

11.5.2. Clause 11.3 shall apply to the new Expert as if they were the first Expert appointed

12. FUTURE PERMISSIONS

12.1. In the event that an application is made pursuant to Section 73 of the 1990 Act for an amendment to the Planning Permission and a planning permission is granted in respect of that application then:

12.1.1. references to "Planning Permission" in this Deed shall thereafter be deemed to include both the Planning Permission and the new planning permission granted pursuant to Section 73 of the Act; and

12.1.2. this Deed shall apply to and remain in full force in respect of both the Planning Permission and that new planning permission without the need for a further agreement to be entered into pursuant to Section 106 of the Act unless required to do so by the Council

in each case **PROVIDED THAT**:

12.1.3. nothing in this Clause 12 shall fetter the discretion of the Council in determining any application(s) under Section 73 of the 1990 Act or in requiring new or varied planning obligations whether by way of a new or supplemental deed pursuant to Section 106 and/or Section 106A of the 1990 Act; and

12.1.4. to the extent that any of the Planning Obligations have been discharged in respect of the original Planning Permission nothing shall require the Owners to comply with that obligation again in respect of a planning permission granted under Section 73 of the 1990 Act.

13. INDEXATION

13.1. All Financial Contributions payable to the Council shall be Index Linked.

13.2. 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 or in the event the index is not replaced, to an alternative reasonably comparable basis or index as the Council shall advise the Owners in writing.

14. **INTEREST ON LATE PAYMENTS**

14.1. Any amount due from the Owners to the Council under the terms of this Deed which is not paid on or prior to the date due shall accrue interest at the Default Interest Rate accruing form the date such payment was due to the date of actual payment.

15. **THIRD PARTY RIGHTS**

15.1. No person who is not a party to this Deed may enforce any terms hereof pursuant to the Contracts (Rights of Third Parties) Act 1999 **PROVIDED THAT** this clause shall not affect any right of action of any person to whom this Deed has been lawfully assigned or becomes vested in law including successors in title to the Site.

16. **NOTICES**

16.1. Any notice given to a party under or in connection with this agreement shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

16.2. Any notice shall be deemed to have been received:

16.2.1. if delivered by hand, at the time the notice is left at the proper address; or

16.2.2. 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.

16.3. 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.

17. **COSTS**

17.1. The Council acknowledges that the Owners has prior to the date of this Deed paid the reasonable legal costs of the Council incurred in the preparation, negotiation and completion of this Deed.

17.2. The Owner will pay to the Council a monitoring fee in the sum of £500.00 (five hundred pounds) on or prior to the Commencement of Development to be used by the Council towards the costs of monitoring compliance with the terms of this Deed.

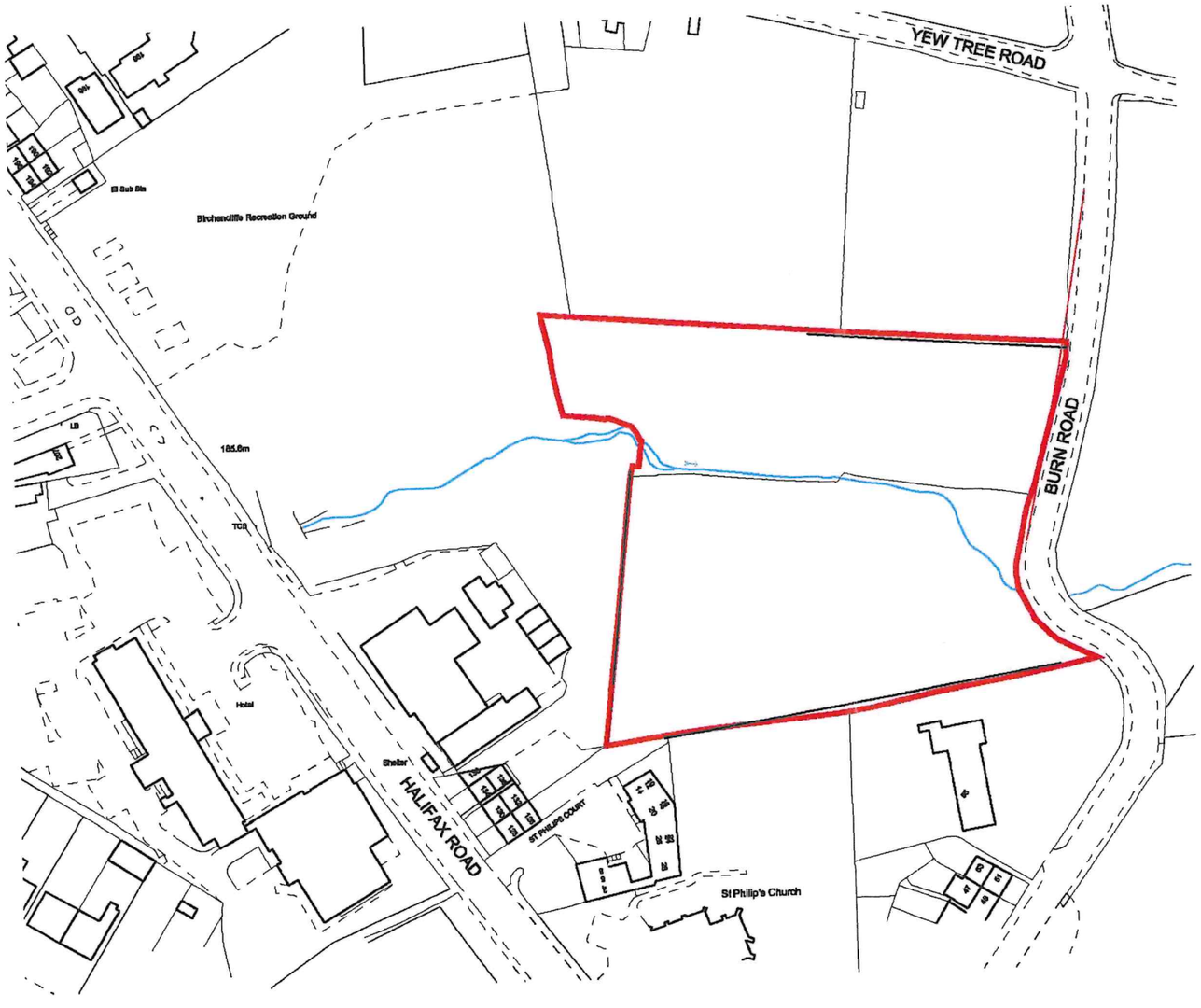
18. **JURISDICTION**

18.1. This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

THE PARTIES HEREBY WITNESS that this document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Schedule 1 – Plans

0.21054



North

RB x R Beaty
SH x S Hill
JS x

0 10 20 30 40 50 60 70 80 90 100

1-1250 Scale Bar (metres)

REV	DATE	AMENDMENT	BY	CHKD

HNA architects
Architecture | Planning | Design

PROJECT:	Burn Road, Huddersfield				
CLIENT:	Wiggett Construction				
DRAWING:	Location Plan				
DRAWN BY:	GG	CHECKED BY:	--	DATE: Dec 21	SCALE: 1:1250 @ A3
STATUS:	Planning			DRAWING No: 1354/LP	REVISION:

DO NOT SCALE
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TEMPLE WORKS, TEMPLE STREET, OLDHAM, OL1 3NU
TEL: 0161 626 1820
E-MAIL: info@hna-architects.co.uk

RIBA Chartered Practice

KEY

- EXISTING TREE TO BE RETAINED
- TURF (CLOSE MOWN)
- PROPOSED TREE PLANTING
- PROPOSED TREE PLANTING - INCLUDING ROOT DIRECTOR
- ORNAMENTAL SHRUB PLANTING
- HEDGE PLANTING
- NATIVE HEDGE PLANTING
- WILDFLOWER SEED MIX - EM8 WETLANDS MEADOW MIXTURE FROM EMORSGATE SEEDS www.wildseed.co.uk/mixtures/view/2

ALL LOOSE MATERIAL TO BE LAID OVER A WEED CONTROL MEMBRANE AND HAVE LANDSCAPE TIMBER EDGING

PLANTING SCHEDULE

Trees

Abbreviation	Species	Height	Girth	Specification	Pot Size	Number of Plants
ACE	Acer campestre	350-425cm	12-14cm	Heavy Standard: 3x	B	3 -
BP	Betula pendula	350-425cm	12-14cm	Heavy Standard: 3x	RB	7 -
PA	Prunus avium	350-425cm	12-14cm	Heavy Standard: 3x	B	4 -
QRO	Quercus robur	350-425cm	12-14cm	Heavy Standard: 3x	RB	3 -
SA	Sorbus aucuparia	350-425cm	12-14cm	Heavy Standard: 3x	B	5 -
SAR	Sorbus aria	350-425cm	12-14cm	Heavy Standard: 3x	B	7 -
TC	Tilia cordata	350-425cm	12-14cm	Heavy Standard: 3x	B	3 -
						Total :32 -

Hedges

Abbreviation	Species	Specification	Height	Pot Size	Density	Number of Plants
CAR	Carpinus betulus	Double staggered row	60-80cm	B	6/m	247 -
FS	Fagus sylvatica	Double staggered row	60-80cm	B	6/m	779 -
PLO	Prunus laurocerasus 'Otto Luyken'	Single row	60-80cm	5L	4/m	313 -
						Total :1339 -

Shrubs

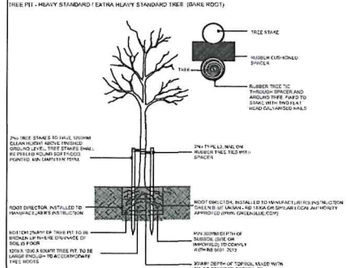
Abbreviation	Species	Specification	Density	Height	Pot Size	Number of Plants
CET	Ceanothus thyrsiflorus repens		6/m²	20-30cm	3L	57 -
EAB	Escallonia 'Apple Blossom'		4/m²	40-60cm	5L	27 -
HEP	Hebe pinguifolia 'Pagei'		6/m²	30-40cm	3L	51 -
HMW	Hebe 'Mrs Winder'		6/m²	30-40cm	3L	41 -
LMU	Lavandula angustifolia 'Munstead'		6/m²	30-40cm	3L	46 -
PRR	Photinia x fraseri 'Red Robin'		4/m²	60-80cm	5L	59 -
RO	Rosmarinus officinalis		6/m²	30-40cm	3L	51 -
SR	Skimmia japonica 'Rubella'		6/m²	30-40cm	3L	67 -
VTE	Viburnum tinus 'Eve Price'		4/m²	40-60cm	5L	52 -
						Total :451 -

Native Hedge Mix

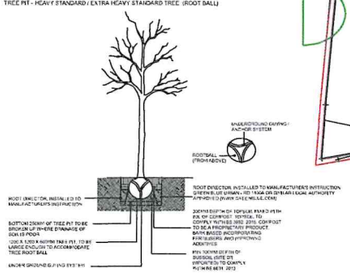
Abbreviation	Species	Specification	Height	Pot Size	Density	Mix Species Contribution	Number
ILEA	Ilex aquifolium	Container	60-80cm	5L	6/m	10%	35 -
ROSAR	Rosa arvensis	Transplant 1+1	60-80cm	B	6/m	10%	35 -
ROSCA	Rosa canina	Transplant 1+1	60-80cm	B	6/m	10%	35 -
CORAV	Corylus avellana	Transplant 1+1	60-80cm	B	6/m	20%	69 -
PRUSP	Prunus spinosa	Transplant 1+1	60-80cm	B	6/m	20%	69 -
CRAMON	Crataegus monogyna	Transplant 1+1	60-80cm	B	6/m	30%	103 -
						Total :100%	Total :346 -

WILDFLOWER SEED - To be sown at a rate of 5g/M². EM8 - Meadow Mixture for Wetlands. Available from Emorsgate Seeds Tel: 01553 829 028 or similar approved.	All wildflower areas to have 1M wide close mown grass edge adjacent roads and footpaths. Seeded with grass mix A22.

TREE PIT - HEAVY STANDARD / EXTRA HEAVY STANDARD TREE (BARE ROOT)



TREE PIT - HEAVY STANDARD / EXTRA HEAVY STANDARD TREE (ROOT BALL)



SPECIFICATION

GROUND PREPARATION - GENERAL

Preparing for topsoiling
Grading and cultivation shall be in accordance with BS 4428:1989 section 6. Subsoil that is to receive topsoil shall, whether obviously contaminated or not, be thoroughly broken up by heavy cultivator, by subsoiler or finest equipment with adequate ripping depth to thoroughly break up the surface to a depth of 150mm, absence of all large stones, bricks, perennial weeds, tree roots, conducting being tree roots), chronic vegetation and other extraneous matter.

Subsoil grading
Subsoil shall only be graded after loosening as above, and this shall be undertaken by the use of a tractor and blade grader on large areas and by a small mechanical grader or by hand on small areas. Ground shall at no time be traversed by heavy machinery, for grading or any other purpose after subsoiling and/or loosening has taken place.

Making up levels
Where subsoil is deposited in low lying areas to raise formation levels, it shall be lightly consolidated and both broken up ready to receive topsoil. Imported fill material shall be inert and shall not contain any materials with any one dimension greater than 100mm. All imported fill material shall be approved by the Landscape Architect prior to spreading on site.

Supply of topsoil
Topsoil to be supplied shall be approved by the Landscape Architect and details of the source of supply shall be provided in order that inspection may be made before delivery commences. Topsoil shall conform to BS 3882: 2015, Recommendations and classification for topsoil, clause 4.1a. The soil shall be free of weeds, roots or perennial weeds, pests, diseases, debris, tree shoots, stones, subsoil and foreign matter and shall be capable of being broken down to a fine tilth.

Temporary topsoil heaps
The depositing of temporary heaps of topsoil shall be so arranged that possible damage to existing grass, plants, farmsystem, permanent, is avoided. Unless otherwise agreed by the Landscape Architect, temporary spoil heaps shall be on protected ground. Such protection shall take the form of tarpaulins, plastic sheets, boards or similar covering. If damage does occur it shall be made good at the contractor's own expense. Areas considered to receive topsoil but have not had the base assessed shall not be used as temporary unloading areas. If the bottom of the excavation has been loosened soft pudding or those areas is prevented.

Spreading topsoil
Prior to topsoil replacement the formation level shall be cleared of all stones, rubbish, debris whether any one dimension greater than 75mm. Areas to be seeded or turfed shall be covered by topsoil 150mm thick and areas to be planted shall be covered by topsoil 300mm thick. Topsoil shall be spread in an evenly consolidated layer and shall be left cleared of all roots, stones and debris with any one dimension greater than 50mm throughout its depth. Unless otherwise stated the finished level shall be 25mm above adjacent hard areas. No topsoil shall be spread until the subsoil grades has been inspected by a Landscape Architect.

PLANTING

Cultivation
Planting areas shall be adequately to a depth of 225mm in this original ground, or where the ground is compacted, ripped and subsoiled. Pick all stones, brash, timber and all other debris arising which have any dimensions greater than 50mm and remove off site to tip. Do not backfill across any drain where the stone is flush with the subsoil surface.

Soil improvers
Where directed composts, land bank or other additives shall be incorporated into the soil. Sound mushroom compost or similar shall be spread to the specified thickness and incorporated, by rotovating, into the top 150mm. Fertilisers, organic or inorganic, shall be raked into the top 75mm.

Rejection of plants
All plant material should comply with the minimum requirements in BS 3936-1: 1992 Specification for trees and shrubs and BS 3936-4: 2007 Specification for forest trees and BS 7545: 2014 Nursery man Guarantee to Incorporate in the Landscape. Any plant material, which in the opinion of the Landscape Architect, does not meet the requirements of the Specification, or is unsuitable, or defective in any other way, will be rejected. The minimum specified sizes in the plant schedule will be strictly enforced. The contractor shall replace all plants rejected at his own cost.

Planting
All plant material shall generally be planted between November and March in open soil weather. Planting shall not take place in frost, snowy or waterlogged conditions. Where approved, pot or container grown plants may be planted outside the above bed season, but adequate watering shall be supplied. Trees or damaged roots and branches shall be cleanly pruned prior to planting.

Planting of whips, transplants and shrubs
The nature of the material to be planted is to undertake and the contractor shall allow for planting to be properly carried out in all cases to specified in BS 4428: 1989 section 7 Amenity tree planting, section 8 Woodland planting and section 9 Planting of shrubs, herbaceous and bulbs. All plants shall be planted at same depth, or very slightly deeper, as they were grown. Roots shall not be bent, broken or forced into inadequate pits or notches. Plants shall be upright, firmed in and wind resistant, with no air pockets around roots. All pots and root wrappings shall be carefully removed prior to planting. All pots and wrappings arising shall immediately be picked up and stored ready for removal to tip. Plants shall be planted at the specified centres. On sloping ground the plants shall be at the approximate measure.

Tree planting within soft landscape areas
Trees shall conform to BS 3936-1: 1992 and be planted in tree pits of the following sizes unless directed otherwise:
Selected standards - 900 x 900 x 600
Heavy standards - 1000 x 1000 x 600
Heavy standards/Extra heavy standards - 1200 x 1200 x 600
Excavated subsoil or stone shall be carted off site to tip. The bottom 250mm of the pit shall be dug and broken up. The bottom of the pit shall be backfilled with subsoil (also or imported) to comply with BS 8601:2013. The top 300mm of the pit shall be backfilled with imported topsoil as specified unless directed otherwise

Compost for planting pits
Compost shall be a proprietary product, bark based incorporating fertilisers and improving additives. The type of compost shall be approved before its delivery on site, and the details of the product shall be supplied. General planting compost is approved. Where directed compost shall be added to and mixed with found backfill at the following rates:
Feathered trees - 60 litres
Selected standards - 80 litres
Heavy standards/Extra heavy standards - 100 litres

Stakes for trees
Stakes shall be peeled round softwood, pointed, minimum diameter 75mm. The stakes shall be driven into the base of the tree pit prior to planting the tree and backfilling.
Stakes shall or generally have a stake height above the finished ground level as follows unless directed otherwise:
Feathered trees - 750mm (one tie)
Selected standards - 750mm/1.0 stakes, one tie each)
Heavy standards/Extra heavy standards - 1200mm/2 stakes, one tie each)
The stake shall be long enough to, until they have the tree firmly without rocking.

Tree ties
The tie material ties, shall be approved rubber reinforced with cushioned spacer such as Toma, or other equal and approved. Nails shall be flat headed galvanised and shall hold the ties securely into the stake. Ties shall not be over tight on the tree stems. Ties available from J Toms Limited, Wheeler Street, Headcorn, Ashford, Kent, TN27 9DH
Feathered Types - 04 (one tie)
Selected standards - Type 1 (one tie per stake)
Heavy standards/Extra heavy standards - Type 2 (one tie per stake)

Ties for eastleaf and evergreen grower trees shall be 150mm rubber tree belts in a figure of eight around the tree. It and to the stake with two flat head galvanised nails
Feathered - one belt
Selected Standard Type - two belts
Heavy standards/Extra heavy standards - two belts

Planting of trees
The tree shall be set upright and at the same depth as grown in the nursery, the roots shall be spread out (bunched) and the soil followed by compost topsoil mixture, backfilled. Backfilling should be done to the stake contact between roots and by forming a layers (bunches). The soil shall be left level and tidy, any added shots, broken stones over 50mm arising, collected and carried off site.

Mulching
A 75mm compacted layer of medium grade pulverised bark, with a particle size of not more than 150mm and containing no more than 10% fines, shall be spread to form a continuous layer covering the whole of the bed, or in the case of standard trees within grass shall be in the form of a circle of 600mm diameter around the base of the tree. Where and saplings shall be mulched in the form of a 300mm diameter circle around the base of the tree. Where trees are planted within grass a circular ferrie mulch shall be required for both the layer of mulch of the standard planted above, surround with fixing pegs. The tree pit surface shall be as big as possible.

Planting of Bulbs
Bulbs shall not be allowed to dry out and shall be free of pests, diseases and fungus. Bulbs who are in planted immediately upon delivery to site, if stored, bins shall be for the minimum period in a cool, well-ventilated area at 16-21 degrees Celsius. Certificates of purchase shall be provided upon inspection. Bulbs are to be planted, depending to species and to the areas scheme on the soft, with contrast. Where planting is required in drifts, bulbs are to be scattered randomly over the allocated area and planted where they fall. The bulbs shall be planted at the depth stated and shall be in contact with the soil at the base of the hole. The hole shall be backfilled with topsoil and lightly firmed in place.
All bulbs are to be planted at the correct depth, according to species, with the base of the bulb in contact with the soil and the tip pointing up. Topsoil is to be used to backfill. If bulbs are to be planted into existing turf areas, turf is to be neatly removed and replaced after planting and rolled.

TURFING

Soil preparation and cultivation
All areas to be turfed shall be cultivated to a depth of at least 150mm, all weeds, stones and rubble longer than 50mm shall be removed to Contractor's tip, and shall be brought to a fine tilth. Allow for hand cultivation where machine work is not possible.

Turf
Turf shall be extensively meadow turf and shall comply to BS 3969: 1998 - A1: 2013 and shall be laid in accordance with BS 4428: 1989, section 6, Turfing. The Contractor shall supply a sample of the turf he proposed to use for approval of the Landscape Architect and shall ensure that all turves are similar to the approved sample. The Contractor shall inform the Landscape Architect of the location of the supply, so that turf can be inspected prior to lifting.

Season
Turf shall be laid when weather and soil conditions are suitable and, where possible, preference should be given to autumn and early winter operations. No turf shall be laid in exceptionally dry or frosty weather or in other unsuitable weather conditions.

Delivery and stacking
If a large amount, turf shall be delivered at approximate intervals throughout the work so as to avoid stacking for long periods.

Laying
No turf shall be laid until the soil preparation has been satisfactorily completed by being brought to an even, firm and fine tilth. Turves from the stack shall be wrapped to turf layers as planks load (ideally with the long joints staggered). Turves shall be laid to support (upright) joints, and be closely butted up, and not overlapped. Turves shall be laid to finish flush with adjoining surfaces. Where turves have to be cut to fit against kerbs, edgings, paths, etc., they shall be neatly and evenly formed with a sharp knife. Where necessary, the turves shall be lightly and evenly formed with a wooden beaters. No bottle will be beaten in any direction by transport by hessian strips of unsuitable material may be used. A covering of fine, loose topsoil shall be applied and well brushed into the joints. Any unsatisfied or finished levels owing to uneven in soil preparation or consolidation of soil shall be adjusted by taking and/or placing fine soil under the turf. A roller shall not be used. The finished levels of the turf shall conform to the levels contained, allowing for final settlement. Turf edges and margins shall be laid in whole turves. Turves adjacent buildings, walls or fences shall be taken to the face of the structure, giving complete soil cover.

Laying around trees
Turf shall not be laid to within 300mm of any tree trunk.

Watering
The Contractor shall be responsible for the replacement of any rejected turf. All necessary watering shall be carried out with sprinklers or oscillating sprays so as not to wash soil out of joints. If shrinkage occurs, lost the joints open, fine topsoil shall be brushed in and well watered.

PROTECTION TO EXISTING TREES

The recommendations of BS 5837: 2012, Trees in Relation to Design, Demolition & Construction must be complied with at all times.
No pruning, lopping, felling or excavation of roots is to take place without prior consent of the local authority.
Any work to the existing trees is to be carried out by a qualified tree surgeon.
The protection and construction of protective fencing shall be agreed with the local authority prior to any site works commencing.
Under no circumstances must any materials be stored under the canopy of existing trees, and no cement, diesel or oil should be stored near them.
Any trees that are damaged during the course of the work should be treated as soon as possible by suitable means.
No trees shall be felled to allow pruning by hooking trees.
Sub-soils, rubble, services or mixers boards shall be laid to existing trees.
Under no circumstances should the levels around existing trees be either raised or reduced.
Scaffolding may only be erected within protected zones if it is done so in accordance with BS 5837.
Any excavations under existing tree canopy spreads shall be done by hand.

WILDFLOWER TURF

Soft Turf, FFF-2SO-2F, available from Wildflower Turf Ltd,
Tel. 01206 771522, www.wildflowerturf.co.uk

Preparation
The area shall be cultivated to 150mm depth and all weeds, stones and rubble to over than 50mm shall be removed or by hand taken of such material beneath existing tree canopies). Soil added and shall be reduced and raked to produce a fine 20mm area.

The soil shall not be excessively or compacted prior to turf being laid. The soil shall not be chopped prior to laying and does not require fertiliser.

Installation
The turf shall be laid out in a minimum 150mm depth of soil. Where there is substantial rain. A layer of thawed 25-50mm thick is required.

All joint shall be broken up on ends to prevent weed growth. Do not overlap or create tension of the joints to ensure joints are not pulled apart or open.

Watering
Once laid, water turf thoroughly, ensuring the soil is damp, but the turf is not waterlogged. Until turf is rooted in. Do not allow to dry out and do not overwater during establishment (2-3 weeks). Thereafter, water should not be required.

Protection of newly laid areas
All reasonable precautions shall be taken to ensure that pedestrian and other traffic does not cross the wildflower areas during cultivation or weed control. Where necessary, short netting is required, the contractor shall erect an approved temporary fence as are to minimise the maintenance period or until turf time as it is no longer necessary, or as directed.

Making good
Any defects such as breakage, pecking, sparse germination or disease shall be made good all as above.

MAINTENANCE
All maintenance to be carried out immediately from the date of turf being laid to ensure successful establishment.

First cut of wildflower turf
Once rooted shoot, carry out an annual cut during Autumn, to a height of 25-50mm, with a flail mower or strimmer. All cuttings must be taken up and removed from site along with any leaf fall. All beds shall be strips.

Subsequent cuts
Thereafter cutting shall be undertaken, with a flail mower or strimmer, when flowers have been fully dried, late September to early October. All cuttings shall be raked up and removed.

Removing Fertility
Where there is excess dominance or vigorous growth, hay cuts should be carried out at the end of May to early June. This cut shall be to a height of 200-250mm to remove flower heads and retain the leaf of the stems. Remove all cuttings. After cutting, water thoroughly to encourage new growth. If this cut cannot be undertaken by the end of the year then the maintenance during October.

WILDFLOWER GRASSING & MAINTENANCE

Preparation for seeding
The ground to be prepared to be a wildflower areas and seed should be sown only good quality, disc free sub-soil. The area shall be cultivated to 150mm depth and all weeds, stones and refuse longer than 50mm shall be removed by hand taken of such material beneath existing tree canopies). Cultivated soil shall be raked and raked to produce a fine 20mm deep and left for 2-3 weeks to allow existing weeds in the seed bank to germinate. After 2-3 weeks, a spray off of the newly germinated weeds will be carried out, allowed to die back and then raked off. Seed sowing must be undertaken immediately after the area has been prepared and weeds removed, lightly watering shall before seeding. Seed shall be sown during late August or September or, if this is not possible, during April to May.

Wildflower seeding
Seed shall be sown in calm and dry during calm weather. All sowing is at the contractor's own risk and any areas where germination fails shall be re-seeded at the contractor's own expense. The operation should be carried out in short sowings and transverse directions. The contractor must ensure that the grass and wildflower seed is thoroughly mixed throughout sowing. The seed mix shall be sown as per rate specified by the manufacturer and then raked into the soil surface and lightly rolled.

Wildflower seed mix
Sow the wildflower seed available from Emorsgate Wild Seeds. Certificates of purchase shall be provided for all operations prior to the sowing of the wildflower mix, stating source, machine, purity and germination percentage. Species must be of indigenous origin.

Protection of newly seeded wildflower areas
All reasonable precautions shall be taken to ensure that production and other traffic does not cross the wildflower areas during cultivation, seeding or establishment. Where obvious shed cutting is occurring, the contractor shall erect an approved temporary fence so as to minimise the maintenance owner or until such time as it is no longer necessary, or as directed.

First cut of wildflower meadow
Areas seeded during August to September shall be cut lightly in the spring using a flail mower or strimmer, when the meadow reaches a height of 100mm. Areas seeded during April to May shall be cut in October when flowering is over in both cases. All cuttings shall be raked up and removed from site.

Subsequent cuts
Thereafter cutting shall be undertaken, in it's a flail mower or strimmer, when flowering is over, twice annually during July to August and September to October. All cuttings shall be raked up and removed.

Making good
Any defects such as breakage, pecking, sparse germination or disease shall be made good and re-seeded all as above.

MAINTENANCE
All maintenance to be carried out up to handover to the adopting authority/ householder for a period of 5 years from the date of planting and turfing to ensure successful establishment. All dead, diseased, damaged plants shall be replaced (for a period of 5 years) during this time unless the local Planning Authority states, in writing, any variation to this.

Weeding
All beds to be kept weed free by hand weeding. Beds to be inspect over as necessary to keep soil loose to appreciate conditions with no mulches.

Pruning
As appropriate time, prune plants to remove dead, dying or diseased wood and suckers to promote healthy growth and natural shape.

Watering
The Contractor shall ensure that sufficient water is applied to maintain healthy growth.

Litter
Site to be kept free of litter.

Grass cutting
The initial cut shall be carried out when first growth is apparent, topped not 25mm above ground. The Contractor shall continue cutting at appropriate intervals during the growing season and maintain 40mm high lawns unless areas are fenced over. Watering, weeding, cutting, repair of all erosion and settlement and reseeding as necessary to establish a uniform and healthy stand of grass shall continue until handover to the householder.

WILDLIFE BOXES

- 1B Birdbox from NHBS or similar - 1B Schwegler Nest Box (12 No.)

  Bird boxes should ideally be sited facing north to east, to avoid exposure to direct sunlight, which may cause overheating of chicks in the nest. The boxes should be at least 4 metres from ground level. Hung so that the entrance is to one side (at an angle of 90° to the wall).

- 2F Bat box from NHBS or similar - 2F Schwegler Bat Box (12 No.)

  Bat boxes should be positioned at a height of 3-6 metres in an open, sunny position (6-8 hours of direct sunlight, or in a location where it receives the morning sun if this is not possible). The location should not be disturbed by bright lights at night such as porch or security lights.

- HH Hedgehog house from NHBS or similar

Hedgehog highways to be included in all rear garden/boundary fences 10cm x 13cm

tba
Landscape Architecture
Arboriculture

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Ashton Old Baths
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Project
BURNS RD, BIRCHENCLIFFE, HUDDERSFIELD
WGGETT CONSTRUCTION LIMITED
Title
LANDSCAPE PROPOSAL

Date	Scale(s)	Dwg no	Rev
JUL '22	1:200 @ A0	6724.03	G

Dwn	Chkd
KR	DG

Amends to landscape comments	25.11.23	JW	G
AMENDS TO LPA COMMENTS	10.10.23	JW	F
AMENDS TO LATEST LAYOUT	03.08.23	KR	E
AMENDS TO LATEST LAYOUT	19.05.23	KR	D
AMENDS TO LPA COMMENTS	31.03.23	KR	C
MINOR AMENDMENTS	01.09.22	KR	B
BAT AND BIRD BOXES ADDED	19.07.22	KR	A
Comment to be added from the drawing Description revised	Date	Dwn	Rev

Schedule 2 Reserved Matters Approvals

Schedule 3 – Affordable Housing

1. **Provision of On-Site Affordable Housing Units**

1.1. The Owner shall not Commence Development until the Council has approved in writing an Affordable Housing Scheme.

1.2. As part of the carrying out of the Development the Owners shall ensure that the Affordable Housing Units shall:

1.2.1. be provided in accordance with an approved Affordable Housing Scheme; and

1.2.2. be provided in accordance with the Planning Permission and all applicable legislation policy and regulatory requirements.

1.3. The Owner shall notify the Council of the Practical Completion of each Affordable Housing Unit within 14 days thereof.

1.4. The Owner shall not cause or permit the Occupation of more than:

1.4.1. 40% of the Market Dwellings (being 8 plots) until 60% of the Affordable Housing Units (being plots numbered 11-13) have been constructed and are ready for Occupation;

1.4.2. 90% of the Market Dwellings (being 18 plots) until 100% of the Affordable Housing Units (being plots numbered 11-15) have been constructed and are ready for Occupation;

1.5. Subject only to paragraphs 2.3 and 4.6 of this Schedule, the Owners shall not permit the Affordable Housing Units to be Occupied other than as Affordable Housing in accordance with an approved Affordable Housing Scheme.

2. **Transfer of the Affordable Housing Units**

2.1. The Owner shall inform the Council when it has offered the RP Dwellings to a Registered Provider(s) at the Affordable Housing Price together with providing details of the Registered Provider(s) to whom the RP Dwellings have been offered (the "Initial Offer").

2.2. Following the date of the Initial Offer the Owners shall use reasonable endeavours to dispose of the RP Dwellings to a Registered Provider(s) at the Affordable Housing Price.

2.3. In the event that:

2.3.1. despite using its reasonable endeavours the Owners has not entered into a binding contract with a Registered Provider(s) for the transfer of the RP Dwellings within a period of 18 (eighteen) calendar months from the date of the Initial Offer (or such shorter period of time that may be agreed in writing by the Council); and

2.3.2. the Owners has produced evidence in writing to the reasonable satisfaction of the Council that it has used reasonable endeavours to enter into such binding contract

then (subject only to the prior receipt of both the Affordable Housing Contribution and the Administration Charge in respect of the RP Dwelling(s)) the Owners may dispose of such RP Dwelling(s) on the open market and the restriction at paragraph 1.5 shall be disregarded in respect of that RP Dwelling.

2.4. In the event that the Owners is free to offer some or all of the RP Dwellings for sale on the open market pursuant to the provisions of paragraph 2.3 above of this Schedule the Owners shall serve a written notice on the Council confirming that they intend to sell such RP Dwelling(s) on the open market (**Owners' Notice**).

2.5. The Owner shall within 28 (twenty eight) days of the date of the Owners' Notice pay to the Council the Affordable Housing Contribution and the Administration Charge in respect of the applicable RP Dwelling(s).

3. **Exclusions to this Schedule**

3.1. The obligations in this Deed shall not be binding on:

3.1.1. Any Protected Tenant (or any mortgagee or chargee, receiver or administrative receiver 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;

3.1.2. Any Chargee (subject only to paragraph 3.2 below); or

3.1.3. Any purchaser of an individual Affordable Housing Unit from a mortgagee or chargee pursuant to any default by an individual mortgagor of an Affordable Unit or any person deriving title from that individual mortgagor.

3.2. This Schedule 3 of this Deed shall not be binding on a Chargee PROVIDED THAT:

3.2.1. Such Chargee has first given written notice to the Council of its intention to dispose of the relevant Affordable Unit(s) and thereafter has used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the relevant Affordable Unit(s) to a Registered Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

3.2.2. If such disposal has not completed within the three month period, the Chargee shall be entitled to dispose of the Affordable Unit(s) free from the obligations in this Schedule 3 of this Deed which thereafter will determine absolutely in respect of such Affordable Unit(s).

4. **DMS Units**

4.1. The Owner shall provide the Council with notice of sales release dates not less than [6 (six)] weeks prior to the date upon which the Owners proposes to release each DMS Unit(s) for disposal.

4.2. Prior to the Initial Disposal of any DMS Unit the Owners shall pay the DMS Administration Charge and submit to the Council for approval details of that DMS Unit's Open Market Value and Discounted Price and shall not dispose of the DMS Unit unless the Open Market Value and Discounted Price have been approved in writing by the Council.

4.3. The Owners shall not dispose of any DMS Unit other than at the Discounted Price and to a person who at the date of their first Occupation is a Qualifying Resident and the Owners shall not Occupy or allow the Occupation of such DMS Unit(s) other than pursuant to such disposal.

4.4. The Initial Disposal of a DMS Unit shall contain a restriction that subject to paragraph 5.2 and 5.3 of this Deed no further disposal to a third party shall take place other than to a Qualifying Resident at a price not exceeding the Discounted Price and further that no such transfer shall be registered at the land registry without the inclusion of a restriction in the following terms:

"no disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a certificate signed by the Council's Affordable Housing Officer (or such other Officer duly authorised by the Council to give such a certificate) confirming that the provisions of the Deed dated [ ] and made between [ ] have been fully complied with".

4.5. No Initial Disposal or subsequent disposal of a DMS Unit shall be completed and no such disposal shall be registered at the Land Registry unless the Council has provided its approval in writing to such registration **PROVIDED THAT** such consent shall be given forthwith upon receipt by the Council of:

4.5.1. evidence that the disponee (or in the case of joint disponees one of the disponees) is a Qualifying Resident;

4.5.2. certification by the solicitor or licenced or other authorised conveyancer acting for the disponee(s) that any consideration expressed to be given for the DMS Unit by the disponee did not exceed the Discounted Price PROVIDED ALWAYS THAT in the case of a subsequent disposal the Discounted Price the certificate given by a valuer is dated not more than [6 (six)] months before the date of such disposal; and

4.5.3. payment of the reasonable legal and administrative costs incurred by the Council in consideration of the disponee(s)'s application and provision of Land Registry Certificate to be paid by the Seller.

4.6. If the DMS Unit has not been contracted for sale to a Qualifying Resident ~~[~~12 (twelve)~~]~~ months from the date the DMS Unit has first been offered for disposal to a Qualifying Resident at the Discounted Price the Owners and the Council will use reasonable endeavours to agree the DMS Unit Commuted Sum as soon as reasonably practicable in respect of that DMS Unit and the Owners will pay the DMS Unit Commuted Sum to the Council within ~~[~~25 (twenty five)~~]~~ Working Days from the date of such agreement and upon receipt by the Council of the DMS Unit Commuted Sum the Owners will be free to offer the DMS Unit for sale on the open market.

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5. **Shared Ownership Units**

5.1. No Shared Ownership Unit shall be Occupied other than by an Eligible Person pursuant to a Shared Ownership Lease.

5.2. Every time a Shared Ownership Unit shall become available for Occupation again in the future it shall be allocated to Eligible Persons on the same terms as expressed in paragraph 5.1 above.

6. **Rent to Buy Units**

6.1. No Rent to Buy Unit shall be let other than pursuant to the terms of a Rent to Buy Tenancy.

6.2. In the event that a Rent to Buy Tenant has remained a tenant of the same Rent to Buy Unit for a continuous period of five years then following the expiry of that five year period:

6.2.1. the Rent to Buy Tenant may submit a request to the Rent to Buy Landlord to purchase the applicable Rent to Buy Unit;

6.2.2. (save only in in exceptional circumstances (to be agreed in writing between the Rent to Buy Landlord and the Council)) in the event that the Rent to Buy Tenant submits such a request then the Rent to Buy Landlord shall make an offer in principle to sell the Rent to Buy Unit to the Rent to Buy Tenant at a price equal to the Market Value of the Rent to Buy Unit at the date of the proposed sale as stated in the Valuation;

6.2.3. in the event that the Rent to Buy Tenant accepts an offer in principle to purchase the Rent to Buy Unit to the Rent to Buy Landlord pursuant to paragraph 8.4.2 above the Rent to Buy Landlord shall obtain a Valuation and provide a copy of the Valuation to the Right to Buy Tenant and together with a detailed offer to sell the Rent to Buy Unit to the Rent to Buy Tenant at a purchase price reflecting the Valuation and subject to such matters and upon such reasonable terms and conditions as the Rent to Buy Landlord is advised by its legal advisers should be included in such sale and purchase documentation;

6.3. Following the expiry of the initial five year period referred to in paragraph 7.4.1 above, in the event that the Rent to Buy Tenant has not purchased the Rent to Buy Unit, the Rent to Buy Landlord may at its discretion:

6.3.1. retain the Rent to Buy Unit and continue to let the Rent to Buy Unit on a Rent to Buy Tenancy;

6.3.2. retain the Rent to Buy Unit and let the same at either an Affordable Rent or open market rent or on a Shared Ownership Lease ; and/or

6.3.3. sell the Rent to Buy Unit on the open market **PROVIDED ALWAYS** that the current Rent to Buy Tenant at that time shall be given the right of first refusal.

7. **Social Rent Dwellings**

7.1. No Social Rent Dwellings shall be Occupied otherwise than as a Social Rent Dwelling.

7.2. The initial letting of each Social Rent Dwelling shall be allocated in accordance with the Council's choice based lettings system "Choose 'n' Move" or any successor policy PROVIDED ALWAYS THAT where a Registered Provider is not a signatory to either the Council's Choice Based Lettings System (or a relevant successor policy) then prior to Occupation of the Social Rent Dwellings the Registered Provider shall offer to enter into a nominations agreement with the Council detailing how the Social Rent Dwellings will be allocated to Eligible Persons.

7.3. Every alternate subsequent re-letting of a Social Rent Dwelling shall thereafter be allocated in accordance with the Council's Choice Based Lettings System "Choose 'n' Move" (or a relevant successor policy) or any applicable nominations agreement entered into pursuant to paragraph 7.2 above.

Schedule 4 – First Homes

1.1. First Homes Units provided on the Development shall not be visually distinguishable from the Market Dwellings based upon their external appearance.

1.2. The internal specification of the First Homes Units shall not by reason of their being First Homes be inferior to the internal specification of the equivalent Market Dwellings **PROVIDED THAT** (subject to that requirement) variations to the internal specifications of the First Homes Units shall be permitted.

2. **Type and Distribution**

2.1. The mix of First Homes Units provided shall be in accordance with the Affordable Housing Scheme.

3. **Delivery Mechanism**

3.1. The First Homes Units shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) as First Homes to a person or person(s) meeting:

3.1.1. the Eligibility Criteria (National); and

3.1.2. the Eligibility Criteria (Local).

3.2. If after a First Homes Unit has been actively marketed for 3 months (such period to expire no earlier than three (3) months prior to Practical Completion) it has not been possible to find a willing purchaser who meets the Eligibility Criteria (Local) (if any), paragraph 3.1.2 shall cease to apply.

3.3. Subject to paragraphs 3.6 to 3.10, no First Homes Unit shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% of the purchase price is funded by a first mortgage or other home purchase plan with a Mortgagee.

3.4. No First Homes Unit shall be Disposed of (whether on a first or any subsequent sale) unless and until:

3.4.1. The Council has been provided with evidence that:

3.4.1.1. the intended purchaser meets the Eligibility Criteria (National) and unless paragraph 3.2 applies meets the Eligibility Criteria (Local) (if any);

3.4.1.2. the First Homes Unit is being Disposed of as a First Home at the First Homes Discount Market Price; and

3.4.1.3. the transfer of the First Homes Unit includes:

3.4.1.3.1. a definition of the "Council" which shall be "the Council of the Borough of Kirklees of Town Hall, Huddersfield, West Yorkshire"

3.4.1.3.2. a definition of "*First Homes Provisions*" in the following terms:

"means the provisions set out in paragraphs X – X of the Section 106 Agreement a copy of which is attached hereto as the Annexure."

3.4.1.3.3. A definition of "*Section 106 Agreement*" in the following terms:

"means the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated [DATE OF THIS DEED] made between (1) the Council of the Borough of Kirklees and (2) C. C. Projects;"

3.4.1.3.4. a provision that the First Homes Unit is sold subject to and with the benefit of the First Homes Provisions and the transferee acknowledges that it may not transfer or otherwise Dispose of the First Homes Unit or any part of it other than in accordance with the First Homes Provisions; and

3.4.1.3.5. a copy of the First Homes Provisions (as defined in paragraph 3.4.1.3.2 above) in an Annexure; and

3.4.1.3.6. The First Homes Administration Charge has been paid to the Council by the Owners, being the Developer in respect of the Initial Disposal and the owner of the individual Dwelling on all subsequent disposals;

3.4.2. the Council has issued the Compliance Certificate and the Council hereby covenants that it shall issue the Compliance Certificate within twenty eight (28) days of being provided with evidence sufficient to satisfy it that the requirements of paragraphs 3.3 and 3.4.1 have been met.

3.5. On the first First Homes Disposal of each and every First Homes Unit the Owners shall apply to the Chief Land Registrar pursuant to Rule 91 of and Schedule 4 to the Land Registration Rules 2003 for the entry on the register of the title of that First Homes Unit of the following restriction:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by The Council of the Borough of Kirklees of Town Hall, Huddersfield, West Yorkshire or their conveyancer that the provisions of clause XX (the First Homes provision) of the Transfer dated [Date] referred to in the Charges Register have been complied with or that they do not apply to the disposition"

3.6. The owner of a First Homes Unit (which for the purposes of this clause shall include the Developer and any First Home Owner) may apply to the Council to Dispose of it other than as a First Home on the grounds that either:

3.6.1. the First Homes Unit has been actively marketed as a First Home for six (6) months in accordance with paragraphs 3.1 and 3.2 (and in the case of a ~~first~~ First Homes Disposal the six (6) months shall be calculated from a date no earlier than six (6) months prior to Practical Completion) and reasonable endeavours have been made to Dispose of the Dwelling as a First Home

but it has not been possible to Dispose of that Dwelling as a First Home in accordance with paragraphs 3.3 and 3.4.1; or

3.6.2. requiring the First Home Owner to undertake active marketing for the period specified in paragraph 3.6.1 before being able to Dispose of the Dwelling other than as a First Home would be likely to cause the First Home Owner undue hardship.

3.7. Upon receipt of an application served in accordance with paragraph 3.6 the Council shall have the right (but shall not be required) to direct that the relevant Dwelling is disposed of to it at the First Home Discount Market Price.

3.8. If the Council is satisfied that either of the grounds in paragraph 3.6 above have been made out it shall confirm in writing within twenty eight (28) days of receipt of the written request made in accordance with paragraph 3.6 that the relevant Dwelling may be Disposed of:

3.8.1. to the Council at the First Home Discount Market Price; or

3.8.2. (if the Council confirms that it does not wish to acquire the relevant Dwelling) other than as a First Home.

And on the issue of that written confirmation the obligations in this Schedule which apply to First Homes shall cease to bind and shall no longer affect that Dwelling apart from paragraph 3.10 which shall cease to apply on receipt of payment by the Council where the relevant Dwelling is disposed of other than as a First Home

3.9. If the Council does not wish to acquire the relevant First Homes Unit itself and is not satisfied that either of the grounds in paragraph 3.6 above have been made out then it shall within twenty eight (28) days of receipt of the written request made in accordance with paragraph 3.6 serve notice on the owner of the First Homes Unit setting out the further steps it requires the owner to take to secure the First Homes Disposal of a Dwelling as a First Home and the timescale (which shall be no longer than six (6) months) **PROVIDED THAT** if at the end of that period the owner of the First Homes Unit has been unable to Dispose of the Dwelling as a First Home he may serve notice on the Council in accordance with paragraph 3.6 following which the Council must within 28 days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Home.

3.10. Where a First Homes Unit is Disposed of other than as a First Home or to the Council at the Discount Market Price in accordance with paragraphs 3.8 or 3.9 above the owners of the First Homes Unit shall pay to the Council forthwith upon receipt of the proceeds of sale the Additional First Homes Contribution.

3.11. Upon receipt of the Additional First Homes Contribution the Council shall:

3.11.1. within 20 Working Days of such receipt provide a completed application to enable the removal of the restriction on the title set out in paragraph 3.5 where such restriction has previously been registered against the relevant title; and

3.11.2. apply all monies received towards the provision of Affordable Housing within the Council's administrative area.

3.12. Any person who purchases a First Homes Unit free of the restrictions in this Schedule 4 pursuant to the provisions in paragraphs 3.9 and 3.10 shall not be liable to pay the Additional First Homes Contribution to the Council.

3.13. Prior to the Initial Disposal of a First Home the Owners shall submit to the Council the Marketing Strategy for the Council's approval and thereafter the First Homes shall be disposed of according to the terms of the Marketing Strategy.

4. **Use of the First Home Units**

4.1. Each First Homes Unit shall be used only as the main residence of the First Home Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Deed **PROVIDED THAT** letting or sub-letting shall be permitted in accordance with paragraphs 4.1.1 – 4.1.4 below.

4.1.1. A First Home Owner may let or sub-let their First Homes Unit for a fixed term of no more than two (2) years, provided that the First Home Owner notifies the Council in writing before the First Homes Unit is Occupied by the prospective tenant or sub-tenant (and a First Home Owner may let or sub-let their First Homes Unit pursuant to this paragraph more than once during that First Home Owner's period of ownership **PROVIDED THAT** the aggregate of such lettings or sub-lettings during a First Home Owner's period of ownership may not exceed two (2) years).

4.1.2. A First Home Owner may let or sub-let their First Homes Unit for any period provided that the First Home Owner notifies the Council and the Council consents in writing to the proposed letting or sub-letting and in such case the Council covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of circumstances (a) – (f) below:

4.1.2.1. the First Home Owner is required to live in accommodation other than their First Home for the duration of the letting or sub-letting for the purposes of employment;

4.1.2.2. the First Home Owner is an active Armed Services Member and is to be deployed elsewhere for the for the duration of the letting or sub-letting;

4.1.2.3. the First Home Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;

4.1.2.4. the First Home Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;

4.1.2.5. the First Home Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and

4.1.2.6. the First Home Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to provide care or assistance to any person.

4.1.3. A letting or sub-letting permitted pursuant to paragraph 4.1.1 or 4.1.2 must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.

4.1.4. Nothing in this paragraph 4 prevents a First Home Owner from renting a room within their First Home or from renting their First Homes Unit as temporary sleeping accommodation provided that the First Homes Unit remains at all times the First Home Owner's main residence.

5. **Exclusions and release**

5.1. The obligations in this Schedule 4 in relation to First Homes Units shall not apply to any Mortgagee or any receiver (including an administrative receiver appointed by such Mortgagee or any other person appointed under any security documentation to enable such Mortgagee to realise its security or any administrator (howsoever appointed (each a Receiver)) of any individual First Home or any persons or bodies deriving title through such Mortgagee or Receiver **PROVIDED THAT**:

5.1.1. such Mortgagee or Receiver shall first give written notice to the Council of its intention to Dispose of the relevant First Homes Unit; and

5.1.2. once notice of intention to Dispose of the relevant First Homes Unit has been given by the Mortgagee or Receiver to the Council the Mortgagee or Receiver shall be free to sell that First Homes Unit at its full First Homes Market Value and subject only to paragraph 5.1.3; and

5.1.3. following the First Homes Disposal of the relevant First Homes Unit the Mortgagee or Receiver shall following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principal monies, interest and reasonable costs and expenses pay to the Council the Additional First Homes Contribution.

5.1.4. following receipt of notification of the First Homes Disposal of the relevant First Homes Unit the Council shall:

5.1.4.1. forthwith issue a completed application to the purchaser of that Dwelling to enable the removal of the restriction on the title set out in paragraph 3.5; and

5.1.4.2. apply all such monies received towards the provision of Affordable Housing.

5.2. Paragraphs 1 and 2 of this Schedule shall not apply to a First Home Owner.

5.3. Paragraphs 3, 4 and 5 apply as set out therein but and for the avoidance of doubt where a First Homes Unit is owned by a First Home Owner they shall apply to that First Home Owner only in respect of the First Homes Unit owned by that First Home Owner.

Schedule 5 – Financial Contributions

POS Inspection Fee

1.1. Not to Commence Development until the POS Inspection Fee has been paid to the Council.

Public Open Space Contribution

2.1. Not to cause or permit Practical Completion of more than 12 Dwellings until the Public Open Space Contribution has been paid to the Council.

3. **Education Contribution**

3.1. Not to cause or permit Practical Completion of more than 12 Dwellings until the Education Contribution has been paid to the Council.

4. **Off-Site Highways Contribution**

4.1. Not to Commence Development until the Off-Site Highways Contribution has been paid to the Council.

5. **Sustainable Travel Contribution**

5.1. Not to cause or permit Practical Completion of more than 12 Dwellings until the Sustainable Travel Contribution has been paid to the Council.

Schedule 6 – On-Site Public Open Space Management

1. **Provision of On-Site Public Open Space**

1.1. The Owners shall as part of the carrying out of the Development provide the Public Open Space in accordance with the approved Public Open Space Scheme (as may be varied from time to time).

1.2. The Owner covenants that it shall not permit the Occupation of more than 76% (19 houses) of the Dwellings until it has provided the Public Open Space pursuant to Paragraph 1.1 of this Schedule.

2. **Management and Maintenance of the Public Open Space**

2.1. Upon the Public Open Space being completed to the Council's reasonable satisfaction in accordance with the approved Public Open Space Scheme the Owners shall either:

2.1.1. Transfer title for the Public Open Space to a Management Company (having first supplied to the Council a certified copy of the Memorandum and Articles of Association of the Management Company) on the terms agreed between the Owners and the Management Company in consultation with the Council and all further maintenance shall be thereafter carried out by the Management Company **PROVIDED THAT** it shall be a term of the transfer that the Management Company shall:

2.1.1.1. Maintain and manage in perpetuity the Public Open Space in accordance with the Public Open Space Scheme or any variations that may be agreed in writing from time to time; and

2.1.1.2. Only allow the use of the Public Open Space for public access and recreation and for no other purpose; or

2.1.2. Maintain and manage in perpetuity the Public Open Space in accordance with the approved Public Open Space Scheme (or any variations that may be agreed in writing between the Owners and the Council from time to time) **IN DEFAULT OF WHICH** the Council shall be entitled (upon giving reasonable prior written to the Owners) to carry out any maintenance works reasonably required to the Public Open Space and recover the proper and reasonable costs and expenses involved from the Owners.

2.2. The Owners hereby declares that pursuant to Section 31(6) Highways Act 1980 that the Public Open Space has not been dedicated to the public nor is any use by the public of any part of the Public Open Space to be taken in any way as an intention by the Owners to dedicate the same as highway.

2.3. The Owners shall allow public access to the Public Open Space **SUBJECT ALWAYS** to the following provisions:

2.3.1. Access to the Public Open Space shall be subject to such requirements and regulations as may from time to time be imposed by the Owners having regard to overriding reasons of safety, security and prudent building management **PROVIDED THAT** such requirements and regulations shall not be imposed without the Council's prior approval; and

2.3.2. The Owner may erect notices on the Public Open Space and access to the Public Open Space may be denied by the Owners for one day each year in order to prevent public rights of way or common rights coming into being;

2.3.3. The Owner may close the Public Open Space or any part thereof for reasonable periods by reason of:

2.3.3.1. Emergency;

2.3.3.2. Cleansing, maintenance and repair;

2.3.3.3. At the direction of the emergency services or other lawful authority; and

2.3.3.4. Construction activities whilst the Development is being carried out.

2.4. In the event that the Council considers that the requirements of the relevant Public Open Space Scheme are not being complied with then the Council may serve a notice on the Owners or the Management Company (as applicable) requiring the Owners or the Management Company (as applicable) to undertake such remedial steps as are specified in the notice.

2.5. The Owners or the Management Company (as appropriate) shall comply with the terms of any notice served by the Council pursuant to paragraph 2.4 above within 14 days of the date of service by the Council of the said notice or within such other fair and reasonable period that may be agreed by the Council in writing.

Schedule 7 – Sustainable Urban Drainage Systems

1. **Provision of Sustainable Drainage Systems**

1.1. Prior to Commencement of Development the Owner shall submit to the Council for approval the SuDS Maintenance and Management Plan such SuDS Maintenance and Management Plan to contain:

1.1.1. Details and a programme for the long term management and maintenance works to cover all aspects of the SuDS to include:-

1.1.1.1. A detailed maintenance schedule and methodology for all individual SuDS components to maintain the functionality of the SuDS, water storage and treatment;

1.1.1.2. A detailed schedule and methodology for the inspection, maintenance and replacement as required of engineering features including inlet and outlet structures, flow controls tanks and channels;

1.1.1.3. A detailed schedule and methodology for the inspection, maintenance and replacement as required of any other SuDS features;

1.1.1.4. A detailed schedule and methodology for litter and debris removal, landscape and grass cutting, weeding and sediment removal;

1.1.2. Details of the procedure in place for dealing with extreme rainfall events (both prior and post event);

1.1.3. Plans at 1:200 scale which show the extent of the SuDS features, the extent of the landscape features, details of connections to Yorkshire Water sewers and details of whether the SuDS feature is a designated asset under the Floor & Water Management Act 2010.

1.1.4. Details of the maintenance of the shared surface water drainage network, connected to the SuDS, and the shared foul drainage network within the Site as part of the Development prior to their adoption by Yorkshire Water.

1.1.5. Detailed maintenance schedules will be provided which shall include details of the frequency of all actions and routine maintenance activities, the timing of all inspections (including annual inspections) and the timing of management works arising from inspections.

1.1.6. Details of the maintenance regime that will be adopted during the construction phase up until the point that the SuDS is signed off as complete in accordance with the approved design.

1.1.7. Details of vehicular and pedestrian access arrangements relating to the inspection and maintenance of SuDS.

1.2. In the event that the Council considers that it is unable to approve the submitted version of the SuDS Maintenance and Management Plan the Owner shall submit a

revised version to the Council, taking into account any comments that the Council has provided for their approval (such procedure to be repeated as often as is necessary until the Council approves the SuDS Maintenance and Management Plan).

1.3. The Owner covenants to fully comply with the relevant approved SuDS Maintenance and Management Plan from the Commencement of Development and at all times thereafter to manage and maintain the SuDS in accordance with the details set out in the relevant SuDS Maintenance and Management Plan unless and until the SuDS have been adopted by a statutory undertaker or transferred to a SuDS Management Company.

2. **Management of Sustainable Drainage Systems**

2.1. The Owner shall not Occupy any residential property/unit until the SuDS have been adopted by a statutory undertaker or transferred to the SuDS Management Company and thereafter the SuDS Management Company shall maintain and manage those SuDS in accordance with the relevant SuDS Maintenance and Management Plan in perpetuity SAVE THAT this obligation shall not apply where the SuDS in question has been adopted by a statutory undertaker.

2.2. No part of the SuDS shall be transferred or leased to any SuDS Management Company unless the identity of the SuDS Management Company has been approved by the Council (acting reasonably). In seeking approval of any SuDS Management Company the Owners shall provide the Council with details of the assets, how the ongoing maintenance and management works will be funded, the structure of the SuDS Management Company, voting rights and such other information as the Council (acting reasonably) shall require.

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

2.4. Unless and until such time as any part of the SuDS are adopted by a statutory undertaker the Council may upon reasonable notice enter the Site in order to check and monitor compliance with the relevant SuDS Maintenance and Management Plan.

2.5. In the event that the Council considers that the requirements of the relevant SuDS Maintenance and Management Plan are not being complied with then the Council may serve a notice on the Owner or the SuDS Management Company as applicable requiring the Owner or the SuDS Management Company (as applicable) to undertake such remedial steps as are specified in the notice.

2.6. The Owner or the SuDS Management Company (as appropriate) shall comply with the terms of any notice served by the Council pursuant to paragraph 2.8 above within 14 days of the date of service by the Council of the said notice or within such other fair and reasonable period that may be agreed by the Council in writing.

2.7. The approved SuDS Maintenance and Management Plan shall only be varied or amended with the prior written approval of the Council.

Schedule 8 – Council's Covenants (General)

1. **Receipt of Financial Contributions**

1.1. The Council will issue separate receipts on request for any sum paid to the Council under this Deed.

1.2. The Council will place all sums received under this Deed in an interest bearing account or in separate accounts as the Council shall at its discretion decide.

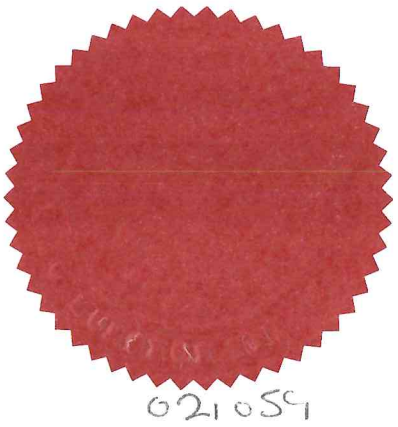
1.3. The Council will not apply the Financial Contributions or any sums received pursuant to this Deed for any purpose other than as described in this Deed.

2. **Repayment of Financial Contributions**

2.1. In the event that the Financial Contributions or any part or parts thereof are not expended within 10 years of the date of payment then the sum or sums not expended plus any interest accrued will be repaid to the paying party or its nominee upon written request of the paying party.

3. **Performance**

3.1. Upon the reasonable written request of the Owners after any of the Planning Obligations have been performed the Council will issue written confirmation thereof and will thereafter cancel all relevant entries in the register of local land charges.



Executed as a Deed (but not delivered

Until the date of it) by the affixing of

THE COMMON SEAL of

THE COUNCIL OF THE BOROUGH OF

KIRKLEES

Authorised Sealing Officer

(A permanent Officer of the Council)

Signed as a deed

(but not delivered until the date hereof) by

RUTH ELIZABETH BENTLEY

In the presence of:

Witness Signature:

Name of Witness: Thomas Binns

Address: 30 Water Royd Lane
Mirfield
WF14 0SG

Signed as a deed

(but not delivered until the date hereof) by

SUSAN JANE HILL

In the presence of:

Witness Signature:

Name of Witness: Thomas Binns

Address: 30 Water Royd Lane.
Mirfield
WF14 9SG

Signed as a deed

(but not delivered until the date hereof) by JED

JAMES EDWARD DYSON

In the presence of:

Witness Signature:

Name of Witness: Frederick Wayne Kirk.

Address: 63 Leysholme Crescent. LEEDS LS12 4HH

Executed as a deed

(but not delivered until the date hereof) by

WIGGETT HOMES LIMITED

acting by:

Director

In the presence of:

Witness Signature:

Name of Witness: DAVID PAUL WALKER

Address: 1 CARNFORTH AVE
CHADDERTON
OLDHAM
OL9 0AN