

Dated 07 MARCH 2025

OWENS DEVELOPMENTS LIMITED

and

HALL ROAD (ECCLESHILL) LIMITED

and

THE COUNCIL OF THE BOROUGH OF KIRKLEES

**Agreement under Section 106
of the Town and Country Planning Act 1990
Land at Healey Lane Batley WF17 8BN**

Application Reference: 2024/91760 20.6.2024 11.2.25 (Version 2)



Chadwick Lawrence
Paragon Point
Red Hall Crescent
Wakefield WF1 2DH
Ref: SLM/HAL29115-012 11.2.25

Contents

Clause	Page
1. DEFINITIONS AND INTERPRETATION.....	1
2. STATUTORY BASIS	6
3. CONDITIONS PRECEDENT	7
4. COVENANTS & DECLARATIONS	7
5. EXCLUSIONS & RELEASE.....	7
6. REGISTRATION.....	7
7. NON-FETTER & WAIVER	8
8. VAT	8
9. SEVERABILITY	8
10. CHANGE OF OWNERSHIP	8
11. DISPUTES	8
12. FUTURE PERMISSIONS	10
13. DUTY TO ACT REASONABLY.....	10
14. INDEXATION.....	11
15. INTEREST ON LATE PAYMENTS	11
16. THIRD PARTY RIGHTS	11
17. NOTICES	11
18. COSTS.....	11
19. JURISDICTION	11
Schedule 1 - Plans.....	13
Schedule 2 – Financial Contributions	17
Schedule 3 Managed Areas	19
Schedule 4 - Sustainable Urban Drainage Systems	23
Schedule 5 Affordable Housing.....	27
Schedule 6 Landscaping Scheme	29
Schedule 7 - Council's Covenants.....	31
EXECUTION.....	33

BETWEEN

- (1) **OWENS DEVELOPMENTS LIMITED** (Company Number 8602338) of 10 Manor Farm Court East Bierley Bradford BD4 6PF(**the Owner**).
- (2) **HALL ROAD (ECCLESHILL) LIMITED** Company Number 11327591 of 13 Richardshaw Business Centre Grangefield Industiral estate Pudsey Leeds LS28 6RW (**the Developer**) and
- (3) **THE COUNCIL OF THE BOROUGH OF KIRKLEES** of Town Hall, Huddersfield, West Yorkshire HD1 2TA (**the Council**);

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 Owner is the registered freehold proprietor of the Site which is registered at HM Land Registry under Title Number YY66797
- (C) The Developer has submitted the Application to the Council seeking planning permission for the Development but the Council consider that to make the proposed Development acceptable in planning terms certain matters need to be addressed.
- (D) The parties by entering into this Deed do so to create the planning obligations that the Council consider necessary in respect of the Site pursuant to section 106 of the 1990 Act and 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 shall have the following meanings:

Expression	Meaning
1990 Act	the Town and Country Planning Act 1990
Application	the application for full planning permission for the Development which was validated by the Council on 20 June 2024 under reference number 2024/91760
Affordable Housing	housing for sale or rent, for those whose needs are not met by the market
Affordable Rent	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 Dwelling	a Dwelling provided by a Registered Provider at an Affordable Rent.
Chargee	any mortgagee or chargee or any receiver (including an administrative receiver) appointed by such mortgagee or

Expression	Meaning
	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 Affordable Housing Units or any part thereof or any persons or bodies deriving title through such mortgagee or chargee or Receiver;
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 (whether or not the carrying out of that material operation constitutes a lawful beginning of the Development) but excluding any operations undertaken in connection with or associated with • demolition, • site clearance, • archaeological investigations, • ecology survey or works, • investigations for the purpose of assessing ground conditions and any resultant remediation works, • environmental investigation, • site and soil surveys, • 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.
Contributions	the Off-Site POS Contribution, the Maintenance Inspection Fee and the Highways Road Improvements Contribution.
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 comprising the erection of 19 dwellinghouses with associated car parking, landscaping and boundary treatment and other associated works as described in the Application pursuant to the Planning Permission.
Due Date	the latest date that any Contribution is to be paid in accordance with this Agreement
Dwelling	a residential unit that may be built on the Site as part of the Development.
Eligible Persons	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.

Expression	Meaning
Expert	a person appointed in accordance with clause 11 to determine a dispute.
Highways Road Improvements Contribution	£7500 in relation to traffic regulation and £35,000 in relation to traffic calming measures.
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).
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 Due Date or the date paid if earlier; and B = the figure for the Index that applied when that index was last published prior to the date of the Planning Permission (or prior to the date of calculation where this Deed provides for a figure to be calculated at a later point in time).
Landscape Scheme	the landscape scheme set out in the plan with drawing number 4622 101 Rev F a reduced copy of which is annexed at Schedule 6 of this Deed , together with such amendments as the Council may reasonably require;
Mineral Rights	rights to exploit, mine, or produce minerals and other extractive resources lying below the surface of the Site;
Managed Areas	those parts of the Site shown shaded green on Plan 2
Management Company	subject to paragraph 2.1 of Schedule 3 (where a Registered Provider becomes the owner of the entire Site) 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 for the purposes of the management of the Development and/or the Managed Areas and/or the SuDS serving the Development in accordance with the provisions of the Schedule 3 of this Deed and: (a) which is/are incorporated in England and Wales or Scotland; and (b) which has/have its/their registered office in England, Wales, or Scotland; and (c) whose primary objects permit it/them to maintain and renew the Managed Areas and/or the SuDS;

Expression	Meaning
Managed Areas Inspection Fee	the sum of £250.00 (two hundred and fifty pounds) to be paid by the Owner to the Council as a contribution towards the costs involved in inspecting the Managed Areas.
Managed Areas Scheme	the scheme for the future maintenance and management of the Managed Areas approved by the Council (together with any variation of such scheme agreed in writing from time to time between the Owner and the Council) in accordance with paragraph 1 of Schedule 3 of this Deed
Occupy	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 'Occupied' and like expressions shall be construed accordingly.
Off-Site POS Contribution	the sum of £ £50,606-00 (Fifty thousand six hundred and six pounds only) to be paid by the Owner to the Council as a contribution towards the cost of improving the public open space in the vicinity of the Site
Plan 1	the plan titled 'Site Location Plan' numbered (557)2405-GWP-00-00-D-A-(PA)-0001_Rev P02 a copy of which attached to this Deed at Schedule 1.
Plan 2	the plan titled 'S106 Managed Green Areas' numbered (557)2405-GWP-00-00-D-A-(SK)-0013_Rev P03 a reduced copy of which attached to this Deed at Schedule 1
Planning Obligations	the obligations, restrictions, conditions and stipulations on the part of the Owner set out in Schedule 2 to Schedule 5 inclusive of this Deed.
Planning Permission	a planning permission granted by the Council pursuant to the Application
Practical Completion	the stage reached when the construction of a Dwelling is sufficiently complete that, where necessary, a certificate of practical completion can be issued and it can be Occupied;
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 Dwelling; b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Dwelling; c) has acquired a Dwelling 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;

Expression	Meaning
	d) has been granted a Shared Ownership Lease by a Registered Provider (or similar arrangement where a share of the equity in a Dwelling is owned by the Tenant and a share is owned by the Registered Provider) in respect of a particular Dwelling and the Tenant has subsequently purchased from the Registered Provider all the remaining shares so that the tenant owns the entire equity in the Dwelling; 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;
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.
Rented Dwelling	a Dwelling to be provided as a Social Rented Dwelling or an Affordable Rented Dwelling.
Shared Ownership Lease	a lease of a Dwelling for a premium that is when the Dwelling is first acquired less than the open market value of the Dwelling but is at least 25% of that value but no more than 75% of that value representing the share of the equity in the Dwelling owned by the Occupier and subject to the Occupier paying a rent to a Registered Provider for that share of the equity still owned by the Registered Provider and containing provision for the Occupier to acquire a larger share of the equity than initially purchased up to 100% of that equity and 'Shared Ownership Dwelling' means a Dwelling let or intended to be let on these terms
Site	the land to the south of Healey Lane Batley WF17 8BN to which the obligations contained in this Deed relate and which is shown edged red on Plan 1.
Social Rent	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 Rented Dwelling	a Dwelling to be made available for letting at a Social Rent.
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 or other electronic communications, electricity, gas, water, or drainage or other public services and any authorised successor to any such undertaking.
SuDS	the sustainable urban drainage systems to be provided by the Owner as part of the Development;
SuDS Maintenance and Management Plan	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

Expression	Meaning
	in paragraph 1.1 of Schedule 4 to this Deed, or such plan as may be agreed in writing with the Council from time to time;
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. Unless specified to the contrary, any reference in this Deed to an enactment shall be construed as being 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, Parts Annexes and Schedules are references to clauses, paragraphs, parts, annexes and schedules in this Deed.
- 1.4. References to paragraphs within specific Parts of the Schedules are references to the corresponding paragraphs within that Part of the Schedule unless specified otherwise.
- 1.5. 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.
- 1.6. Any words denoting natural person shall include legal persons and vice versa.
- 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 (from time to time) 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 shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.11. Any covenant by the Owner 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.
- 1.12. Where any details, scheme, strategy or plan is required to be submitted for approval under this Deed and such approval is obtained, unless expressly stated otherwise nothing in this Deed shall prevent such details, scheme, strategy or plan from being resubmitted or amended by agreement between the Owner and the Council.

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 Owner and any person claiming or deriving title to the Site (or any part or parts thereof) through or under the Owner as if that person had been an original covenanting party to this Deed subject to the terms of 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. **CONDITIONS PRECEDENT**

- 3.1. This Deed is conditional upon the grant of the Planning Permission.
- 3.2. Clause 4 below is further conditional upon the Commencement of Development.

4. **COVENANTS & DECLARATIONS**

- 4.1. The Owner and the Developer covenants with the Council to comply with the Planning Obligations.
- 4.2. The Council covenants with the Owner and the Developer as appears in Schedule 7 of 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 breach occurring prior to parting with such interest and subsisting);
 - 5.1.2. if its interest in the Site or relevant part thereof is solely as the owner of the subsoil of adopted highway and/or of Mineral Rights;
 - 5.1.3. if it is a Statutory Undertaker which has an interest in any part of the Site for the purposes of its undertaking; or
 - 5.1.4. 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 Owner), 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 Owner 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 due in accordance with this Deed are expressed as being exclusive of value added tax.

8.2. If any payment is or is deemed to amount to a payment for a chargeable supply under the Value Added Tax Act 1994, the party making the payment shall pay the other an amount equal to that VAT as additional consideration on receipt of a valid VAT invoice.

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, legality 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. 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.

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

11.2.1. the Expert shall be agreed between the parties or, in default of agreement within 10 Working Days of receipt of the notice in Clause 11.1 above, shall be appointed or identified on application by any party by the following persons:

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

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

11.2.1.3. in the case of any other dispute the President of the Law Society.

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

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

11.2.3.1. if any party to the dispute wishes to make written submissions to the Expert such submissions shall be sent to the Expert and all other parties to the dispute within 20 Working Days of receipt of the Expert's Notice;

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

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

11.2.3.4. 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; and

11.2.3.5. to the extent not provided for by this clause the Expert may in his 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

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

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

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

- 11.3. The decision of the Expert shall be binding on the parties save in the case of manifest error and/or fraud.
- 11.4. 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:
- 11.4.1. any party may apply to the relevant body as per Clause 11.2.1 to discharge the Expert and appoint a replacement Expert with the required expertise; and
- 11.4.2. Clause 11.2 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 or Section 73B or Section 96A of the 1990 Act for an amendment to the Planning Permission and planning permission is granted by the Council in respect of that application then:
- 12.1.1. references to “Application”, “Planning Permission” and “Development” in this Deed shall thereafter be deemed to include and the application made pursuant to Sections 73 or 73B or Section 96A, the new planning permission granted pursuant to Section 73 or 73B of the 1990 Act and the development permitted by that permission or as changed pursuant to Section 96A respectively; 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 1990 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 or 73B or 96A 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 to comply with that obligation again in respect of a planning permission granted under Section 73 or 73B 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, confirmation, notification, specification, approval or expression of satisfaction is due by any party other than the Council 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 having regard to its duties under the 1990 Act.

14. **INDEXATION**

- 14.1. The 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 in writing.

15. **INTEREST ON LATE PAYMENTS**

- 15.1. Any amount due from the Owner to the Council under the terms of this Deed which is not paid on or prior to the Due Date shall accrue interest at the Default Interest Rate accruing from the Due Date 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 with the express consent of the Council or becomes vested in law including parties who obtain title to the Site or any part thereof from any party to this Agreement.

17. **NOTICES**

- 17.1. Any notice given to a party under or in connection with this Deed 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 and served:
- 17.2.1. if delivered by hand, at the time the notice is left at the proper address (unless received after 5pm or on a non Working Day in which case it shall be deemed received and served on 9am on the next Working Day); 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.
- 17.3. 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.

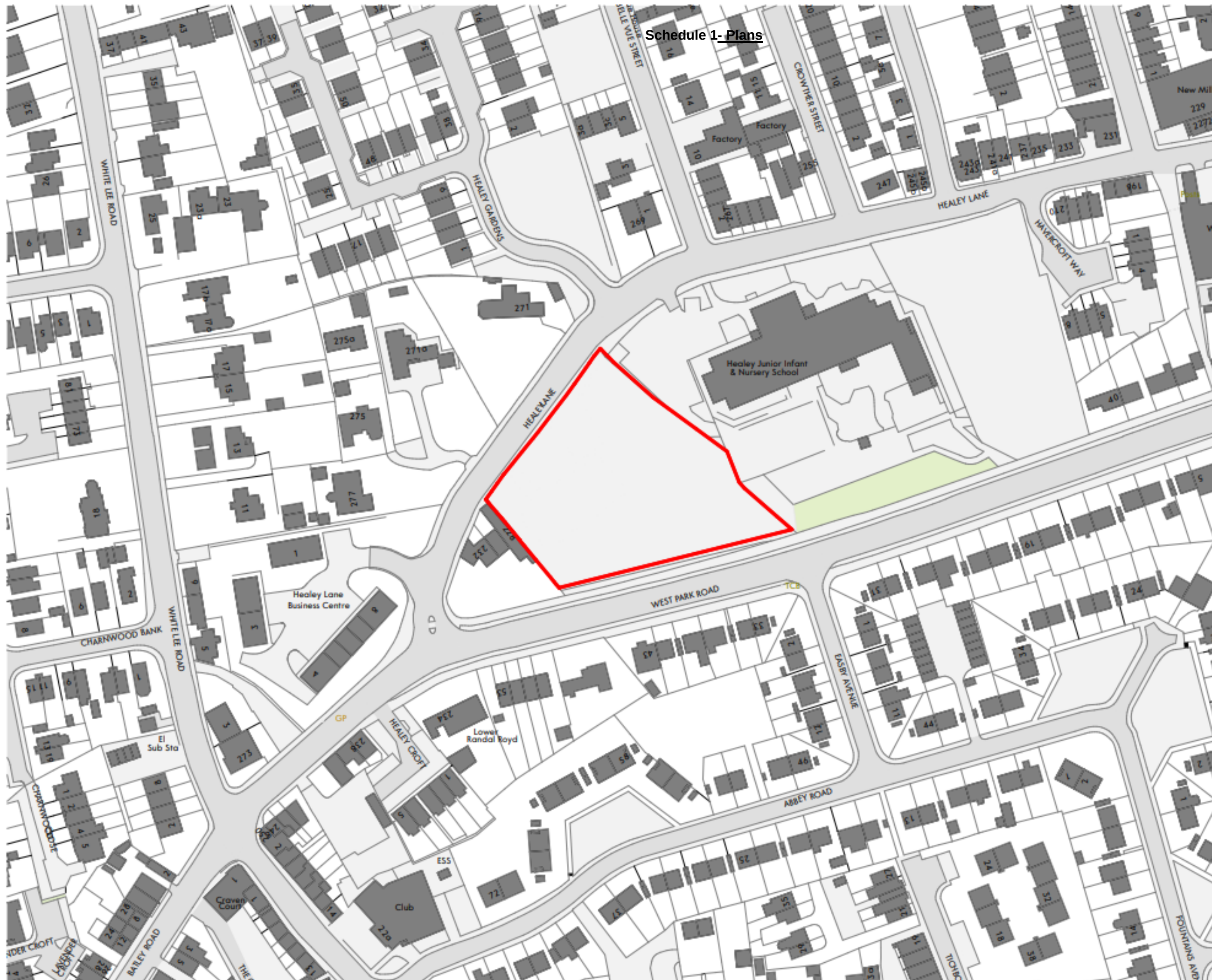
18. **COSTS**

- 18.1. The Council acknowledges that the Owner 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 the parties submit to the exclusive jurisdiction of the courts of England.

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

This drawing is the property of GWP Architects. Copyright is reserved by them and the drawing is issued on the condition that it is not copied, reproduced, printed or otherwise used in any form without the written consent of GWP Architects.

All drawings and specifications should be read in conjunction with the project brief and safety plan, any possible conflicts should be presented to the Planning Officer.

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

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

Measurements should be taken.

Do not scale off drawing.

Do not take slight dimensions from this drawing.

Any discrepancies to be reported to the Architect.



Site Development Boundary

PLAN 1

Rev	Date	Comment	Dr	Ch
P02	14.06.24	Issued for planning	DT	RT
P01	29.04.24	First Issue	JB	DT



CHARTERED ARCHITECTS
INTERIOR DESIGNERS
SPACE PLANNERS
PROJECT MANAGERS
LANDSCAPE ARCHITECTS

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02000 000 (557)2405

Job Title: Healey Lane, Barley

Drawn:

MTSPV

Site Location Plan

Name	(557)2405-GWP-00-00-D-A-(PA)-000
Scale	1:1250@A3
Drawn/Checked	JB/DT
First Issue	29.04.24
Drawing Status	WIP - S

Project Name: Healey Lane, Barley
Project Number: 5572405-000-00-00-D-A-(PA)-000



Schedule 2 – Financial Contributions

The Owner covenants as follows:

1. **OFF-SITE POS CONTRIBUTION**

- 1.1. To pay to the Council the Off-Site POS Contribution; and
- 1.2. Not to Occupy or cause or permit Occupation of more than 4 Dwellings until 50% the Off-Site POS Contribution has been paid to the Council; and
- 1.3. Not to Occupy or cause or permit Occupation of more than 9 Dwellings until the remainder of the Off-Site POS Contribution has been paid to the Council.

2. **MANAGED AREAS INSPECTION FEE**

- 2.1. To pay to the Council the Managed Areas Inspection Fee; and
- 2.2. Not to Commence Development or cause or permit the Commencement of Development until the Managed Areas Inspection Fee has been paid to the Council.

3. **HIGHWAYS ROAD IMPROVEMENTS CONTRIBUTION**

- 3.1. To pay to the Council the Highways Road Improvements Contribution; and
- 3.2. Not to Commence Development or cause or permit the Commencement of Development until the Highways Road Improvements Contribution has been paid to the Council

Schedule 3 Managed Areas

1. **MANAGED AREAS SCHEME**

- 1.1. The Development shall not be Commence until the Owner has submitted a draft Managed Areas Scheme to the Council for approval that includes:
 - 1.1.1. a timescale for the carrying out and completion of the Landscape Scheme
 - 1.1.2. proposal for the ongoing maintenance operations in respect of the Managed Areas, specifically identifying the management objective, task and the timing and frequency of the operation for all the features including any play features and/or street furniture within the Managed Areas;
 - 1.1.3. the identity of the Management Company (which, for the avoidance of doubt can be the Registered Provider who is the owner or is contracted to become the owner of the Dwellings once constructed) which is to be responsible for the ongoing management and maintenance of the Managed Areas;
 - 1.1.4. the arrangements and timing for the transfer of the responsibility for the management and maintenance of the Managed Areas from the Owner to the Management Company; and
 - 1.1.5. the funding arrangements for the management and maintenance of the Managed Areas.
- 1.2. The Owner shall invite the Council to (within 25 Working Days of the date of receipt of the draft Managed Areas Scheme from the Owner) review the draft Managed Areas Scheme and thereafter notify the Owner in writing of its approval to the draft Managed Areas Scheme or provide in writing its proposed amendments to the draft Managed Areas Scheme pursuant to which the Owner shall submit a revised draft Managed Areas Scheme incorporating those amendments as are accepted **PROVIDED THAT** if the Council does not notify the Owner of its approval or proposed amendments to the draft Managed Areas Scheme within the 25 working days referred to above it shall be deemed that the Council has approved the draft Managed Areas Scheme submitted by the Owner.
- 1.3. In the event that (after a period of not less than 25 working days following receipt from the Owner of a revised draft Managed Areas Scheme (submitted pursuant to Paragraph 1.3 of Schedule 3) the Council serves further written notice upon the Owner stating that the Council does not approve the revised Managed Areas Scheme:
 - 1.3.1. The Owner may collaboratively seek to agree a timetable with the Council for the resubmission by the Owners of a further revised draft Managed Areas scheme; and/or
 - 1.3.2. Either the Owner or the Council may invoke the provisions of clause 11 of this Deed in respect of the acceptability or otherwise of the relevant revised draft Managed Areas scheme.
- 1.4. The Owner covenants that it shall not permit the Occupation of more than 9 of the Dwellings until it has received the Council's approval or deemed approval of the Managed Areas Scheme pursuant to Paragraph 1.2 or Paragraph 1.3 of this Schedule

(or until the receipt of an Expert's determination in relation to the acceptability of the same).

2. **MANAGEMENT AND MAINTENANCE OF THE MANAGED AREAS**

2.1. Upon the Managed Areas being constructed in accordance with the Managed Areas Scheme the Owner shall notify the Council thereof whereupon the Council shall within ten (10) Working days inspect the Managed Areas and either

2.1.1. certify that the Managed Areas have been completed in accordance with the Managed Areas Scheme to the reasonable satisfaction of the Council; or

2.1.2. refuse to certify that the Managed Areas have been completed in accordance with the Managed Areas Scheme and specify what steps need to be taken to secure that the that the Managed Areas are completed in accordance with the Managed Areas Scheme in which case the Owner shall secure that those steps are taken before again inviting the Council to inspect the Managed Areas

and if the Council shall fail to inspect the Managed Areas or fail to respond as set out in sub-paragraphs 2.1.1 or 2.1.2 above it is agreed that the Managed Areas shall be deemed completed in accordance with the Managed Areas Scheme

2.2. Unless the Owner of all of the Site at that time the Managed Areas are certified or deemed complete is a Registered Provider the Owner shall transfer title for the Managed Areas to a Management Company (having first supplied to the Council a certified copy of the Memorandum and Articles of Association of the Management Company) in accordance with the Managed Areas Scheme and thereafter all further maintenance shall be carried out by the Management Company and the Owner shall have no further liability to do so PROVIDED THAT after the transfer to the Management Company it shall be obliged to:

2.2.1. maintain and manage in perpetuity the Managed Areas in accordance with the Managed Areas Scheme or any variations that may be agreed in writing from time to time; and

2.2.2. permit public access to the Managed Areas on the same terms as those set out in paragraph 2.6 below;

2.3. For the avoidance of doubt the Owner shall manage and maintain the Managed Areas in accordance with the approved Managed Areas Scheme unless or until such time as it shall be transferred to a Management Company.

2.4. No part of the Managed Areas shall be transferred or leased to any Management Company other than in accordance with an approved Managed Areas Scheme.

2.5. Responsibility for the maintenance of the Managed Areas shall not at any time be transferred to an alternative management company unless the Council has been given a minimum of 28 (twenty eight) Working Days written notice that such a transfer is to take place and has issued its approval in writing thereto, or the Expert has approved it after a referral pursuant to Clause 11.

- 2.6. The Owner (which for the avoidance of doubt in this context shall include any Management Company that has any interest in the Managed Areas) shall allow public access to the Managed Areas **SUBJECT ALWAYS** to the following provisions:
- 2.6.1. Access to the Managed Areas shall be subject to such requirements and regulations as may from time to time be imposed by the Owner 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
 - 2.6.2. The Owner may erect notices on the Managed Areas and access to the Managed Areas may be denied by the Owner for one day each year in order to prevent public rights of way or common rights coming into being;
 - 2.6.3. The Owner may close the Managed Areas or any part thereof for reasonable periods by reason of:
 - 2.6.3.1. emergency;
 - 2.6.3.2. cleansing, maintenance and repair;
 - 2.6.3.3. at the direction of the emergency services or other lawful authority; and
 - 2.6.3.4. construction activities whilst the Development is being carried out.
- 2.7. In the event that the Council considers that the requirements of the relevant Managed Areas Scheme are not being complied with then the Council may serve a notice on the Owner or the Management Company (as applicable) requiring the Owner or the Management Company (as applicable) to undertake such remedial steps as are specified in the notice.
- 2.8. The Owner or the Management Company (as appropriate) shall comply with the terms of any notice served by the Council pursuant to paragraph 2.7 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.
- 2.9. If the Owner or the Management Company (as appropriate) shall fail to comply with the terms of any notice served by the Council pursuant to paragraph 2.7 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 the Council may enter the Site in order to carry out the remedial works specified in the notice and the Owner or the Management Company (as appropriate) shall on demand pay to the Council the costs incurred by it in carrying out the remedial works

Schedule 4 - Sustainable Urban Drainage Systems

1. PROVISION OF SUSTAINABLE DRAINAGE SYSTEMS

- 1.1. The Development shall not Commence until the Owner has submitted to the Council for approval a draft SuDS Maintenance and Management Plan such SuDS Maintenance and Management Plan to contain the following:
 - 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 Flood & 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 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 Council shall certify that the SuDS is complete in accordance with the approved design.
 - 1.1.7. Details of vehicular and pedestrian access arrangements relating to the inspection and maintenance of the SuDS.
- 1.2. In the event that the Council considers that it is unable to approve the submitted draft 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.

- 1.3. In the event that the Council serves further written notice upon the Owner stating that the Council does not approve the revised draft SuDS Maintenance and Management Plan:
 - 1.3.1. the Owner may collaboratively seek to agree a timetable with the Council for the resubmission by the Owners of a further revised draft SuDS Maintenance and Management Plan; and/or
 - 1.3.2. either the Owner or the Council may invoke the provisions of clause 11 of this Deed in respect of the acceptability or otherwise of the relevant revised draft SuDS Maintenance and Management Plan.
- 1.4. The Owner covenants that it shall not permit the Occupation of any of the Dwellings until it has received the Council's approval of the SuDS Maintenance and Management Plan pursuant to Paragraph Schedule 31.2 or Paragraph Schedule 31.3 of this Schedule (or until the receipt of an Expert's determination in relation to the acceptability of the same).

2. Management of Sustainable Drainage Systems

- 2.1. The Owner covenants to fully comply with the relevant approved SuDS Maintenance and Management Plan 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 Management Company.
- 2.2. Unless the Owner of all of the Site at the time is a Registered Provider the Owner shall not Occupy nor permit the Occupation of any Dwelling until the SuDS have been adopted by a statutory undertaker or transferred to a Management Company and thereafter if a Management Company is engaged to manage and maintain the SuDS the Management Company shall so maintain and manage those SuDS in accordance with the relevant SuDS Maintenance and Management Plan in perpetuity unless and until the SuDS has been adopted by a statutory undertaker.
- 2.3. No part of the SuDS shall be transferred or leased to any Management Company unless the Management Company has been approved by the Council, after the Owner has provided the Council with details of the assets of the proposed Management Company, how the ongoing maintenance and management works will be funded, the structure of the Management Company, voting rights and such other information as the Council shall require.
- 2.4. 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.
- 2.5. 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.
- 2.6. 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 Management Company as applicable requiring the Owner or the Management Company (as applicable) to undertake such remedial steps as are specified in the notice.

- 2.7. The Owner or the Management Company (as appropriate) shall comply with the terms of any notice served by the Council pursuant to paragraph 2.6 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.
- 2.8. If the Owner or the Management Company (as appropriate) shall fail to comply with the terms of any notice served by the Council pursuant to paragraph 2.6 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 the Council may enter the Site in order to carry out the remedial works specified in the notice and the Owner or the Management Company (as appropriate) shall on demand pay to the Council the costs incurred by it in carrying out the remedial works
- 2.9. The approved SuDS Maintenance and Management Plan shall only be varied or amended with the prior written approval of the Council.

Schedule 5 Affordable Housing

1. PROVISION OF AFFORDABLE HOUSING

The Owner covenants

- 1.1. subject only to paragraphs 4 of this Schedule, not to permit the Dwellings to be Occupied other than as Rented Affordable Housing or as a Shared Ownership Dwellings; and
- 1.2. not to Occupy or permit Occupation of any Dwelling until the ownership of such Dwelling has been transferred to a Registered Provider

2. RENTED DWELLINGS

- 2.1. In the event that the Registered Provider elects to use any Dwelling as a Rented Dwelling, the provisions of this Paragraph 2 shall apply to the Occupation of that Dwelling.
- 2.2. The Dwelling shall not be Occupied otherwise than as an Affordable Rented Dwelling or as a Social Rented Dwelling.
- 2.3. Allocation of the Dwelling shall be in accordance with the Council's choice-based lettings system Choose n Move or such successor policy PROVIDED ALWAYS THAT where a Registered Provider is not a signatory to either the Council's choice-based lettings system or such successor policy then prior to Occupation of the Dwelling the Registered Provider shall offer to enter into a nominations agreement with the Council detailing how the Rented Unit will be allocated to Eligible Persons.

3. SHARED OWNERSHIP

- 3.1. The provisions of this paragraph apply to those Dwellings that the Registered Provider elects to have Occupied subject to a Shared Ownership Lease
- 3.2. Subject to paragraph 3.3 below each Shared Ownership Lease shall only be granted to an Eligible Person
- 3.3. If no Eligible Person has agreed to acquire a Shared Ownership Lease within 3 months of Practical Completion of a relevant Dwelling the Owner may grant a Shared Ownership Lease to any person subject only to the Registered Provider's own lettings policies

4. EXCLUSIONS TO THIS SCHEDULE

- 4.1. The obligations in this Schedule 4 shall not be binding on:
 - 4.1.1. 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;
 - 4.1.2. any Chargee (subject only to paragraph 4.2.1 below); or

- 4.1.3. any purchaser of an individual Dwelling 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.
- 4.2. This Schedule 5 of this Deed shall not be binding on a Chargee PROVIDED THAT:
 - 4.2.1. such Chargee has first given written notice to the Council of its intention to dispose of the relevant Affordable Housing 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 Housing 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
 - 4.2.2. 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 4 of this Deed which thereafter will determine absolutely in respect of such Affordable Housing Unit(s).

Schedule 6

Landscaping Scheme

GENERAL NOTES

1. This drawing is the copyright of tpm landscape ltd and cannot be reproduced in any form without the consent of the company.
2. This drawing is to be read in conjunction with detail landscape drawings, details and specification.
3. This drawing is to be read in conjunction with all relevant Architects', Engineer's, Specialist's, Bill of Materials and Specifications.
4. The insertion of any firm or proprietary brand on this drawing is an indication of the class or quality required and does not exclude the use of alternative materials that are equal in performance, quality and appearance, provided that they have been approved in writing by the Landscape Architect.
5. The Contractor is responsible for accurately ascertaining the position of underground services and responding to all relevant service easement requirements.
6. All dimensions are in millimetres unless stated otherwise, for the purposes of construction this drawing must not be scaled and only written dimensions used. Written and scaled dimensions to be checked on site, any discrepancies reported prior to work commencing. IF IN DOUBT PLEASE ASK.
7. All work and materials are to be in accordance with the relevant British Standards and Code of Practice.
8. All Proprietary products are to be used strictly in accordance with the manufacturer's instructions and details.

LEGEND

BOUNDARY TREATMENT

- Proposed Gate
Indicative only.
- Proposed Brick Wall for Bin Store
Colour to match with building.

ECOLOGY ENHANCEMENT

- Proposed House Sparrow Nest Chamber Box
Indicative position only. Exact location and specification please refer to Ecologist's report.
- Proposed Bird Boxes
Target Species - Blue Tits. Indicative position only. Exact location and specification please refer to Ecologist's report.
- Proposed Wall Integrated Bat Boxes
Indicative position only. Exact location and specification please refer to Ecologist's report.
- Proposed Tree Mounted Bat Boxes
Indicative position only. Exact location and specification please refer to Ecologist's report.
- Proposed Swift Bricks
Indicative position only. Exact location and specification please refer to Ecologist's report.
- Proposed Invertebrates Boxes
Indicative position only. Exact location and specification please refer to Ecologist's report.
- EV Charging locations
Shared / Private. Refer to Architect's drawing for more details.

OTHERS

SOFT LANDSCAPE

- Existing Trees Retained
Trees to be retained and protected in line with BS5837:2012. Please refer to Arboricultural Survey for more details.
- Existing Trees Removed
- Proposed Medium Size Tree
Extra heavy Standard, 14-16cm girth, 4.5-5m height
- Proposed Small Tree
Selected Standard, 10-12cm girth, 3-3.5m height or Multi-stem in 50L Container, 2-2.5m height
- Proposed Large Shrub
To be planted with 20-30L container
- Proposed Ornamental Plant
Proposed shrubs and flowering herbaceous plants to be planted as 3-5L pots at 3-5 per sq.m. with individual specimen shrubs.
- Proposed Native Shrub Mix
Bare root stock, 60-80cm, planted at 2m², in groups of 3-5 Plants. To be protected with spiral guards where necessary.
- Proposed Native Perennial Plants
To be native species herbaceous perennial, planted as 3-5L pots at 3-5 per 16m².
- Proposed Evergreen Hedgerow
100-120cm high, to be planted in 30L container with 3 per lin. m.
- Proposed Native Hedgerow Mix
To be planted as a double staggered, 80-100cm height, bare root stock protected with spiral guards
- Proposed Grass for Gardens
- Proposed Species Rich Grassland for FOS
To be WPG20 Eco Species Rich Lawn, supplied by Germinall or similar approved. To be 80-20 mix of grasses & native wildflowers.

HARD LANDSCAPE

- Proposed Block Paving
For Shared Surfaces.
Laying in 90° herringbone with Buff Colour.
- Proposed Flag Paving
For Footpaths.
450x450x50mm in Buff Colour, stacking bond.
- Proposed Tarmac
For Driveways.
Refer to Architect's specifications.

REVISION NOTES

Rev	No	Description	Date
F	001	Updated in line with latest layout	10.01.25
E	001	Updated in line with latest layout	28.11.24
D	001	Updated in line with latest layout	11.11.24
C	001	Ecology Enhancement incorporated	19.06.24
B	001	Updated in line with Ecologist's comments	12.06.24
A	001	Updated in line with latest layout	06.06.24

Client
MTSPV

Project
Healey Lane, Batley

Description
Landscape Layout

Notes
For Coordination

Scale 1:250	Drawn JW	Checked MW	Date 09.05.24
Job number 4622	Drawing number 101	Revision F	

tpm landscape
chartered landscape architects
address: 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4280/4282/4284/4286/4288/4290/4292/4294/4296/4298/4300/4302/4304/4306/4308/431

Schedule 7 - Council's Covenants

1. RECEIPT OF CONTRIBUTIONS

- 1.1. The Council shall issue separate receipts on request for any Contributions paid to it pursuant to this Deed.
- 1.2. The Council will place all sums received pursuant to this Deed in an interest bearing account (or in separate interest bearing accounts as the Council shall at its discretion decide).
- 1.3. The Council will not apply any sums received pursuant to this Deed for any purpose other than as described in this Deed.
- 1.4. The Council shall on reasonable request by the Owner provide details of the sums collected and retained, the interest accrued, the sums expended and the purposes for which the sums have been expended **PROVIDED THAT** the Council shall not be obliged to comply with more than one such request within any 12 month period.
- 1.5. The Council shall upon written request repay any Contributions or parts thereof paid to it under this Deed (plus any actual interest accrued) to the person who made the payment if not expended within 10 years from the date of payment.

2. PERFORMANCE

- 2.1. The Council shall on reasonable request by the Owner issue written confirmation that each Planning Obligation has been performed.
- 2.2. In the event that the Council is satisfied that all of the Planning Obligations have been performed, the Council will thereafter cancel all relevant entries in the register of local land charges.

EXECUTION

EXECUTED AS A DEED (but not delivered until the date hereof) by **OWENS DEVELOPMENTS LIMITED** acting by a Director in the presence of: }

Witness Signature:

Name of Witness:

Address:

EXECUTED AS A DEED (but not delivered until the date hereof by **HALL ROAD (ECCLESHILL) LIMITED** acting by a Director in the presence of: }

Witness Signature:

Name of Witness...

Address.

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** in the presence of }

Authorised Sealing Officer

