

DATED 27 November 2024

THE COUNCIL OF THE BOROUGH OF KIRKLEES (1)

and

YORKSHIRE COUNTRY PROPERTIES (SHEPLEY)

LIMITED (2)

and

TOGETHER COMMERCIAL FINANCE LIMITED (3)

DEED OF VARIATION

Under Sections 106 and 106A of the Town and Country Planning Act 1990

relating to land east of Abbey Road North

Shepley

LPA Reference: 2024/90991

THIS DEED is made the 27 day of November 2024

BETWEEN:

- (1) **THE COUNCIL OF THE BOROUGH OF KIRKLEES** of Civic Centre, 3 Market Street, Huddersfield, HD1 1WG ("**Council**");
- (2) **YORKSHIRE COUNTRY PROPERTIES (SHEPLEY) LIMITED** (company number 09207247) whose registered office is at of Permanent House, 1 Dundas Street, Huddersfield HD1 2EX 51 ("**the Owner**"); and
- (3) **TOGETHER COMMERCIAL FINANCE LIMITED** (company number 2058813) whose registered office is at Lake View, Lake Side, Cheadle SK8 3GW ("**the Chargee**")

hereinafter called the "**Parties**" and reference to "**Party**" shall be construed accordingly.

1. DEFINITIONS

1.1 In this Deed the following words and expressions shall have the following meanings: -

- "**Deed**" means this deed of variation;
- "**First Deed of Variation**" means the deed of variation to the Principal Agreement entered into by (1) the Council and (2) Yorkshire Country Properties (Shepley) Limited and (3) Paragon Development Finance Limited dated 25th August 2022;
- "**Second Application**" means a further application (allocated LPA reference: 2021/94470) for planning permission;
- "**Second Permission**" means the planning permission granted by the Council pursuant to the Second Application subject to the prior completion of the First Deed of Variation;
- "**Original Consent**" means the planning permission granted by the Council on 5th October 2021 under LPA reference 2020/93358;

- “Principal Agreement”** means the deed entered into by (1) Keith Philip Whiteoak Vivien Margaret Whiteoak and James Frederick Hildred Horn (2) Yorkshire Country Properties (Shepley) Limited and (3) the Council dated 1st October 2021 as varied by the First Deed of Variation;
- “Section 73 Application”** means the application under Section 73 of the 1990 Act to amend Condition 2 (approved plans), and 28 (materials) of previous permission 2020/93358 for erection of 52 dwellings – revisions to layout, house types, unit size mix and external materials allocated with LPA reference: 2024/90991;
- “Section 73 Permission”** means the planning permission to be granted by the Council pursuant to the Section 73 Application subject to the prior completion of this Deed;
- “Chargee”** means the chargee listed in this Deed which has the benefit of a charge over the relevant part of the Site.

1.2 Where the context so requires: -

- 1.2.1 Words and expressions in this Deed shall have the same meanings as those ascribed to them in the Principal Agreement and where/if applicable the First Deed of Variation and shall be construed accordingly unless this Deed or the specific context provides otherwise;
- 1.2.2 The singular includes the plural and vice versa and words importing any gender include every gender and words importing persons includes firms, companies or corporations sole or aggregate and vice-versa;
- 1.2.3 References to any Party in this Deed shall include the successors in title and assigns of that Party and in the case of the Council shall include the successors to their statutory functions;
- 1.2.4 Where there is more than one person named as a Party and where more than one Party undertakes an obligation all such obligations can be enforced against all Parties jointly and against each Party individually unless there is an express provision otherwise;

- 1.2.5 Any covenant not to do any act or thing shall be deemed to include a covenant not to cause permit or suffer the doing of that act or thing;
- 1.2.6 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it;
- 1.2.7 References to clauses paragraphs and schedules are references to clauses paragraphs and schedules to this Deed and are for reference only and shall not affect the construction of this Deed;
- 1.2.8 Any reference to a working day shall exclude all national and Bank Holidays and any day between 27 and 31 December (inclusive) in any calendar year;
- 1.2.9 Where any expiry date falls on a Saturday or Sunday then the period concerned shall actually expire on the next business day;
- 1.2.10 To the extent that there is any conflict between the provisions of the Principal Agreement and this Deed then the provisions of this Deed shall prevail;
- 1.2.11 Any reference to an officer of the Council shall include such officer for the time being of the Council as appropriate or anyone authorised by him or the Council to act on his behalf.

2. RECITALS

- 2.1 For the purposes of the 1990 Act the Council is the local planning authority for the area in which the Site is situated and is the authority by whom the obligations hereby created are enforceable.
- 2.2 The Owner is the registered proprietor of the Site with title absolute registered at H.M. Land Registry under Title Numbers WYK526516 and YY164901.
- 2.3 The Chargee has the benefit of a legal charge against HM Registered Titles WYK526516 and YY164901 in respect of the Site

- 2.4 The Chargee acknowledges that the Site shall be bound by the provisions of this Deed subject always to clause 4.2 hereto.
- 2.5 The Principal Agreement was entered into to facilitate the grant of the Original Consent and was subsequently varied by the First Deed of Variation.
- 2.6 The Owner submitted the Second Application to the Council and entered into the First Deed of Variation to facilitate the grant of the Second Permission.
- 2.7 The Section 73 Application has been submitted to the Council to vary conditions of the Original Consent and enters into this Deed to facilitate the grant of the Section 73 Permission.
- 2.8 This Deed is supplemental to the Principal Agreement and the First Deed of Variation and subject always to clause 4.1 varies the terms of the Principal Agreement and where/if applicable the First Deed of Variation only to the extent set out in this Deed.
- 2.9 The Owner and the Chargee in their respective capacities hereby covenant with the Council that the Site shall be subject to the restrictions and provisions regulating the development and the use thereof as specified in the Principal Agreement as varied by clause 3.2 of this Deed.

3. OPERATIVE PROVISIONS

- 3.1 This Deed is made pursuant to sections 106 and 106A of the 1990 Act and is a planning obligation for the purposes thereof with the intent that it shall bind the interests of the Owner and where applicable the Chargee and their successors in title to each and every part of the Site and its assigns and to the extent that the covenants in this Deed are not made under sections 106 and 106A of the 1990 Act they are made under section 111 of the Local Government Act 1972 or section 1 of the Localism Act 2011 and all other powers so enabling.
- 3.2 Subject always to clause 4.1 the Parties hereto hereby mutually agree to vary and supplement the terms of the Principal Agreement and where/if applicable the First Deed of Variation so that the Principal Agreement and where/if applicable the First Deed of Variation shall be amended in accordance with Schedule 1 and Schedule 2 to this Deed.

4. CONDITIONALITY

- 4.1 Clause 3.2 above shall come into force on the date of the grant of the Section 73 Permission.

4.2 The Chargee consents to their interests in the Site being bound by this Deed provided that they shall not be obliged to carry out or observe the covenants or planning obligations in the Principal Agreement and the First Deed of Variation or this Deed unless and until they take possession of the Site.

5 IT IS HEREBY AGREED AND DECLARED AS FOLLOWS: -

5.1 This Deed shall be construed as one with the Principal Agreement and where/if applicable the First Deed of Variation.

5.2 The provisions of the Principal Agreement and where/if applicable the First Deed of Variation continue to be enforceable by the Council and to bind the Site in all respects save for as varied by this Deed but for the avoidance of doubt the alterations and amendments hereby made shall to the extent only that they supersede specific provisions in the Principal Agreement and where/if applicable the First Deed of Variation and this Deed and the Principal Agreement and where/if applicable the First Deed of Variation as varied by this Deed shall always be read together (changing only those things which need to be changed) with the latter to that extent predominating.

5.3 The Parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

5.4 This Deed will be registered as a local land charge by the Council.

5.5 The Owner shall pay to the Council its reasonable legal fees in the sum of £1,500 (one thousand five hundred pounds) incurred in the negotiation and completion of this Deed.

5.6 This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England.

IN WITNESS whereof the parties hereto have executed this Deed the day and year first before written

Schedule 1
Variations to Principal Agreement

PART 1 – GENERAL VARIATIONS

1. The definition of “**Affordable Dwellings**” in Clause 1.1 of the Principal Agreement shall be deleted in full and replaced with the following new definition:

“ “Affordable Dwellings” means the Affordable Housing for Rent Units the Discounted Market Value Units and the First Homes.”

2. The definition of “**Affordable Housing**” in Clause 1.1 of the Principal Agreement shall be deleted in full and replaced with the following new definition:

“ “Affordable Housing” means housing for sale or rent provided to eligible persons or households whose needs are not met by the market and in general accordance with the definitions set out in Annex 2 of the National Planning Policy Framework and any updates or amendments or supplemental guidance issued from time to time.”

3. The definition of “**Affordable Housing for Rent Units**” in Clause 1.1 of the Principal Agreement shall be deleted and replaced as follows:

““Affordable Housing for Rent Units” Means the three (3) Dwelling units numbered 38, 39 and 58 shown on the Affordable Housing and Open Space Plan being units to be made available as Affordable Housing for Rent.”

4. A new definition of “**Affordable Housing and Open Space Plan**” shall be inserted into the Principal Agreement as follows:

“ “Affordable Housing and Open Space Plan” Means the plan annexed hereto dated 18.3.24 compiled by Messrs Bowman Riley marked Proposed Site Plan – s73 and allocated with drawing number 8834-BOW-A0-00-DR-A-0108 Rev P10 which is also referred to in this Agreement as “Plan 2””.

5. A new definition of “**Commence Unit Construction**” shall be inserted into Clause 1.1 of the Principal Agreement as follows:

“Commence Unit Construction” means the actual date of commencement of construction of individual Dwelling plot units in the Development specifically identified in this Agreement which for the purposes of this Agreement shall be deemed to be begun by the carrying out of a material operation as defined in section 56(4) of the 1990 Act specifically in relation to any one of the specified individual Dwelling units in this Agreement and the term “Commencing Unit Construction” or “Commencement of Unit Construction” in relation to any of the said specified Dwelling plot units shall be construed accordingly”

7. The definition of “**Discounted Market Value Unit**” in Clause 1.1 of the Principal Agreement shall be deleted and replaced as follows:

“Discounted Market Value Unit” means the intermediate dwellings to be provided by way of discounted market value units identified as Dwelling plot units numbered 55 and 56 on the Affordable Housing and Open Space Plan to be provided in accordance with the provisions of this Deed.”

8. A new definition of “**First Home**” or “**First Homes**” is inserted into Clause 1.1 of the Principal Agreement as follows:

“First Home” or “First Homes” means as defined in paragraph 13 of the Schedule to this Agreement.”

9. The definition of “**Planning Permission**” in Clause 1.1 of the Principal Agreement shall be deleted in full and replaced with the following new definition:

“Planning Permission” means the permission granted pursuant to the Application, the Second Permission in so far as it relates to Phase 2 and the Section 73 Permission and any further permission granted under section 73 of the 1990 Act.”

10. A definition of “**First Deed of Variation**” is inserted into Clause 1.1 of the Principal Agreement as follows:

“First Deed of Variation” means the deed of variation dated 25th August 2022; and made between (1) the Council and (2) Yorkshire Country Properties (Shepley) Limited and (3) Paragon Development Finance Limited ”

11. A definition of "**Second Application**" is inserted into Clause 1.1 of the Principal Agreement as follows:

*"**Second Application**" means the application (allocated with LPA reference: 2021/94470) for planning permission.*

12. A definition of "**Second Permission**" is inserted into Clause 1.1 of the Principal Agreement as follows:

*"**Second Permission**" means the planning permission granted by the Council pursuant to the Second Application subject to the prior completion of the First Deed of Variation.*

13. A definition of "**Section 73 Application**" is inserted into Clause 1.1 of the Principal Agreement as follows:

*"**Section 73 Application**" means the application under Section 73 of the Town & Country Planning Act 1990 (reference number 2024/70/90991) to amend Condition 2 (approved plans), and 28 (materials) of previous permission 2020/93358 for erection of 52 dwellings – revisions to layout, house types, unit size mix and external materials)"*

14. A definition of "**Section 73 Permission**" is inserted into Clause 1.1 of the Principal Agreement as follows:

*"**Section 73 Permission**" means the planning permission to be granted pursuant to the Section 73 Application'*

15. "**Plan 2**" as identified in the Principal Agreement and in the First Deed of Variation shall be replaced by the Affordable Housing and Open Space Plan.

16. Clause 8.1 to the Principal Agreement shall be deleted and replaced with the following clause:

"8.1 Not to Commence Unit Construction of Dwelling plots 72 to 83 as identified on the Affordable Housing and Open Space Plan prior to Commencing Unit Construction of any one of the Affordable Housing For Rent Units as identified on the Affordable Housing and Open Space Plan".

17. The definition of “**Off-Site Open Space Contribution**” in clause 1 of the Principal Agreement shall be deleted and replaced with the following:

“ “Off-Site Open Space Contribution” means the total sum of £66,026.00 (sixty-six thousand and twenty six pounds) to be paid to the Council by the Owner in accordance with this Deed and applied by the Council towards improvement of publicly accessible open space and/or for sports and/or recreation facilities within the vicinity of the Site SAVE THAT where the separate planning application made to the Council and allocated with LPA reference number: 2024/90947 is granted by the Council (or by a Secretary of State Inspector on appeal or if applicable following call-in) then this contribution shall be reduced accordingly following calculation by the Council and the Owner”

18. Clause 4.2 of the Principal Agreement shall be deleted and replaced with the following clause:

“that prior to completion of the fifty second (52nd) Dwelling on Site the second instalment of £36,026.00 (thirty six thousand and twenty six pounds) of the Off-Site Open Space Contribution will have been paid to the Council SAVE THAT where the separate planning application made to the Council and allocated with LPA reference number: 2024/90947 is granted by the Council (or if applicable by a Secretary of State Inspector on appeal or following call-in) then this contribution shall be reduced accordingly following calculation by the Council and the Owner”

19. Clause 9.4 shall be deleted and replaced with the following clause:

“9.4 prior to the first disposal of each Discounted Market Value Unit to submit to the Council for approval details (to include a RICS valuation report (or such other valuation report as agreed between the parties (both parties acting reasonably) which must not be more than six (6) months old at the time of submission to the Council) of the Open Market Value of the relevant Discounted Market Value Unit. The Council must act reasonably when approving the Open Market Value and confirm approval of the Open Market Value within 10 (ten) working days of the receipt of the documentation from the Owner and where such confirmation of the Open Market Value shall not have been received by the Owner from the Council within the said 10 (ten) Working Days, then for the avoidance of doubt then the submitted Open Market Value shall be deemed to have been approved by the Council .”

20. Clause 10 to the Principal Agreement shall be deleted in its entirety and replaced with the following new clause 10:

“10. **FIRST HOMES UNITS**

10.1 The provisions of the Schedule shall apply to this Agreement in respect of the First Homes.

10.2 The Owner covenants with the Council not to Commence Unit Construction of Dwelling plots 72 to 83 as identified on the Affordable Housing and Open Space Plan prior to Commencing Unit Construction of any one of the First Homes as identified on the Affordable Housing and Open Space Plan. ”

PART 2 – Consequential variations to deal with replacement of Starter Homes Units with First Homes

1. As the provisions in Clause 10 of the Principal Agreement relating to ‘Starter Home Units’ are to be deleted and replaced with provisions relating to ‘First Home Units’ the following variations shall apply to the Principal Agreement:

- 1.1 the following Definitions in Clause 1.1 of the Principal Agreement shall be deleted (and where/if applicable any reference to the same within the definitions in Clause 1.1 and the operative provisions of the Agreement hereby also deleted):

“Disposal of Starter Home Unit”

“First Time Buyer for the Discounted Market Starter Unit”

“Starter Homes”

“Starter Home Units”

“Starter Home Unit Commuted Sum”

“Starter Home Unit Price”

“Starter Home Qualifying Person”

2. The provisions of the Schedule 2 to this Deed shall be inserted as the Schedule to the Principal Agreement.

Schedule 2

Schedule First Homes

1 INTERPRETATION

2 The following words and expressions below shall mean as follows (with any defined terms that shall not be defined in this Schedule specifically in relation to First Homes to be construed in accordance with those defined terms as set out in Clause 1.1 of this Agreement unless the context shall otherwise require):-

“Additional First Homes Contribution”	3 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 this Schedule, the lower of the following two amounts: (i) 30% (thirty percent) of the proceeds of sale; and (ii) the proceeds of sale less the amount due and outstanding to any First Homes Mortgagee of the relevant First Home 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 First Homes 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 a First Home other than as a First Home.
“Armed Services Member”	4 means 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 of any such organisations or any affiliate organisations within the five (5) years prior to the purchase of the First Home, a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service

“Compliance Certificate”	<p>5 means 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 applies the Eligibility Criteria (Local)</p>
“Development Standard”	<p>6 means a standard to fully comply with the following:-</p> <ul style="list-style-type: none"> (a) "Technical housing standards – nationally described space standards" published by the Department for Communities and Local Government in March 2015; (b) all national construction standards and planning policy relating to design which may be published by the Secretary of State or by the Council from time to time (c) Part 2 of Secured by Design standards published by Police Crime Prevention Initiatives Limited (d) Optional requirement M4(2) of Building Regulations 2010 (Part M) (Accessible and Adaptable Dwellings) <p>7 and the same may be amended by written agreement of the Parties in accordance with paragraph 2.2</p>
“First Homes Discount Market Price”	<p>8 means a sum which is the valuation for a First Home being the Market Value of a reasonably comparable dwelling within any development in the Kirklees Rural East Sub-Area discounted by 30% (thirty percent)</p>
“Disposal of a First Home” or “First Home Disposal”	<p>9 means 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:</p> <ul style="list-style-type: none"> (a) a letting or sub-letting in accordance with paragraph 4; (b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for Occupation except where the transfer is to a First Homes Owner; or (c) an Exempt Disposal

		and “ Disposed First Home ” and “ Disposing of First Home ” shall be construed accordingly
“ Eligibility Criteria (National) ”	10	means criteria which are met in respect of a purchase of a First Home if: (a) the purchaser is a First Time Buyer (or in the case of a joint purchase one of the joint purchasers 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) ”	11	means criteria (if any and if applicable) published by the Council at the date of the relevant disposal of a First Home which are met in respect of a Disposal of a First Home if: 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 (Local) (if any); and any or all of criteria (i) (ii) and (iii) below are met: (i) the purchaser meets the Local Connection Criteria (or in the case of a joint purchase at least one of the joint purchasers meets the 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 and/or (iii) the purchaser is (or in the case of a joint purchase at least one of the joint purchasers is) a Key Worker it being acknowledged that at the date of this agreement the Council has not prescribed any Eligibility Criteria (Local) in respect of the Disposal of a First Home.
“ Exempt Disposal ”	12	means the Disposal of a First Home in one of the following circumstances: (a) a Disposal of a First Home to a spouse or civil partner upon the death of the First Homes Owner; (b) a Disposal of a First Home to a named beneficiary under the terms of a will or under the rules of intestacy following the death of the First Homes Owner;

	<p>(c) Disposal of a First Home to a former spouse or former civil partner of a First Homes 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;</p> <p>(d) Disposal of a First Home to a trustee in bankruptcy prior to sale of the relevant Dwelling (and for the avoidance of doubt paragraph 5 shall apply to such sale)</p> <p>PROVIDED THAT in each case other than (d) the person to whom the disposal is made complies with the terms of paragraph 4.</p>
“First Home” or “First Homes”	<p>13 means any of the Dwellings identified for the purpose of this Agreement as plot numbers 36, 37, 47, 48 and 59 on the Affordable Housing and Open Space Plan 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 First Home Discount Market Price and which on its first Disposal of a First Home does not exceed the Price Cap and a reference in this Agreement to “First Home Unit” or “First Homes Units” shall be construed accordingly</p>
“First Homes Owner”	<p>14 means the person or persons having the freehold or leasehold interest (as shall be applicable in the case of flats only) in a First Home other than:</p> <p>the Developer; or</p> <p>another developer or other entity to which the freehold interest or leasehold interest (if flats and if applicable) in a First Home or in the land on which a First Home is to be provided has been transferred before that First Home is made available and is disposed of for Occupation as a First Home; or</p> <p>the freehold tenant or sub-tenant of a permitted letting under paragraph 4 of this Schedule</p>
“First Time Buyer”	<p>15 means a first-time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003</p>
“Income Cap (Local)”	<p>16 means in the case of a First Home for the purposes of this Agreement the sum of £80,000 (eighty thousand pounds); or</p>

	<p>17 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 that at the date of this Agreement the Council has not set an Income Cap (Local)</p>
<p>“Income Cap (National)”</p>	<p>18 means:</p> <p>in the case of a First Home for the purpose of this Agreement a gross annual income of eighty thousand pounds (£80,000); or</p> <p>19 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</p>
<p>“Key Worker”</p>	<p>20 means a person employed or with a confirmed job offer in such categories of employment as may be designated and published by the Council from time to time as the “First Homes Key Worker Criteria” and 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 “Key Worker” criteria which shall apply to that disposal it being acknowledged that at the date of this Agreement the Council has not designated any categories of employment as “Key Worker”</p>
<p>“Kirklees Administrative Area”</p>	<p>20 means for the purposes of establishing the “Local Connection Criteria” as defined in this Schedule the administrative boundary of the Council plus and including a distance of three (3) miles from the Kirklees Rural East Sub-Area.</p>

<p>“Kirklees Rural East Sub-Area”</p>	<p>21 means the area in which the Development is situate as identified in the Council’s Affordable Housing and Housing Mix Supplementary Planning Document (2023)</p>
<p>“Local Connection Criteria”</p>	<p>22 means either (a) or (b) below:</p> <p>(a) criteria which are met by a person who satisfies one or more of (i) to (vii) below:</p> <p>(i) currently lives in the Kirklees Administrative Area as their primary residence and has done so for the past three (3) years;</p> <p>(ii) previously lived in the Kirklees Administrative Area as their primary residence for at least five (5) years cumulatively within the past 10 (ten) years;</p> <p>(iii) has close family ordinarily resident in the Kirklees Administrative Area and that close family has been ordinarily resident in the locality for the past three (3) years;</p> <p>(iv) needs to move to the Kirklees Administrative Area to receive or provide care or support to somebody in the Kirklees Administrative Area;</p> <p>(v) is employed full time on a permanent basis for more than 16 (sixteen) hours per week in the Kirklees Administrative Area or is about to take up an offer of permanent full-time employment in the Kirklees Administrative Area;</p> <p>(vi) needs to move to the Kirklees Administrative Area to be close to local facilities because of a specific identified need;</p> <p>(vii) has some other connection to Kirklees as approved by the Council in writing;</p>

	<p>OR</p> <p>(b) 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 disposal it being acknowledged that at the date of this agreement the Council has not designated any criteria as Local Connection Criteria.</p>
"First Homes Market Value"	means in respect of the First Homes the open market value as assessed by a Valuer of Dwelling as confirmed to the Council by the First Homes 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% (thirty percent) discount in the valuation
"First Home Mortgagee"	23 means 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 if applicable all such regulated entities which provide Shari’ah compliant finance for the purpose of acquiring a First Home
"Practical Completion"	24 means the stage reached when the construction of a First Home is sufficiently complete that, where necessary, a certificate of practical completion can be issued and it can be Occupied
"Price Cap"	25 means the amount for which the First Home is sold after the application of the First Home Discount Market Price which on its first 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
"SDLT"	26 means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect

"Secretary of State"	27 means the Secretary of State for Levelling Up, Housing and Communities from time to time appointed and includes any successor in function
"Valuer"	28 means a Member or Fellow of the Royal Institution of Chartered Surveyors being a Registered Valuer appointed by the First Homes Owner and acting in an independent capacity

1. OBLIGATIONS

Unless otherwise agreed in writing by the Council, the Owner and if applicable the Chargee for and on behalf of itself and its successors in title to the Site with the intention that the following provisions shall bind the Site and every part of it into whosoever's hands it may come covenants with the Council as below save that

- 1.1 paragraphs 2, 3 and 5 of this Schedule shall not apply to a First Homes Owner;
- 1.2 paragraphs 3 and 4 of this Schedule apply as set out therein but and for the avoidance of doubt where a First Home is owned by a First Homes Owner they shall apply to that First Homes Owner only in respect of the First Home owned by that First Homes Owner; and
- 1.3 Paragraph 5 of this Schedule applies as set out therein.

2. FIRST HOMES APPEARANCE AND SPECIFICATION

- 2.1 The First Homes shall not be visually distinguishable from the Market Dwellings based upon their external appearance;
- 2.2 Unless otherwise agreed in writing between the Council and the Owner, the First Homes shall be constructed to the Development Standard current at the date of this Agreement and no less than the standard applied to the Market Dwellings;
- 2.2 The internal specification of the First Homes shall not by reason of their being First Homes be inferior to the internal specification of the equivalent Market Dwellings but, subject to that requirement, variations to the internal specifications of the First Homes shall be permitted

3. DELIVERY MECHANISM

- 3.1 The First Homes 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) (if any).

3.2 If after a First Home has been actively marketed for three (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 (National) or Eligibility Criteria (Local) (if any), paragraph 3.1 shall cease to apply.

3.3 Subject to paragraphs 3.6 to 3.10, no First Home shall be disposed of by a First Homes Disposal (whether on a first or any subsequent sale) unless not less than 50% (fifty percent) of the purchase price is funded by a first mortgage or other home purchase plan with a First Homes Mortgagee 3.4

There shall be no Disposal of a First Home (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 Dwelling 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 Home includes:

a) a definition of the "Council" which shall be: 'The Council of the Borough of Kirklees'; and

b) a definition of "First Homes Provisions" in the following terms:

"means the provisions set out in clause[s] [] of the Supplemental S106 Agreement a copy of which is attached hereto as the Annexure."

c) A definition of "**Supplemental S106 Agreement**" means the supplemental agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated [] made between (1) The Council of the Borough of Kirklees and (2) Yorkshire Country Properties (Shepley) Ltd. and (3) Together Commercial Finance Limited

d) a provision that the Property [*AS SHALL BE OR HAVE BEEN DEFINED IN THE TRANSFER*] 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 Property or any part of it other than in accordance with the First Homes Provisions

e) a copy of the First Homes Provisions in an Annexure

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 Home to 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 Home 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 [Local Authority] of [address] 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 Home (which for the purposes of this clause shall include the Owner and any First Homes Owner) may apply to the Council to Dispose of a First Home other than as a First Home on the grounds that either:

3.6.1 the Dwelling has been actively marketed as a First Home for six (6) months in accordance with Clauses 3.1 and 3.2 (and in the case of a first Disposal the six (6) months shall be calculated from a date no earlier than six (6) months prior to Practical Completion) and all 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 this paragraph 3.6.1; or

3.6.2 requiring the First Homes 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 Homes Owner undue hardship.

3.7 Upon receipt of an application served in accordance with this 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 as a First Home 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 Deed 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 Dwelling 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 setting out the further steps it requires the owner to take to secure the Disposal of a Dwelling as a First Home and the timescale (which shall be no longer than six (6) months). If at the end of that period the owner 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 (twenty eight) days issue confirmation in writing that the Dwelling may be disposed of other than as a First Home

3.10 Where a Dwelling is disposed of other than as a First Home or to the Council at the First Home Discount Market Price in accordance with paragraphs 3.8 or 3.9 above the Owner of the First Home 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 (twenty) 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

3.11.2 apply all monies received towards the provision of Affordable Housing

3.12 Any person who purchases a First Home free of the restrictions in Clause 10 and the Schedule of this Agreement 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.

4. USE

Each First Home shall be used only as the main residence of the First Homes 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 – 4.4 below.

4.1 A First Homes Owner may let or sub-let their First Home for a fixed term of no more than two (2) years, provided that the First Homes Owner notifies the Council in writing before the First Home is Occupied by a prospective tenant or sub-tenant.

A First Homes Owner may let or sub-let their First Home pursuant to this paragraph more than once during that First Homes Owner's period of ownership, but the aggregate of such lettings or sub-lettings during a First Homes Owner's period of ownership may not exceed two (2) years.

4.2 A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies the Council and the Council consents in writing to the proposed letting or sub-letting. 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:

- a) the First Homes 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 their employment
- b) the First Homes Owner is an active Armed Services Member and is to be deployed elsewhere (domestically or internationally) for the for the duration of the letting or sub-letting;
- c) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;
- d) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;
- e) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and
- f) the First Homes 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.

4.3 A letting or sub-letting permitted pursuant to paragraph 4.1 or 4.2 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.

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

5. FIRST HOMES MORTGAGEE EXCLUSION

The obligations in paragraphs 1-4 of this Deed in relation to First Homes shall not apply to any First Home Mortgagee or any Receiver (including an administrative receiver appointed by such Mortgagee or any other person appointed under any security documentation to enable such First Home 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 First Home Mortgagee or Receiver PROVIDED THAT:



THE CORPORATE COMMON SEAL of
THE COUNCIL OF THE BOROUGH OF KIRKLEES
was hereunto affixed in the presence of:

Authorised Signatory

EXECUTED AS A DEED (but not)
delivered until the date hereof by)
YORKSHIRE COUNTRY PROPERTIES)
(SHEPLEY) LIMITED)
acting by a director in the presence of: -)
Director

Signature of witness.....
Name (in BLOCK CAPITALS) OLIVER BOTTOMLEY
Address 41 DUKEWOOD ROAD, CLAYTON WEST,
HUDDERSFIELD, HD 8 9HF
.....
.....

EXECUTED AS A DEED (but not)
delivered until the date hereof by)
TOGETHER COMMERCIAL)
FINANCE LIMITED)
acting by a director in the presence of: -)
AN ATTORNEY

~~Director~~ Attorney *Tony Matthews*

Signature of witness.....
Name (in BLOCK CAPITALS) Rhiannon Potheary
Address Lake View
Lakeside
Cheadle
SK8 3GW

5.1 such First Home Mortgagee or Receiver shall first give written notice to the Council of its intention to Dispose of the relevant First Home; and

5.2 once notice of intention to dispose of the relevant First Home has been given by the First Home Mortgagee or Receiver to the Council the First Home Mortgagee or Receiver shall be free to sell that First Home at its full Market Value and subject only to paragraph 5.3 below; and

5.3 following the disposal of the relevant First Home the First Home 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.

5.4 following receipt of notification of the disposal of the relevant First Home the Council shall:

5.4.1 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

5.4.2 apply all such monies received towards the provision of Affordable Housing



House type	No. of bedrooms	No.
B	2	10
C	3	12
CI	3	6
D	3	1
D1	3	3
D2	3	1
R	3	1
R1	3	1
W	3	7
Y	4	1
U	4	4
V	4	2
L2	5	3
Total		52

House type	No. of bedrooms	No.
B	2	10
C	3	12
CI	3	6
D	3	1
D1	3	3
D2	3	1
R	3	1
R1	3	1
W	3	7
Y	4	1
U	4	4
V	4	2
L2	5	3
Total		52

Key:

- * Discounted market value units
- * Affordable housing for rent units
- * FRI homes
- Retaining walls
- Phase 2 - Parks and recreation
1.07/0.0m - 0.11 hectares
- Phase 2 - Natural and semi-natural green space
33.89m - 0.05 hectares
- Phase 2 - Amenity green space
14.96m - 0.02 hectares

021717

P10 Sub-station amended 18/10/24 KL KL
 P7 Area updated 18/10/24 KL KL
 P8 Access amended to plan 17/10/24 KL KL
 P7 Notes amended by local authority 30/09/24 KL KL
 P6 Minor amend following client comments 14/09/24 KL KL

48 comments to be verified on site, and the architect's comments of any amendments to be verified on site with the Health and Safety File, all comments to be reported to the approved Principal Designer.

YORKSHIRE
 CONSULTANTS & ARCHITECTS

Yorkshshire Country Properties
 Phase 2
 Abbey Road, Shepley

Sheet Name Proposed Site Plan - S73

Purpose of Issue: Planning Status:
 Date: 18/03/24 Checked By: CB
 Drawn By: KL Scale @ A2: 1:500
 Project No: 8834 Revision: P10
 Drawing No: 8834-BOWMANRILEY-05-DR-0108

