

Dated 8th October **2024**

THE COUNCIL OF THE BOROUGH OF KIRKLEES (1)
HOLME VALLEY LAND CHARITY (2)
HOLME VALLEY COMMUNITY LAND TRUST LIMITED (3)

DEED

**Under Section 106 of the Town & Country Planning Act
1990 relating to land at
Land Adj South West side of Chapelgate White Wells,
Scholes Huddersfield HD9 1SX**

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THIS AGREEMENT is made the 8th day of October Two Thousand and Twenty Four

BETWEEN

THE COUNCIL OF THE BOROUGH OF KIRKLEES of Town Hall Huddersfield West Yorkshire (hereinafter called "**the Council**") of the first part **AND HOLME VALLEY LAND CHARITY** (formerly known as Holme Valley Parish Council (Graveship of Holme) Land Charity) a charitable trust with charity number 700350 of Holmfirth Civic Hall, Holmfirth, West Yorkshire HD9 3AS ("**the Owner**") of the second part **AND HOLME VALLEY COMMUNITY LAND TRUST LIMITED** (a registered society under the Co-Operative and Community Benefit Societies Act 2014 with registered number 8289) of Overbrook House Holt Lane Holmfirth HD9 3BW (hereinafter called "**the Developer**")

WHEREAS

- 1 The Council is the local planning authority pursuant to the Town and Country Planning Act 1990 for the Kirklees district within which the Site is situated and by whom the planning obligation within this Deed is enforceable.
- 2 The Owner is the freehold owner of the Site registered under title number WYK530809.
- 3 The Developer will be working in partnership with the Connect Housing Association Limited as Registered Provider to observe and deliver the planning obligations via a development agreement and lease of the Development Site and is in contract with the Owner conditional on planning to enter into the lease
- 4 By the provisions of Section 106 of the Town and Country Planning Act 1990 ("the Act") any person interested in land in the area of a local planning authority may by deed or otherwise enter into a planning obligation in respect of the land.
- 5 The Council would not have been willing to grant the Planning Permission but for this Deed because of the need to:
 - 5.1 either provide on-site 0.8 Habitat Units in the vicinity of the Site in accordance with the Council's Biodiversity Net Gain Technical Advice Note for future maintenance and management for 30 years or pay to the Council an Off-site Habitats contribution in the sum of £18,538 (eighteen thousand five hundred and thirty-eight pounds);
 - 5.2 secure Affordable Housing to those with a Local Connection to the Locality and In Need Of Affordable Housing;
 - 5.3 secure the future maintenance and management responsibilities of surface water drainage infrastructure within the Site until adoption.

NOW IT IS HEREBY AGREED as follows:-

1 INTERPRETATION

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

Affordable Housing means subsidised housing that will be available to persons who cannot afford to rent or buy housing generally on the open market and which has the same meaning given to in Annex 2 of the NPPF.

Affordable Rent means a rent which is no more than 80% of the local market rent (including service charges, where applicable) calculated using RICS approved valuation methods.

Affordable Rented Dwellings means all the Dwellings on the Site which are to be provided in accordance with the following conditions (i) at an Affordable Rent (ii) the Landlord is a Registered Provider and (iii) which complies with the definition of 'Affordable Housing for Rent' in Annex 2 of the NPPF;

BEMP means a biodiversity management and enhancement plan detailing:

- (a) the biodiversity habitat creation and/or enhancement proposed as part of the Development; and
- (b) a detailed management and maintenance regime to secure such biodiversity habitat for a period of 30 years;

Biodiversity Site Assessment means an assessment report focussing on identifying whether the Biodiversity Requirement can be delivered on-site and if so to include a BEMP

Biodiversity Requirement means 0.8 Habitat Units

Chargee means 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 Dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver.

Close Family means a spouse, civil partner, partner, parent, son, daughter, sibling and grandparent

Commencement of Development means the undertaking of a material operation as defined in Section 56(4) of the 1990 Act and forming part of the Development other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, construction of site accommodation compounds erection of any temporary means of enclosure, the temporary display of site notices or advertisements in respect of the Development and "Commence Development" shall be construed accordingly

Development means the development of the Site in pursuance of the Planning Permission.

Drainage Maintenance and Management Plan means a detailed management plan setting out measures to be undertaken to ensure the Drainage Works are properly maintained and managed.

Drainage Works means the sustainable drainage measures to be provided by the Developer as part of the Development.

Dwellings means the dwellings on the Site constructed in pursuance of the Planning Permission.

Expanded Locality means an area covering the HD91 postcode as demonstrated on Plan 3.

Habitat Unit means the biodiversity net gain calculation used to measure habitat creation

Homes England means 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.

Index means the BCIS All-In Tender Price Index

Index Linked means an increase 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).

In Need Of Affordable Housing means a person who has demonstrated they are unable to meet their housing needs in the existing local housing market without assistance, as assessed by the Registered Provider in accordance with their lettings policy.

Local Connection means a person or a member of their household having a connection to the Locality (or the Expanded Locality if paragraph 1.5 of Schedule 3 applies) by reason of the following:

(a) currently lives in the Locality as their primary residence and has done so for the past 3 years; or

- (b) previously lived in the Locality as the primary residence for at least 5 years cumulatively in the past 10 years; or
- (c) has Close Family ordinarily resident in the Locality and that Close Family has been ordinarily resident in the Locality for the past 3 years; or
- (d) needs to move to the Locality to receive or provide care or support; or
- (e) is employed on a permanent basis for more than 16 hours per week in the Locality or is about to take up an offer of permanent employment in the Locality; or
- (f) needs to move to the Locality to be close to local facilities because of a specific identified need; or
- (g) has some other connection to the Locality as approved by the Council in writing.

Locality means the Scholes built-up area, as defined within the applicant's housing needs survey as shown on Plan 2.

Market Housing means a Dwelling which is not restricted to any form of Affordable Housing which can be sold or rented on the open market for an open market value and in respect of which there is no restriction on the persons who may occupy such Dwelling.

Marketing Strategy means a strategy to be approved by the Council pursuant to Paragraph 1.1 of Schedule 3 of this Deed and to detail the marketing measures to be undertaken to let the Dwellings to persons who are In Need Of Affordable Housing.

NPPF means the National Planning Policy Framework published by the Ministry of Housing, Communities & Local Government dated September 2023 (or any document that amends, replaces or supersedes this document).

Occupation and Occupied means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and **Occupy** and **Occupants** shall be construed accordingly.

Off-site Habitats Contribution means a financial contribution in the sum of £18,538 (eighteen thousand five hundred and thirty-eight pounds) towards the provision of an off-site habitats area

Plan 1 means the plan labelled as such and annexed hereto.

Plan 2 means the plan labelled as such and annexed hereto.

Plan 3 means the plan labelled as such and annexed hereto.

Planning Permission means the planning permission to be granted under Ref No. 2022/62/92406/W for the Erection of 10 affordable dwellings, with access from Chapelgate and associated works at Land Adj 67 Chapelgate Scholes Holmfirth HD9 1SX

Protected Tenant means:

- (a) any tenant who has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; or
- (b) any tenant who has exercised any statutory right to buy (or equivalent contractual or voluntary right) in respect of a particular Affordable Housing Unit; or
- (c) any tenant who 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; or
- (d) any tenant who has acquired a Dwelling on a shared ownership basis from 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) and has acquired all the remaining equity in the Dwelling from the Registered Provider meaning that it is the absolute owner;

(e) any person or body deriving title through or from any of the parties mentioned in (a) to (d) above.

Registered Provider means a registered provider of social housing as defined in Section 80(2) of the Housing and Regeneration Act 2008 or any company or other body approved by Homes England for the receipt of social housing grant as may be proposed by the Owner and/or the Developer and approved by the Council.

Site means the land on the south west side of Chapelgate White Wells, Scholes Huddersfield HD9 1SX shown outlined in red on Plan 1

Statutory Undertaker means 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.

Water Company means Yorkshire Water Services Limited whose registered office is at Western House, Halifax Road Bradford BD6 2SZ and its statutory successors in title.

2 GENERAL

- 2.1 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.
- 2.2 References to clauses paragraphs and schedules are references to clauses paragraphs and schedules in this Deed.
- 2.3 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.
- 2.4 Any words denoting natural person shall include legal persons and vice versa.
- 2.5 The expression "the Owner" and the "Developer" shall include its respective successors in title and assigns.
- 2.6 The expression "the Council" shall include any successor authority to its statutory functions under the 1990 Act.
- 2.7 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.
- 2.8 Clause headings and the contents list shall not affect the construction of this Deed.
- 2.9 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.
- 2.10 Any covenant by the Owner or the Developer 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.

3 STATUTORY BASIS

- 3.1 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 Owner and the Developer any person claiming or deriving title to the Site (or any part or parts thereof) through or under the Owner or the Developer as if that person had been an original covenanting party to this Deed.
- 3.2 This Deed is enforceable by the Council as the local planning authority for the purposes of the 1990 Act.

- 3.3 To the extent that the covenants, restrictions and requirements in this Deed are not made under section 106 of the 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.

4 COVENANTS

- 4.1 The obligations in this Deed are conditional upon grant of the Planning Permission and save where otherwise stated upon the Commencement of the Development
- 4.2 The Developer covenants with the Council and the Owner to observe the restrictions and perform the obligations contained in Schedules 2 to 4 in relation to the part of the Site in their ownership.
- 4.3 The Council covenants with the Developer to comply with the obligations in Schedule 5 to this Deed.

5 EXCLUSIONS & RELEASE

- 5.1 No person shall be liable for breach of any covenant contained in this Deed:
- 5.1.1 after he shall have parted with all interest in the Site or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest;
 - 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 (but not any other part of the Site).
- 5.2 If the Planning Permission expires or is revoked or otherwise withdrawn or modified without the consent of either of the Developer this Deed shall cease to have effect from the date of the said expiration revocation withdrawal or modification (as the case may be) but without prejudice to any rights liabilities or obligations which may have been incurred by or shall have accrued to any party prior to such date.
- 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 over 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 shall 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.
- 5.4 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission granted (whether or not on appeal) after the date of this Deed.

6 REGISTRATION

- 6.1 This Deed is a local land charge and shall be registered as such.

7 NON-FETTER AND 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 and the Developer 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:
- (a) in the case of disputes relating to land or valuation matters the President of the Royal Institution of Chartered Surveyors;
 - (b) in the case of disputes relating to planning or design matters the President of the Royal Town Planning Institute; or
 - (c) 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:
- (a) 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;
 - (b) 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;
 - (c) the Expert shall disregard any representations made out of this time; and

- (d) 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;
 - (e) 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 Owner or the Developer to comply with that obligation again in respect of a planning permission granted under Section 73 of the 1990 Act.

13 DUTY TO ACT REASONABLY

- 13.1 All parties to this Deed acknowledge that they are under a duty to act reasonably and (without prejudice to generality) if any agreement, consent, approval or expression of satisfaction is due by one party to another under the terms of this Deed the same shall not be unreasonably withheld or delayed.

13.2 The Council covenants that where any details, scheme, strategy or plan is submitted for its approval under this Deed it shall act reasonably and not unreasonably withhold or delay its approval.

14 INDEXATION

14.1 All Contributions payable to the Council shall be Index Linked.

14.2 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 Owner and/or the Developer in writing.

15 INTEREST ON LATE PAYMENTS

15.1 Any amount due from the Owner and/or the Developer 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 from the date such payment was due to the date of actual payment.

16 THIRD PARTY RIGHTS

16.1 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.

17 NOTICES

17.1 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).

17.2 Any notice shall be deemed to have been received:

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

17.2.2 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.

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.

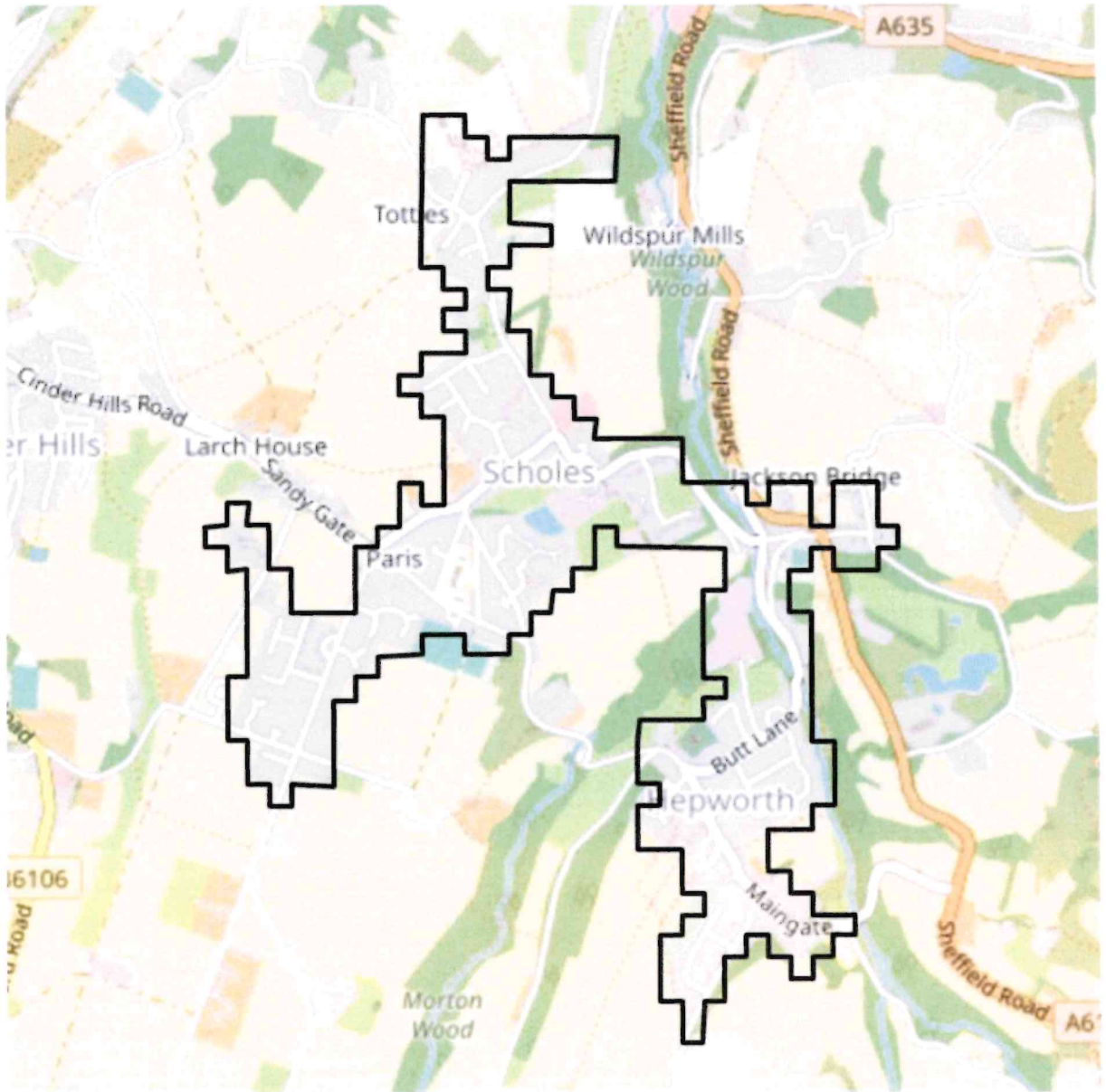
18 COSTS

18.1 The Council acknowledges that the Developer 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.

19 JURISDICTION

19.1 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.

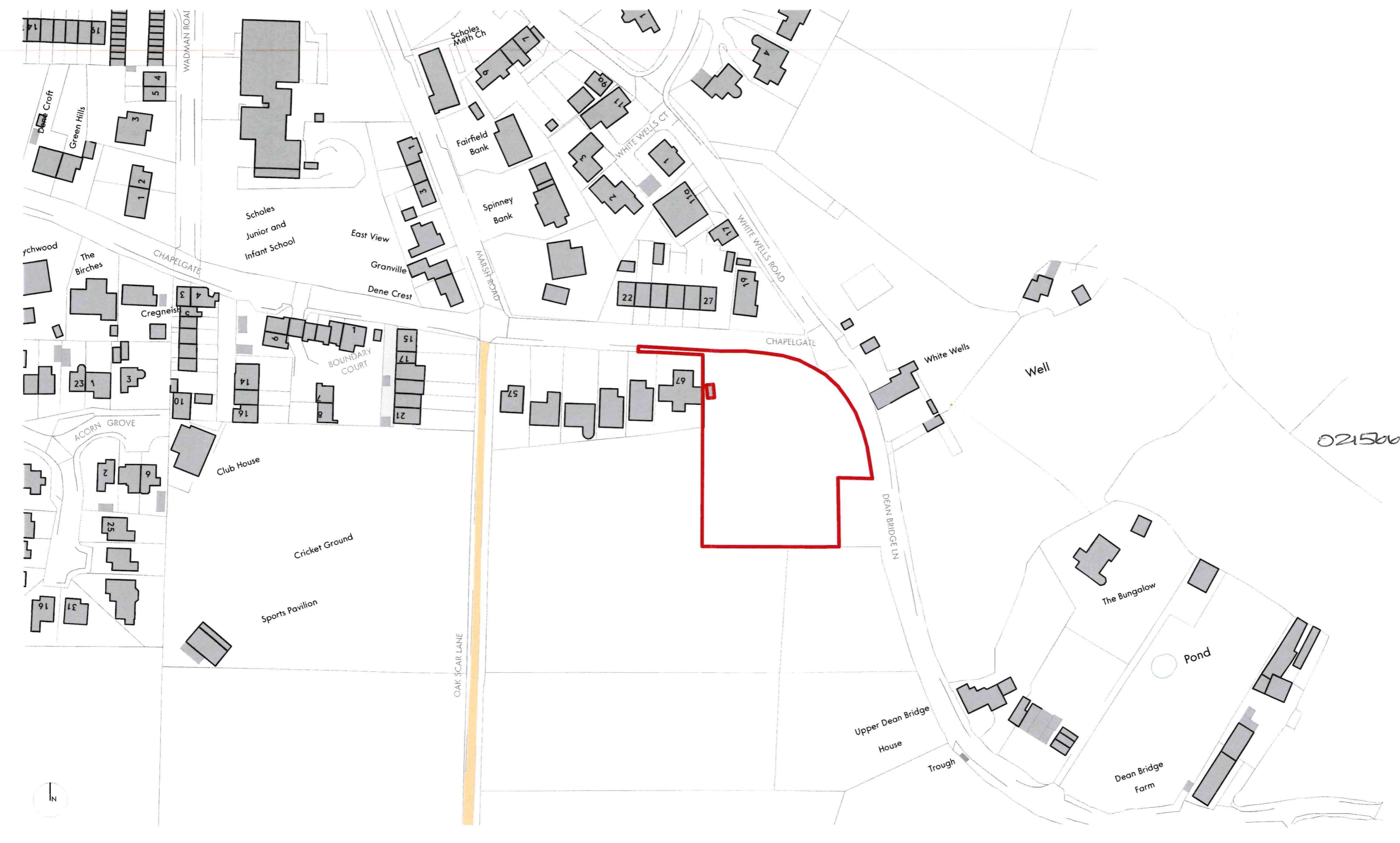
SCHEDULE 1 – PLANS



Plan 2



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This drawing is the property of GWP Architects. Copyright is reserved by them and the drawing is to be used only for the project for which it is prepared. It is not to be used for any other project, in whole or in part, without the consent in writing of GWP Architects.

All drawings and specifications shall be read in conjunction with the project brief and any other documents which may be referred to in the project brief. Any discrepancy between the drawings and specifications shall be referred to the Project Director.

All work to be carried out in accordance with current Building Regulations.

Contractors must verify all dimensions at the job before commencing any work or making any drawings.

Written instructions should be taken. Do not scale off drawings. Do not take a digital picture from this drawing.

Any discrepancies to be reported to the Architect.

0 10m 20 30 40 50

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KEY

— Site Development Boundary

PLAN 1

PC2	17.08.22	Site Boundary Updated	CT	DT
PC1	12.04.22	First Issue	CT	DT
Rev	Date	Comment	Dr	Ch

44621212

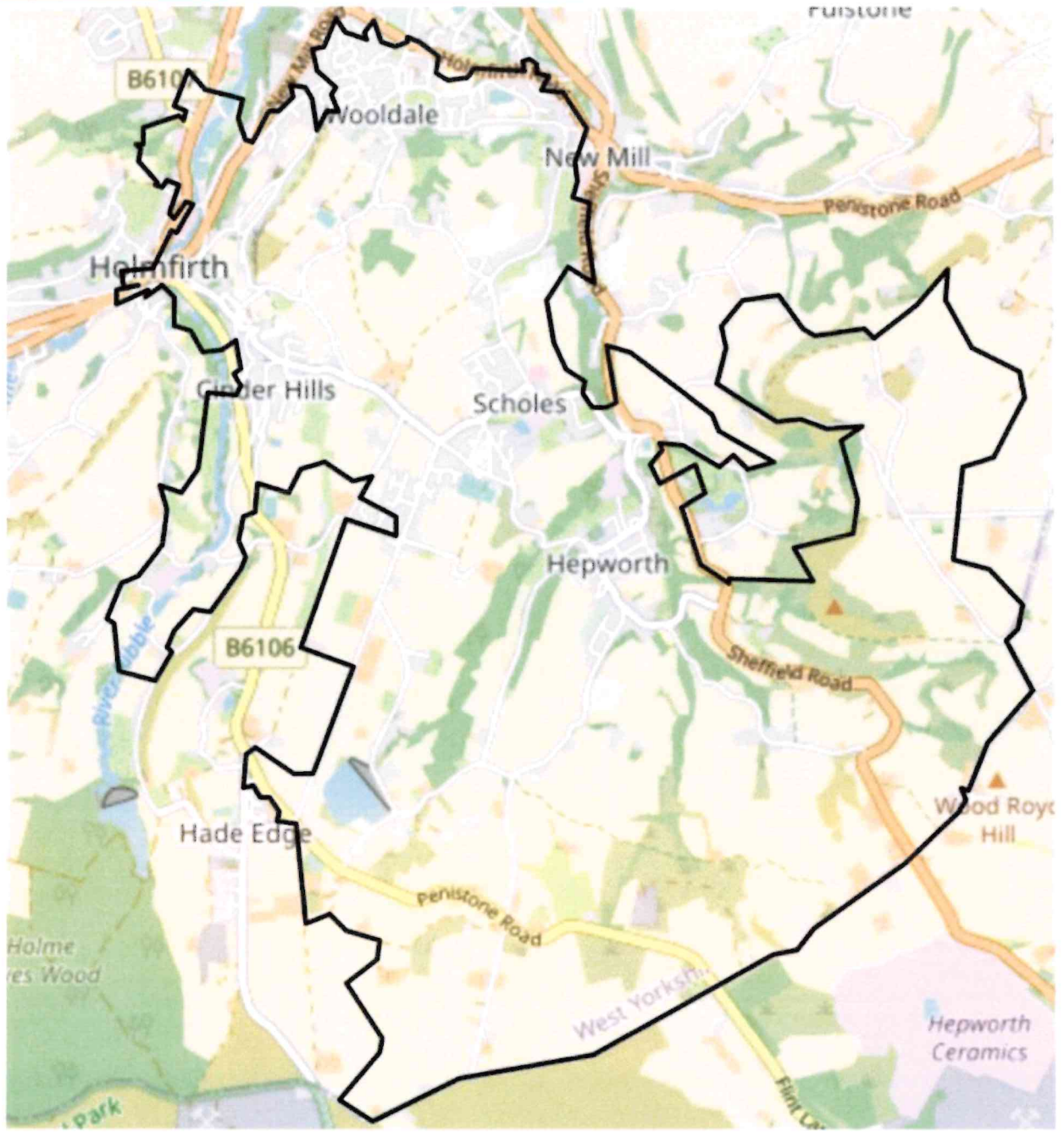
Chippings Site, Scholes



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Scale 1:1250@A3	Revision P02
Drawn/Checked CI / RI	First Issue 12.04.22
Drawing Status S2 WIP	

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Plan 3



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SCHEDULE 2 - HABITATS

1. HABITATS OBLIGATIONS

Biodiversity Assessment

- 1 The Owner and/or the Developer shall not Commence Development until the Biodiversity Site Assessment (including BEMP if appropriate) has been submitted to and approved in writing by the Council.
- 2 If the Biodiversity Site Assessment indicates that the Biodiversity Requirement can be delivered in full on the Site, or can be partially delivered on the Site, then the Owner and/or the Developer shall deliver the Biodiversity Requirement in line with the approved Biodiversity Site Assessment and BEMP and shall comply with the approved Biodiversity Site Assessment and BEMP for a period of 30 (thirty) years.
- 3 The Owner and/or the Developer shall not cause or permit Occupation of more than 7 (seven) Dwellings until any Biodiversity Requirement to be delivered on the Site has been provided in accordance with the approved Biodiversity Site Assessment and BEMP PROVIDED ALWAYS THAT this restriction on Occupation shall not apply where landscaping and planting arrangements are outstanding in terms of the Biodiversity Requirement that can only be delivered in the next planting season following the date that the relevant Occupation trigger is reached
- 4 If the Biodiversity Site Assessment indicates that the Biodiversity Requirement cannot be provided on the Site, or can be partially delivered on the Site, then Paragraphs 5 to 6 shall apply only to those elements of the Biodiversity Requirement that cannot be delivered on-site.

Biodiversity Contribution

- 5 In the event that the approved Biodiversity Site Assessment demonstrates that the Biodiversity Requirement cannot be delivered on the Site in its entirety then the Owner and/or the Developers shall not cause or permit the Occupation of any of the Dwellings on the Site until the Off-Site Habitats Contribution has been paid to the Council;
- 6 In the event that the approved Biodiversity Site Assessment demonstrates that the Biodiversity Requirement can be partially provided on the Site the Owner and/or the Developer shall be entitled to pay such sum as agreed pursuant to the approved Biodiversity Site Assessment and shall not Commence Development until this contribution has been paid to the Council.

SCHEDULE 3 - AFFORDABLE HOUSING

1. AFFORDABLE HOUSING

- 1.1. Prior to marketing the Dwellings for letting, the Owner and/or the Developer shall submit to the Council the Marketing Strategy for the Council's approval and the Owner and/or the Developer shall not commence marketing unless and until such Marketing Strategy has been approved by the Council such approval not to be unreasonably withheld or delayed and thereafter the Dwellings shall be let according to the terms of the Marketing Strategy.
- 1.2. The Owner and/or the Developer covenants not to let or otherwise permit the letting of any of the Dwellings on the Site to any person(s) other than in accordance with the following:-
 - 1.2.1. At an Affordable Rent; and
 - 1.2.2. The rent at each re letting shall be calculated prior to the grant of any new tenancy to ensure that it is an Affordable Rent.
- 1.3. The Owner and/or the Developer shall market the Dwellings for:
 - 1.3.1. A period of 3 (three) months on initial lettings; and
 - 1.3.2. A period of 4 (four) weeks on subsequent lettings.
- 1.4. The Owner and/or the Developer shall offer tenancies only to applicants with a Local Connection to the Locality and in the event that there are more applicants with a Local Connection to the Locality than there are Dwellings, shall apply its own policies and procedures in assessing those applicants who are most In Need of Affordable Housing.
- 1.5. In the event that having offered tenancies to all those applicants with a Local Connection to the Locality there remain Dwellings which have not been allocated, then the Owner and/or the Developer shall be permitted to offer tenancies to applicants with a Local Connection to the Expanded Locality.
- 1.6. The Owner and/or the Developer shall ensure that every applicant to be offered a tenancy pursuant to paragraph 1.4 and 1.5 is a person who is In Need of Affordable Housing.
- 1.7. The Owner and/or the Developer shall maintain a comprehensive record of the marketing, shortlisting and allocations decisions made in respect of the Dwellings.
- 1.8. Prior to formally offering a tenancy pursuant to paragraphs 1.4 and 1.5 the Owner and/or the Developer shall submit confirmation to the Council that the applicant is a person with a Local Connection to the Locality (or a person with a Local Connection to the Expanded Locality as the case may be) and shall not permit Occupation of the relevant Dwelling until such time as the Council has provided its written approval PROVIDED THAT this paragraph 1.8 shall not apply in the event that the Council has not responded to the Owner and/or the Developer within 5 (five) working days of receipt of the same.
- 1.9. The 5 (five) working day period referred to in paragraph 1.8 above shall be extended to 10 (ten) working days in the event that the Council should notify the Owner and/or the Developer in writing within the 5 (five) working day period outlined in paragraph 1.8 above that it requires further information before issuing its written approval and the Owner and/or the Developer shall act diligently and expeditiously in providing any further information requested by the Council.

2. EXCLUSION CLAUSE

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

- 2.1.1. any Protected Tenant or any mortgagee or chargee, receiver or administrative receiver of a Protected Tenant
 - 2.1.2. any Chargee (subject only to paragraph 2.2) or
 - 2.1.3. an individual purchaser of a Dwelling from a mortgagee or chargee, pursuant to any default by an individual mortgagor of an individual Dwelling or any person deriving title from that individual mortgagor.
- 2.2. The provisions of this Schedule 3 shall not be binding on a Chargee PROVIDED THAT:
- 2.2.1. such Chargee has first given written notice to the Council of its intention to dispose of the relevant Dwelling(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 Dwelling(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
 - 2.2.3. if such disposal has not completed within the said three month period the Chargee shall be entitled to dispose of the Dwelling(s) free from the obligations in this paragraph 3 of this Schedule 3 which thereafter will determine absolutely in respect of such Dwelling(s).

SCHEDULE 4 - SUDS

1 DRAINAGE WORKS

- 1.1 Prior to the Occupation of any Dwelling on the Site the Developer shall submit to the Council for approval the Drainage Maintenance and Management Plan (such approval not to be unreasonably withheld or delayed).
- 1.2 In the event that the Council considers (acting reasonably) that it is unable to approve the submitted version of Drainage Maintenance and Management Plan then the Developer shall submit a revised version to the Council, taking into account any comments that the Council has provided, for their approval. Such procedure shall be repeated as often as is necessary until the Council approve the Drainage Maintenance and Management Plan.
- 1.3 The Developer covenants with the Council to fully comply with the approved Drainage Maintenance and Management Plan and at all times thereafter to manage and maintain the Drainage Works provided in accordance with the details set out in the approved Drainage Maintenance and Management Plan until the date that the Drainage Works are adopted by the Water Company
- 1.4 The Developer 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 Drainage Works.
- 1.5 Until such time as the Drainage Works are adopted the Council may upon reasonable notice enter the Site in order to check and monitor compliance with the approved Drainage Maintenance and Management Plan.
- 1.6 In the event that the Council considers (acting reasonably) that the requirements of the approved Drainage Maintenance and Management Plan are not being complied with then the Council may serve a notice on the Developer requiring the Developer to undertake such remedial steps as are specified in the notice.
- 1.7 The Developer shall comply with the terms of any notice served by the Council pursuant to paragraph 2.5 above within 28 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.
- 1.8 The approved Drainage Maintenance and Management Plan shall only be varied or amended with the written approval of the Council.
- 1.9 The Developer shall ensure that the Council is provided with up to date contact details (including a contact name, address, telephone number and e-mail address) of any third party or person who is engaged or contracted to carry out any maintenance or management works in respect of the Drainage Works
- 1.10 In the event that the Water Company ultimately adopt the drainage system then the provisions of this paragraph 1 of this Schedule 4 shall no longer apply and cease to have effect.

SCHEDULE 5 - COUNCIL'S COVENANTS

- 1.1 The Council shall apply and appropriate the Off Site Habitats Contribution towards an off-site habitats area within the vicinity of the Development and not for any other purpose.
- 1.2 In the event that the Off Site Habitats Contribution or (or any part or parts thereof) has not been expended within ten (10) years of the date of payment thereof then the sum or sums not expended plus any interest accrued shall be repaid to the party that paid it.
- 1.3 Upon the reasonable written request of the Developer after any of the Planning Obligations have been performed the Council will issue written confirmation thereof and will thereafter enter a note in its register of local land charges to such effect.

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

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



021266

Assistant Director/Authorised Signatory

EXECUTED AS A DEED by affixing the Common)
Seal of HOLME VALLEY COMMUNITY LAND TRUST LIMITED)

in the presence of:-

Authorised Signatory

Authorised Signatory

EXECUTED AS A DEED on behalf of the trustees of **HOLME VALLEY LAND CHARITY** by
and being two of their number
under an authority conferred pursuant to section 333 of the Charities Act 2011

Trustee Signature.....

Trustee Name.....

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation:

Trustee Signature

Trustee Name.

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation: