

Dated

2020

THOMAS ANTHONY GLAISTER and JOHN TOWNLEY KEVILL

and

GLADMAN DEVELOPMENTS LIMITED

**Planning obligation by unilateral undertaking under the Town
and Country Planning Act 1990 section 106**

relating to

**Land at Pear Tree Lane
Euxton
Lancashire**



Gladman House
Alexandria Way
Congleton Business Park
Congleton, Cheshire
CW12 1LB
Tel: 01260 288800

THIS **UNILATERAL UNDERTAKING** is given the day of 2020

BY:

- 1) **THOMAS ANTHONY GLAISTER** of Garbutts Ghyll, Thornton Hill, Easingwold, North Yorkshire YO61 3QB and **JOHN TOWNLEY KEVILL** of Godington Hall, Godington, Nr Bicester, Oxfordshire, OX27 9AE ("**the Owners**")

TO:

- 2) **CHORLEY BOROUGH COUNCIL** of Town Hall, Market Street, Chorley, Lancashire, PR7 1DP ("**the Council**") and
- 3) **LANCASHIRE COUNTY COUNCIL** of County Hall, Fishergate, Preston, Lancashire, PR1 8XJ ("**the County Council**")

WITH THE CONSENT OF:

- 4) **GLADMAN DEVELOPMENTS LIMITED** (company registration number 3341567) whose registered office is at Gladman House, Alexandria Way, Congleton Business Park, Congleton, CW12 1LB ("**the Promoter**")

RECITALS

- 1) The Council is the local planning authority for the purposes of the 1990 Act for the area in which the Site is situated and is the authority by which the planning obligations herein contained are enforceable.
- 2) The County Council is the local highway and education authority for the area in which the Site is situated.
- 3) The Owners are the freehold owners of the Site which is registered at the Land Registry under title number LA754982 as set out in Schedule 1.
- 4) The Owners and the Promoter have entered into the Promotion Agreement.
- 5) The Promoter submitted the Application to the Council on 8 July 2019.
- 6) The Council resolved on 12 November 2019 to refuse planning permission in respect of the Application and the Promoter has submitted the Appeal for determination by the Secretary of State.
- 7) It is agreed that this deed binds the land contained within registered title number LA754982 and a copy of the register and plan relating to that title has been provided to the Council by the Owners.
- 8) The covenants, restrictions and requirements imposed upon the Owners under this deed create planning obligations pursuant to Section 106 of the 1990 Act and the Owners are the persons against whom such obligations are enforceable in respect of the Site.
- 9) The Owners have agreed to enter into this deed as hereinafter set out in order to secure the planning obligations it creates in favour of the Council and the County Council pursuant to Section 106 of the 1990 Act in the event that Planning Permission is granted pursuant to the Appeal and agree to be bound and to observe and perform the covenants hereinafter contained.

NOW THIS DEED WITNESSES as follows:

1. Definitions and interpretation

1.1 Definitions

For the purposes of this deed the following expressions shall have the following meanings:

- 1.1.1 'the 1990 Act' means the Town and Country Planning Act 1990 (as amended) or any statute amending or modifying repealing or re-enacting the same for the time being in force.
- 1.1.2 'Affordable Housing' means Social Rented Units and Intermediate Housing provided to eligible households, whose needs are not met by the market, and who meet the Social Rent Eligibility Criteria or the Shared Ownership Eligibility Criteria (as applicable) and which remains at an affordable price for future eligible households
- 1.1.3 'the Affordable Housing Land' means the land within the Site upon which the Affordable Housing Units are to be constructed
- 1.1.4 'the Affordable Housing Scheme' means the scheme submitted in accordance with the Planning Permission which shall include details of: (i) the numbers, type, tenure and location of the Affordable Housing Units on the Site and the Market Value Notice , and (ii) the timing of the construction of the Affordable Housing and its phasing in relation to the occupancy of the Market Units, and (iii) in relation to the Social Rented Units and any Intermediate Housing Units that are to be managed by a Registered Provider the arrangements for the transfer of the Affordable Housing to a Registered Provider, and (iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the Affordable Housing, and (iv) the identity of the proposed Registered Provider
- 1.1.5 'Affordable Housing Units' means that part of the Development comprising 30% (thirty percent) of the Dwellings which shall be constructed for Affordable Housing in accordance with the approved Affordable Housing Scheme, 70% (seventy percent) of which shall be Social Rented Units and 30% (thirty percent) of which shall be Intermediate Housing Units to be erected on the Site pursuant to the Planning Permission or as may otherwise be agreed in writing with the Council and the term "Affordable Housing Unit" shall be construed accordingly
- 1.1.6 'Amenity Greenspace' means not less than 1.75 hectares of informal open space to be provided and landscaping for use by the general public on the Site as part of the

Development as shall be approved by the Council as part of the Approval (Reserved Matters)

- 1.1.7 'Amenity Greenspace Completion Notice' means a notice to be served by the Owners on the Council confirming that the Amenity Greenspace has been Substantially Completed
- 1.1.8 'Amenity Greenspace Final Certificate' means the written confirmation of the Council that the Amenity Greenspace set out in the Amenity Greenspace Completion Notice is in accordance with the approved Amenity Greenspace Management Scheme
- 1.1.9 'Amenity Greenspace Management Scheme' means a written scheme to be submitted to and approved in writing by the Council setting out the proposals for the provision of the Amenity Greenspace and the ongoing maintenance and management thereof and such scheme shall include (save where such matters are dealt with adequately by a condition or conditions on the Planning Permission):
- (a) the specification for the Amenity Greenspace; and
 - (b) the period required to complete the laying out of the Amenity Greenspace; and
 - (c) the projected schedule of maintenance outlining the details of future maintenance of the Amenity Greenspace after completion; and
 - (d) the identity of the Management Company; and
 - (e) the proposed means of funding the ongoing maintenance and management of the Amenity Greenspace in accordance with the Amenity Greenspace Management Scheme by the Owners; and
 - (f) a mechanism for the periodic review with the Council and where necessary amendment of the Amenity Greenspace Management Scheme
- 1.1.10 'Annual Infrastructure Funding Statement' means an annual infrastructure funding statement as required by regulation 121A of the CIL Regulations
- 1.1.11 'the Appeal' means the appeal to the Secretary of State following the refusal of the Application by the Council given appeal reference APP/D2320/W/20/3247136

- 1.1.12 'the Application' means the application for outline planning permission numbered 19/00654/OUTMAJ for the Development of the Site validated by the Council on 18 July 2019
- 1.1.13 'Approval (Reserved Matters) means the reserved matters approval or approvals which are obtained in respect of the Planning Permission PROVIDED THAT where more than one reserved matters approval is obtained in respect of the Development for the purpose of calculating any payments due under this deed the reserved matter approval shall mean the approval that is implemented for the purposes of section 56(4) of the 1990 Act
- 1.1.14 'BCIS All-in Tender Price Index' the BCIS All-in Tender Price Index published by the Royal Institution of Chartered Surveyors or any successor body (or such other index replacing the same) for the period in which the contribution (or any part of it) is paid
- 1.1.15 'the Borough' means the Borough of Chorley
- 1.1.16 'CIL' means Community Infrastructure Levy as defined in regulation 3 of the CIL Regulations
- 1.1.17 'CIL Regulations' means the Community Infrastructure Levy Regulations 2010 (as amended)
- 1.1.18 'Commencement of Development' means the carrying out of any material operation (as defined in the 1990 Act section 56(4)) (excluding for the purposes of this deed and for no other purpose any Preparatory Operation) in accordance with the Planning Permission and the expression 'Commence the Development' shall be construed accordingly
- 1.1.19 'Composition of the Development means the number of Dwellings referred to in the notice or notices of Approval (Reserved Matters)
- 1.1.20 'the Date of Practical Completion' means the date of issue of a certificate of practical completion by the Owners' architect or, if the Development is constructed by a party other than the Owners, by that other party's architect
- 1.1.21 'Decision Letter' means the decision letter issued by the Planning Inspector or the Secretary of State confirming whether or not the Appeal is allowed

- 1.1.22 'Development' means the development proposed in the Application and described at Schedule 2
- 1.1.23 'a Dwelling' means a residential dwelling (including a house, apartment, maisonette or bungalow) to be constructed on the Site pursuant to the Planning Permission and 'Dwellings' shall be construed accordingly
- 1.1.24 'Homes England' means the successor body to the Homes and Communities Agency created pursuant to the Housing and Regeneration Act 2008 exercising the functions in relation to the funding of affordable housing and being the regulator of social housing providers in England and includes any successor body exercising similar functions
- 1.1.25 'Housing Authority' means Chorley Borough Council
- 1.1.26 'Housing Need' means living in unsuitable housing conditions and/or being unable to afford suitable housing at open market prices
- 1.1.27 'Index Linked' means increased in accordance with the following formula:
Amount payable = the payment specified in this deed x (A/B) where:
A = the figure for the BCIS All-in Tender Price Index that applied immediately preceding the date the payment is due
B = the figure for the BCIS All-in Tender Price Index that applied when the index was last published prior to the date of this deed
- 1.1.28 'Infrastructure' has the meaning ascribed in Section 216(2) of the Planning Act 2008
- 1.1.29 'Interest' means interest at the rate of 3 per cent above the base lending rate of the Bank of England from time to time unless where otherwise expressly stated herein
- 1.1.30 'Intermediate Housing' means Affordable Housing for sale as described in paragraph d) to the definition of 'Affordable Housing' in Annex 2: Glossary to the NPPF
- 1.1.31 'Intermediate Housing Units' means unless agreed otherwise in writing by the Council Shared Ownership Units to be provided as Intermediate Housing in accordance with the approved Affordable Housing Scheme and paragraph 4 of Schedule 3 of this deed and 'Intermediate Housing Unit' shall be construed accordingly

- 1.1.32 'Market Units' means Dwellings which are not designated as Affordable Housing Units or designated to be constructed on the Self -Build and Custom Housebuilding Plots and the expression 'Market Unit' shall be construed accordingly
- 1.1.33 'Market Value Notice' means notice given to the Council included in the submission for approval of the Affordable Housing Scheme giving the Open Market Value of the Affordable Housing Units
- 1.1.34 'Management Company' means a private limited company which is incorporated in and which has its registered office in the United Kingdom of Great Britain and Northern Ireland or a charitable or non-profit making body constituted for the purpose of maintaining spaces open for public access and/or recreation and whose primary objects require it to maintain and renew the Amenity Greenspace and Provision for Children and Young People
- 1.1.35 'the NPPF' means the National Planning Policy Framework issued by the Department for Housing Communities and Local Government and dated February 2019
- 1.1.36 'to Occupy' means to occupy or permit or suffer to be occupied for the purposes permitted by the Planning Permission but does not include occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and 'Occupation' and 'Occupied' shall be construed accordingly
- 1.1.37 'Open Market Value' has the meaning ascribed to it in the Appraisal and Valuation Manual published by the Royal Institution of Chartered Surveyors
- 1.1.38 'Party' means any of the parties to this deed and 'Parties' shall be construed accordingly
- 1.1.39 'Planning Inspector' means the inspector appointed by the Secretary of State to preside over the public inquiry in relation to the Appeal
- 1.1.40 'Plan' means the plan attached hereto in the First Schedule
- 1.1.41 'the Planning Permission' means any planning permission issued by the Secretary of State or the Planning Inspector in determining the Appeal or any reserved matters approval granted pursuant to the Application or any planning permission issued

pursuant to an application under section 73 of the 1990 Act in relation to any of the conditions of the Planning Permission

1.1.42 'the Playing Pitch Contribution' means the sum of £1,599.00 (one thousand five hundred and ninety nine pounds) per Dwelling in the Composition of the Development towards the improvement of the playing pitches and ancillary facilities at Site 78 - Gillett Playing Fields

1.1.43 'Preparatory Operation' means:

a) An operation or item of work of or ancillary to:

(i) archaeological investigations; or

(ii) demolition; or

(iii) site clearance; or

(iv) site or soil investigations; or

(v) assessing ground conditions/site remediation works; or

(vi) the diversion and laying of services;

b) Temporary works including the erection of temporary fencing and hoardings

1.1.44 'Primary Cost Per Place' means the sum of £16,645.01 (sixteen thousand six hundred and forty five pounds and one penny)

1.1.45 'Primary Education Contribution' the sum equating to the number of Pupil Places Required multiplied by Primary Cost Per Place to be paid to the County Council for the provision of additional primary school places at The parish of St Laurence C of E Primary School and/or Lancaster Lane Primary School or any subsequent name or designation by which they are known

1.1.46 'the Promotion Agreement' means a promotion agreement dated 23 August 2018 in respect of the Site made between the Owners and the Promoter

1.1.47 'a Protected Tenant' means any tenant who:

1.1.47.1 has exercised the right to acquire pursuant to section 16 of the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of an Affordable Housing Unit, or

- 1.1.47.2 has exercised any statutory right to buy pursuant to Part V of the Housing Act 1985 or any statutory provision for the time being in force in respect of a Affordable Housing Unit, or
- 1.1.47.3 was granted a shared ownership lease (or similar arrangement where a share of an Affordable Housing Unit is owned by the tenant and a share is owned by the Registered Provider) by the Registered Provider in respect of an Affordable Housing Unit and has subsequently purchased from the Registered Provider all the remaining shares so that the tenant owns the entire Affordable Housing Unit
- 1.1.48 'Provision for Children and Young People' means the proposed on-Site unsupervised equipped play area of not less than 0.04 hectares to be provided as part of the Development as shall be approved by the Council as part of the Approval (Reserved Matters). The equipped play area is for play and social interaction containing at least 5 different fixed items of play equipment (including one multi-unit) which are suitable for use by children of early school age (aged 4-10 years) designed and laid out to meet relevant safety standards for play facilities, (which shall be the appropriate European standard or such equivalent standard as is agreed in writing by the Council), including suitable safety surfacing, fencing and seating for supervising adults
- 1.1.49 'Provision for Children and Young People Completion Notice' means a notice to be served by the Owners on the Council confirming that the Provision for Children and Young People has been Substantially Completed in accordance with the Provision for Children and Young People Management Scheme
- 1.1.50 'Provision for Children and Young People Final Certificate' means the written confirmation of the Council that the Provision for Children and Young People set out in the Provision for Children and Young People Completion Notice is in accordance with the approved Provision for Children and Young People Management Scheme
- 1.1.51 'Provision for Children and Young People Management Scheme' means a written scheme setting out the proposals for the provision of the Provision for Children and Young People and the ongoing maintenance and management thereof and such

scheme shall include (save where such matters are dealt with adequately by a condition or conditions within the Planning Permission):

- (a) the specification for the Provision for Children and Young People; and
- (b) the date or other means of determining the commencement of the laying out of the Provision for Children and Young People; and
- (c) the period required to complete the laying out of the Provision for Children and Young People; and
- (d) the projected schedule of maintenance outlining the details of the future maintenance of the Provision for Children and Young People after completion; and
- (e) the identity of the Management Company; and
- (f) the proposed means of funding the ongoing maintenance and management of the Provision for Children and Young People in accordance with the Provision for Children and Young People Management Scheme by the Owners; and
- (g) a mechanism for the periodic review with the Council and where necessary amendment of the Provision for Children and Young People Management Scheme

1.1.52 'Pupil Places Required' the number of primary Pupils Expected to be Resident in the Development less any Spare Places

1.1.53 'Pupils Expected to be Resident' means the sum of the number of Dwellings in the Composition of the Development with a given number of bedrooms multiplied by corresponding Pupil Yield Figure for primary education (rounded to be nearest whole number)

1.1.54 'Pupil Yield Figure' means

Total number of bedrooms in Dwelling – Pupil Yield per Dwelling					
	One	Two	Three	Four	Five or more

	0.01	0.07	0.16	0.38	0.44
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- 1.1.55 'Qualifying Self-Build and Custom Housebuilding Developer' means an individual or association of individuals (including bodies corporate that exercise functions on behalf of associations of individuals) who satisfy all of the following criteria: (i) they are aged 18 or over, (ii) they are a British citizen, a national of a EEA State other than the United Kingdom, or a national of Switzerland, and (iii) they are seeking (either alone or with others) to acquire a serviced plot of land in the Council's administrative area to commission or build a house to occupy as that individual's sole or main residence
- 1.1.56 'the Registered Provider' means a registered provider of social housing within the meaning of Section 80(2) of the Housing and Regeneration Act 2008 (including any statutory replacement or amendment) as registered with Homes England and which has not been removed from the register
- 1.1.57 'RPIX' means the Retail Prices Index excluding Mortgage Interest Payments (RPIX) published by the Office for National Statistics each month.
- 1.1.58 'Secretary of State' means the Secretary of State for Housing Communities and Local Government or any other minister or authority for the time being entitled to exercise the powers given under sections 77, 78 and 79 of the 1990 Act
- 1.1.59 'Self-Build and Custom Housebuilding Plots' means those parts of the Site which shall be provided for the purposes of the construction of 18 (eighteen) units of self-build housing as defined in section 1(A1) and A(2) of the Self-build and Custom Housebuilding Act 2015 (as amended) in accordance with the details approved by the Council pursuant to paragraph 6.1 of Schedule 3 and 'Self-Build and Custom Housebuilding Plot' shall be construed accordingly
- 1.1.60 'Self-Build Register' means the list of individuals who are registered on the Council's self and custom build register maintained pursuant to section 1 of the Self-build and Custom Housebuilding Act 2015 (as amended)

- 1.1.61 'Serviced' means having a suitable means of access to and egress from the Self -Build and Custom Housebuilding Plot to and from the public highway and having suitable connection points at the boundary of the Self-Build and Custom Housebuilding Plot to mains electricity, water, drainage and gas where gas is provided to the Development
- 1.1.62 'Shared Ownership Unit' means an Intermediate Housing Unit where (i) the lessee enters into a lease and may purchase up to 100% of the equity in the Intermediate Housing Unit (subject to the initial equity share of an Intermediate Housing Unit being restricted to between 25% and 75% of the equity in that Intermediate Housing Unit), (ii) the lessee pays a rent to the Registered Provider in respect of the remaining equity share in the property, (iii) the form of lease will follow the Homes England model lease with the rent payable calculated at no more than 2.75% of the value of the unsold equity in the Intermediate Housing Unit and (iv) the lessee has the option to Staircase so as to increase their equity share in the Intermediate Housing Unit up to 100% and to acquire the freehold or long leasehold interest (as appropriate) and 'Shared Ownership Units' shall be construed accordingly
- 1.1.63 'Shared Ownership Eligibility Criteria' means the criteria set out in Schedule 7 of this deed
- 1.1.64 'the Site' means the land against which this deed may be enforced shown for illustrative purposes only edged red on the Plan.
- 1.1.65 'Social Rent' means a rent which is charged by the Registered Provider based upon guideline target rents determined through the national rent regime based on the guidance and formulae set by Homes England on social rents
- 1.1.66 'Social Rent Eligibility Criteria' means the criteria set out in Schedule 6 of this deed
- 1.1.67 'Social Rented Units' means the housing owned by local authorities or a Registered Provider for which guideline target rents are charged and determined through the national rent regime and the term "Social Rented Unit" shall be construed accordingly
- 1.1.68 'Spare Places' means the number of primary places expected to be available to meet the needs of the Development calculated in accordance with the principles set out in

the County Council's Education Contribution Methodology – May 2016 (April 2020 Revision) annexed to this deed at Appendix 1

- 1.1.69 'Staircase' means the acquisition of an additional share or shares of the equity of an Intermediate Housing Unit by an owner occupier up to 100% after which the rent payable on the part retained by the Registered Provider shall be reduced proportionately
- 1.1.70 'Substantially Completed' means completed save in very minor respects so that the relevant works can be used for purpose and operate in the manner in which they were designed and 'Substantial Completion' shall be construed accordingly
- 1.1.71 'SUDS' means the sustainable urban drainage system for the Development as detailed in the approved SUDS Scheme
- 1.1.72 'SUDS Scheme' means a sustainable urban drainage system scheme for the Development which is to be submitted to and approved in writing by the Council in accordance with the Planning Permission
- 1.1.73 'the Travel Plan Contribution' means the financial contribution of twelve thousand pounds (£12,000.00) payable to the County Council towards the cost of enabling the County Council Travel Planning Team to provide a range of services to support the Owners in providing a travel plan in relation to the Development including:
- Appraise the travel plan(s) submitted to the Council pursuant to the Planning Permission and provide constructive feedback;
 - Oversee the progression from framework to full travel plan in line with agreed timescales;
 - Monitor the development of, implementation and review of the travel plan for a period of up to 5 years.
- 1.1.74 'Working Day' means any day on which the clearing banks in the City of London are (or would be but for strike, lockout, or other stoppage affecting such banks generally) open during banking hours Monday to Friday (inclusive) excluding national holidays

and the period 24 December -1 January inclusive and excluding Saturdays, Sundays and bank holidays and 'Working Days' shall be construed accordingly

1.2 Interpretation

- 1.2.1 Reference in this deed to any recital, clause, paragraph or schedule is, unless the context otherwise requires, a reference to the recital, clause, paragraph or schedule in this deed so numbered.
- 1.2.2 Words importing the singular meaning include the plural meaning and vice versa where the context so admits.
- 1.2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 1.2.4 Wherever an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually unless there is an express provision otherwise.
- 1.2.5 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.
- 1.2.6 References to any Party shall include the successors in title to that Party and any person deriving title under each of them and in the case of the Council and the County Council the successors to their respective statutory functions. Reference to the Housing Authority shall include the successors to its function as local housing authority for the administrative area in which the Site is located.
- 1.2.7 Headings where they are included are for convenience only and are not intended to influence the interpretation of this deed.

2. Legal basis

2.1 This deed is a planning obligation and is made pursuant to the Section 106 of the 1990 Act and the obligations contained in this deed are planning obligations for the purposes of that section insofar as they fall within the terms of sub-section 106(1).

3. Conditions, duration and enforcement

3.1 Conditions precedent

This deed is conditional upon:

3.1.1 the grant of the Planning Permission, and

3.1.2 the Commencement of Development

save for the provisions of clauses 6 (Provisions of Immediate Effect), 7 (Notices), 8 (Local Land Charge), 9 (Jurisdiction and legal effect) 13 (Notice of Change in Ownership), and save in respect of any obligations in this deed expressly requiring compliance prior to the Commencement of Development, which shall come into effect immediately upon completion of this deed.

3.2 CIL Regulations

3.2.1 If in determining the Appeal the Secretary of State or the Planning Inspector expressly states in the Decision Letter that any planning obligation contained in this deed:

3.2.1.1 is not a material planning consideration; or

3.2.1.2 can be given no weight in determining the Appeal; or

3.2.1.3 does not constitute a reason for granting Planning Permission in accordance with regulation 122 of the CIL Regulations

then subject to clause 9.2 of this deed such planning obligation shall not be enforceable pursuant to this deed and shall cease to have effect within this deed save as set out in the Decision Letter.

3.2.2 In the event that the Secretary of State or the Planning Inspector grants the Planning Permission for the Development then if at the date of the grant of the Planning

Permission an Annual Infrastructure Funding Statement has been published by the Council any contribution payable under the terms of this deed which is for an Infrastructure project or type of Infrastructure which is identified in the Annual Infrastructure Funding Statement as an Infrastructure project or Infrastructure to be funded wholly or partly by CIL shall cease to be payable.

3.3 Duration

3.3.1 If the Planning Permission shall expire before the Commencement of Development or shall at any time be quashed, revoked, otherwise withdrawn or it is, without the consent of the Owners, modified by any statutory procedure the provisions of this deed shall forthwith determine and cease to have effect (insofar only as they have not already been complied with) and any Local Land Charge registered pursuant to clause 8 shall be cancelled as soon as reasonably practicable .

3.3.2 No person shall be liable for any breach of a covenant contained in this deed after parting with all interest in the Site or that part of the Site in respect of which such breach occurred, but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.

3.4 Other development

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 (whether or not on appeal) after the date of this deed.

3.5 Non-enforcement

3.5.1 This deed shall not be enforceable against owner-occupiers or tenants of any Dwelling constructed pursuant to the Planning Permission, nor against those deriving title from such owner-occupiers or tenants or their mortgagees, except in respect of:

3.5.1.1 Schedule 3 paragraph 4 which shall remain enforceable against owner-occupiers and/or tenants of Affordable Housing Units and those deriving title from them to the extent permitted by the terms of this deed; and

3.5.1.2 Schedule 3 paragraphs 3.10(ii) and 5.3(ii) which shall remain enforceable against the owner of a Dwelling so far as there is a breach of that provision in relation to the Dwelling in which such persons has an interest.

3.5.2 The obligations contained in this deed shall not be binding upon or enforceable against any statutory undertaker or other person who acquires any part of the Site or any interest in it for the purposes of the supply of electricity, gas, water, drainage, telecommunications services or public transport services.

3.5.3 The obligations in this deed shall not be binding upon or enforceable against the relevant highway authority to whom any part of the Site is disposed of for the purposes of adoption of any roads and/or footpaths and or/cycle ways to be constructed on the Site.

3.5.4 With the exception of paragraph 3 of Schedule 3 the obligations in this deed shall not be binding upon or enforceable against the Management Company.

PROVIDED ALWAYS THAT nothing in this deed restricts or is intended to restrict the exercise at any time by the Council or the County Council of any of their statutory functions or discretions in relation to any part of the Site or otherwise.

4. Owners' Covenants

4.1 The Owners hereby covenant with the Council and so as to bind their interests in the Site to perform the obligations on its part as set out in Schedules 3 and 4.

4.2 The Owners hereby covenant with the County Council and so as to bind their interests in the Site as set out in Schedule 5.

- 4.3 The Owners shall notify the Council and the County Council in advance of the Commencement of Development and such notice shall be served within fourteen Working Days prior to the Commencement of Development.

5. The Promoter

- 5.1 The Promoter acknowledges and declares that:

5.1.1 this deed has been entered into by the Owners at its request and with its consent,
and

5.1.2 the Site shall be bound by the obligations contained in this deed.

- 5.2 Any mortgagee shall only be liable for any breach of the provisions of this deed during such period as he is a mortgagee in possession of the Site.

6. Provisions of immediate effect

- 6.1 The Promoter agrees to pay to the Council on the date hereof the sum of £1,000 (one thousand pounds) as a contribution towards the reasonable costs incurred by the Council in the negotiation of this deed.

- 6.2 The Promoter agree to pay to the County Council on the date hereof the sum of £400 (four hundred pounds) as a contribution towards the reasonable costs incurred by the County Council in the negotiation of this deed.

- 6.3 Save as provided in respect of the successors in title to the Site or any successor to the relevant statutory functions of the Council or the County Council nothing in this deed shall create any rights in favour of any third party pursuant to the Contracts (Rights of Third Parties) Act 1999.

7. Notices

- 7.1 Any notice or other written communication to be served upon a Party or given by one Party to any other under the terms of this deed shall be deemed to have been validly served or given if delivered by hand or sent by pre-paid first class or recorded delivery post to the Party upon whom it is to be served or to whom it is to be given at the address herein specified or such other address as may from time to time be notified for this purpose by notice under this deed

and any such notice or other written communication to be given by the Council and/or County Council shall be deemed valid and effectual if on its face value it is signed on behalf of the Council and/or the County Council by an officer or duly authorised signatory thereof.

8. Local land charge

This deed shall upon completion be registerable by the Council as a local land charge.

9. Jurisdiction and legal effect

9.1 This deed shall be governed by and interpreted in accordance with the law of England and Wales.

9.2 In so far as any clause or clauses of this deed are found (for whatever reason) to be invalid, illegal or unenforceable, that invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this deed.

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

9.4 The provisions of this deed (other than this clause 9.4 which shall be effective in any event) shall be of no effect until this deed has been dated.

9.5 Nothing in this Agreement shall be construed as granting planning permission or any other approval or consent or permission required from the Council in the exercise of any other statutory function.

10. Indexation and interest and VAT

10.1 Any sum to be paid to the County Council under Schedule 5 shall be increased by an amount equivalent to the increase in the Index Linked from the date hereof until the date on which such sum is payable.

- 10.2 If any payment due under this deed is paid late, Interest shall be payable by the defaulting Party to the other Party from the date payment is due to the actual date of receipt.
- 10.3 All consideration given in accordance with the terms of this deed shall be exclusive of any value added tax properly payable.

11. Indemnity

The Promoter hereby covenants with the Owners (to the extent that the Owners have not been released from the planning obligations set out in this deed) to indemnify and keep indemnified the Owners and each of them against all or any actions, judgements, penalties, damages, losses, costs, claims, expenses, liabilities and demands arising from all obligations of the Owners under this deed and any breach or non-performance of those obligations PROVIDED THAT this clause shall not be for the benefit of any successor in title to the Owners pursuant to a Disposal as defined in the Promotion Agreement.

12. Mortgage Protection

- 12.1 For the avoidance of doubt this clause 12 applies only to the mortgagee or chargee or Receiver of a Registered Provider.
- 12.2 The provisions of paragraph 4 of Schedule 3 of this deed shall not be binding on a mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a 'Receiver') of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee PROVIDED THAT:
- 12.2.1 such mortgagee chargee or Receiver shall first give not less than three (3) months written notice to the Council of its intention to dispose of the Affordable Housing Units
- 12.2.2 the Council shall then have three (3) months from receipt of the notice given pursuant to paragraph 12.2.1 above within which to respond indicating that arrangements for the transfer of the relevant Affordable Housing Units can be

made in such a way as to safeguard the affordable housing character of any Affordable Housing Units

- 12.2.3 if within the three (3) months referred to in paragraph 12.2.2 above the Council does not serve its response to the notice served under paragraph 12.2.1 above then the mortgagee chargee or Receiver shall be entitled to exercise its power of sale free of the restrictions set out in this deed
- 12.2.4 if within three (3) months of the date of receipt of the notice served under paragraph 12.2.1 above the Council serves its response indicating that arrangements can be made in accordance with paragraph 12.2.2 above then the mortgagee chargee or Receiver shall co-operate with such arrangements and use its reasonable endeavours to secure such transfer
- 12.2.5 if the Council or any other person cannot within three (3) months of the date of service of its response under paragraph 12.2.4 above secure such transfer then the mortgagee chargee or Receiver shall be entitled to exercise its power of sale free of the restrictions set out in this deed.

13. Notice of Change of Ownership

Until all obligations under this deed have been discharged the Owners undertake to give the Council notice of any change in ownership of any of its legal interests in the Site and the creation of any new legal interests by it on the Site within 15 Working Days of the occurrence of such change or creation and such notice shall give details of the transferee's full name and registered office (if a company) or usual address together with the area of the Site or relevant unit of occupation by reference to a plan PROVIDED THAT this obligation shall not be applicable to the disposal of individual Dwellings to individual purchasers.

SCHEDULE 1

The Site

Title Number	Description of Site	Owners
LA754982 (part)	The registered freehold land on the east and west sides of Pear Tree Lane and the east side of Whinny Lane, Euxton, Chorley (for the purposes of identification only shown edged red on the Plan).	Thomas Anthony Glaister John Townley Kevill

SCHEDULE 2

Description of the Development

Outline application for up to 180 Dwellings (including 30% Affordable Housing), with public open space, structural planting and landscaping, surface water flood mitigation and attenuation and vehicular access point from School Lane. All matters to be reserved with the exception of means of vehicular access.

Application No: 19/00654/OUTMAJ

DRAFT

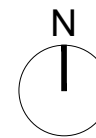
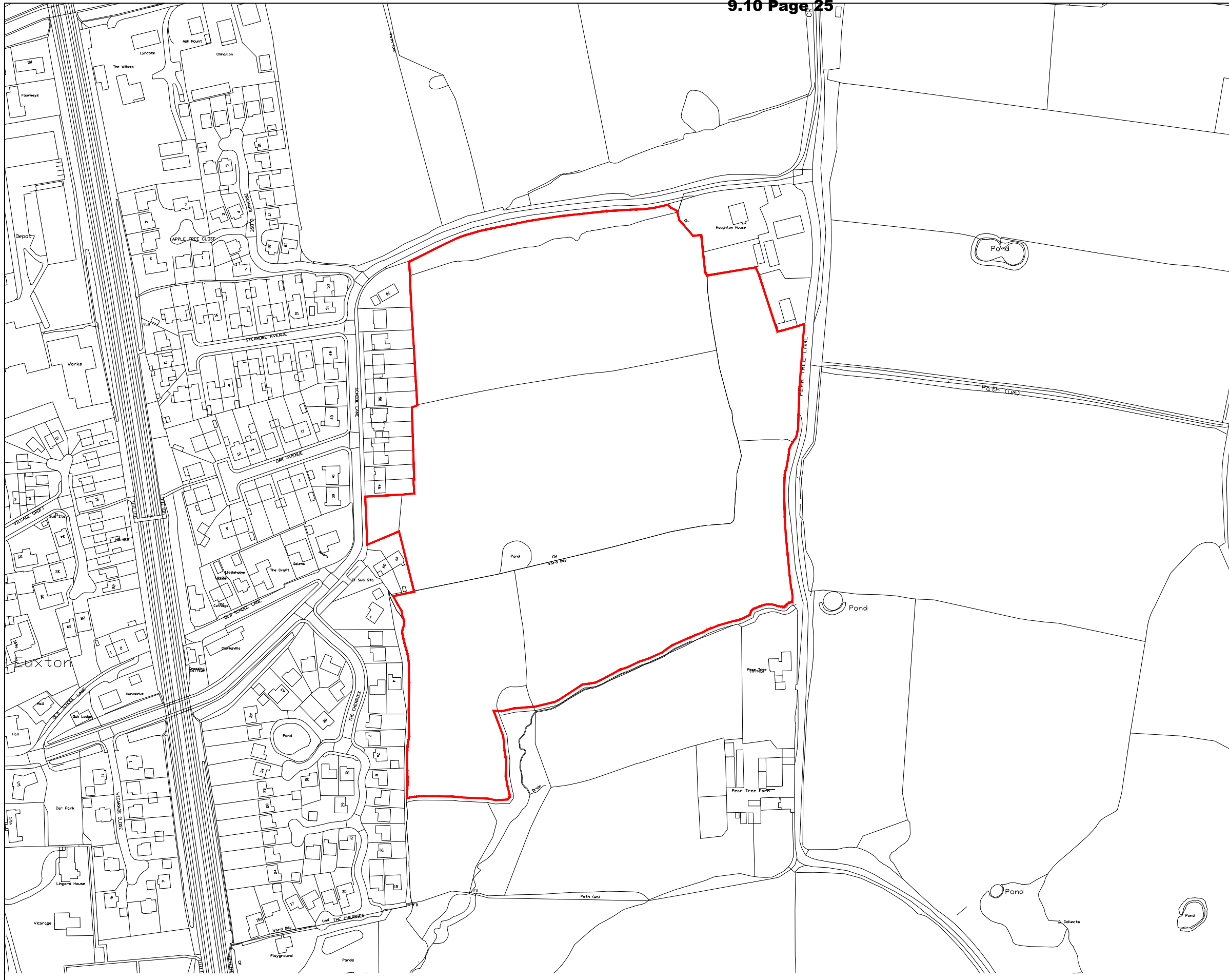
NOTES

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Ordnance Survey base mapping - supplied by client.



Site Boundary 7.34ha



SCHEDULE 3

Owners' Covenants to the Council

The Owners covenant to the Council as follows:

1. Progress of development

The Owners shall notify the Council:

- 1.1 upon the Commencement of Development,
- 1.2 upon the first Occupation of the Development,
- 1.3 upon the first Occupation of 50% of the Dwellings,
- 1.4 upon the first Occupation of 75% of the Dwellings, and
- 1.5 upon the first Occupation of 95% of the Dwellings.

2. Playing Pitch Contribution

- 2.1 Prior to the first Occupation of the 50th Dwelling to pay the Playing Pitch Contribution to the Council.
- 2.2 Not to first Occupy or permit first Occupation of more than 50 Dwellings on Site until the payment referred to at paragraph 2.1 above has been received by the Council.
- 2.3 The Playing Pitch Contribution shall be subject to annual review from the date of this deed in accordance with the RPIX up to the date of payment after annual review.

3 Amenity Greenspace and Provision for Children and Young People

- 3.1 Not to first Occupy or permit first Occupation of any Dwellings without having submitted to and obtained the Council's written approval to the Amenity Greenspace Management Scheme and Provision for Children and Young People Management Scheme.
- 3.2 Prior to the Occupation of more than 75% of the Dwellings to lay out the Amenity Greenspace and Provision for Children and Young People in accordance with the approved Amenity Greenspace Management Scheme and Provision for Children and Young People Management Scheme.
- 3.3 To serve the Amenity Greenspace Completion Notice and Provision for Children and Young People Completion Notice on the Council upon the Substantial Completion of each area of Amenity Greenspace and Provision for Children and Young People.
- 3.4 To carry out any additional works to the Amenity Greenspace and Provision for Children and Young People as maybe reasonably required by the Council to ensure the Amenity Greenspace and Provision for Children and Young People accords with the approved Amenity Greenspace Management Scheme and Provision for Children and Young People Management Scheme to enable the Council to issue the Amenity Greenspace Final Certificate and Provision for Children and Young People Final Certificate (such additional works to be completed to the Council's reasonable satisfaction as soon as reasonably practicable).
- 3.5 Following the issue of the Amenity Greenspace Completion Notice and the Provision for Children and Young People Completion Notice to ensure there is public access to the Amenity Greenspace and Provision for Children and Young People in perpetuity free of charge.
- 3.6 Prior to Commencement of Development to submit to the Council evidence of the formation of the Management Company for the purpose of managing and maintaining the Amenity Greenspace and Provision for Children and Young People and the SUDS.

- 3.7 To maintain the Amenity Greenspace and the Provision for Children and Young People in accordance with the approved Amenity Greenspace Management Scheme and the Provision for Children and Young People Management Scheme until the date upon which the transfer described in paragraph 3.8 below has been completed.
- 3.8 Not to permit the first Occupation of more than 95% of the Dwellings until the Amenity Greenspace and/or the Provision for Children and Young People (as appropriate) has been transferred to the Management Company in accordance with the details approved by the Council under the approved Amenity Greenspace Management Scheme and/or the Provision for Children and Young People Management Scheme and on the terms set out in Schedule 4.
- 3.9 Upon the transfer to a Management Company to require the Management Company to covenant to reasonably and properly maintain the Amenity Greenspace and Provision for Children and Young People in accordance with the terms of the approved Amenity Greenspace Management Scheme and approved Provision for Children and Young People Management Scheme.
- 3.10 To procure that the buyer of each Dwelling comprised in the Development enters into the following covenants direct with the Management Company:
- (i) to pay to the Management Company a fair and reasonable proportion of the costs and expenses incurred by the Management Company in respect of its administration and of insuring and maintaining repairing and as necessary renewing the Amenity Greenspace and the Provision for Children and Young People in accordance with the approved Amenity Greenspace Management Scheme and/or the Provision for Children and Young People Management Scheme; and

(ii) that upon any subsequent sale of such Dwelling he will procure that the incoming buyer shall enter into direct covenants with the Management Company in the form of paragraphs 3.10 (i) and 3.10 (ii) of Schedule 3.

3.11 Not to amend the approved Amenity Greenspace Management Scheme and/or the Provision for Children and Young People Management Scheme without the Council's prior written consent.

3.12 Not to wind up the Management Company or alter its constitution without the prior written consent of the Council unless the whole of the Development shall have been demolished or unless the Council have otherwise first agreed in writing.

3.13 In the event that the Management Company (which for the purpose of this paragraph 3.13 shall be deemed to include the Owners in the event that the transfer to the Management Company at paragraph 3.8 above has not yet completed or the Management Company does not exist) fails to comply with the objectives of the covenant referred in paragraph 3.9 above the Council may serve notice on the Management Company detailing any works which it considers to be reasonably required in accordance with the Amenity Greenspace Management Scheme and/or the Provision for Children and Young People Management Scheme and giving to the Management Company the required prior notice ("the Default Notice") as will be set out in the relevant projected maintenance schedule in the Amenity Greenspace Management Scheme and/or Provision for Children and Young People Management Scheme which shall be at least four weeks and if the Management Company fails to comply by the expiry of the Default Notice then the Council may access the Amenity Greenspace and/or Provision for Children and Young People with workmen, plant and machinery to carry out the works to remedy the default and to recover its reasonable costs of carrying out such works from the Management Company.

4 Affordable housing

- 4.1 Not to permit or allow the Commencement of Development until the Affordable Housing Scheme has been approved in writing by the Council.
- 4.2 To lay out the Affordable Housing in full compliance with the approved Affordable Housing Scheme.
- 4.3 To notify the Council in writing of the date of the Substantial Completion of the Affordable Housing Units within 14 Working Days of such date.
- 4.4 To notify the Council in writing of the date of the exchange of a binding contract for the transfer of the Affordable Housing Units to a Registered Provider within 14 Working Days of such date and within such notice to confirm the identity of the Registered Provider.
- 4.5 No more than 50% of the Market Units shall be Occupied until all of the Affordable Housing Units have been constructed in accordance with the Planning Permission and made ready for residential Occupation, and written notification of that has been received by the Council.
- 4.6 No more than 75% of the Market Units shall be Occupied until the Affordable Housing Units have been transferred to the Affordable Housing Provider such transfer to include the following:
 - 4.6.1 full and free rights of access both pedestrian and vehicular from the public highway to the Affordable Housing Land;
 - 4.6.2 full and free rights to the passage of water, soil, electricity, gas and other services through the pipes, drains, channels, wires, cables and conduits in the adjoining land up to and abutting the boundary to the Affordable Housing Land, all such services to be connected to the mains;
 - 4.6.3 a reservation of all rights of access and passage of services and rights of entry necessary for the purposes of the Development;
 - 4.6.4 a covenant by the Registered Provider not to permit the Occupation of the Affordable Housing Units otherwise than in accordance with the approved Affordable Housing Scheme;
 - 4.6.5 a requirement that the Social Rented Units are let at a Social Rent to persons in Housing Need who meet the Social Rent Eligibility Criteria;

- 4.6.6 a requirement that in relation to the Social Rented Units the Registered Provider enters into a nomination agreement with the Council substantially in the form set out in Schedule 8 of this deed subject to such amendments as shall be agreed in writing between the Council and the Registered Provider; and
- 4.6.7 a requirement that the Shared Ownership Units are sold by the Registered Provider to persons who meet the Shared Ownership Eligibility Criteria.
- 4.7 From the Date of Practical Completion of the Affordable Housing Units they shall not be used other than for Affordable Housing in accordance with the approved Affordable Housing Scheme save that this obligation shall not be binding on:
- 4.7.1 any Protected Tenant, any mortgagee or chargee of a Protected Tenant or any person deriving title from a Protected Tenant or any successor in title to a Protected Tenant and their respective mortgagees and chargees; or
- 4.7.2 a mortgagee, chargee or Receiver of a Registered Provider where clause 12.2 of this deed applies.

5 The SUDS

- 5.1 To implement the approved SUDS Scheme in accordance with the timescales set out therein.
- 5.2 Not to permit the Occupation of more than 95% of the Dwellings that form part of the Development until the SUDS have been transferred to the Management Company on the terms set out in Schedule 4.
- 5.3 To procure that the buyer of each Dwelling comprised in the Development enters into the following covenants direct with the Management Company:
- (i) to pay to the Management Company a fair and reasonable proportion of the costs and expenses incurred by the Management Company in respect of its

administration and of insuring and maintaining repairing and as necessary renewing the SUDS; and

- (ii) that upon any subsequent sale of such Dwelling he will procure that the incoming buyer shall enter into direct covenants with the Management Company in the form of paragraphs 5.3 (i) and 5.3 (ii) of Schedule 3.

6 Self-Build and Custom Housebuilding Plots

6.1 Prior to the Commencement of Development to submit for the approval of the Council details of the proposed location, size, and layout of the Self-Build and Custom Housebuilding Plots and not to permit or allow the Commencement of Development until such details have been approved in writing by the Council.

6.2 Prior to the Commencement of Development to submit for the approval of the Council details of a programme for the marketing of the Self-Build and Custom Housebuilding Plots for a period of two (2) years from the date of Commencement of Development and not to permit or allow the Commencement of Development until such details have been approved in writing by the Council.

6.3 Prior to the first Occupation of 50% of the Dwellings to procure that the Self-Build and Custom Housebuilding Plots are Serviced and available for Occupation.

6.4 To market the Self-Build and Custom Housebuilding Plots in accordance with the details approved by the Council pursuant to paragraph 6.2 above.

6.5 Unless agreed otherwise in writing with the Council the Self-Build and Custom Housebuilding Plots shall only be transferred to either:

6.5.1 those on the Self-Build and Custom Housebuilding Register,

6.5.2 a Qualifying Self-Build and Custom Housebuilding Developer, or

6.5.3 such other person or persons approved in writing by the Council prior to any disposal of the relevant Self-Build and Custom Housebuilding Plot in question.

6.6 To give notice in writing to the Council of the date of commencement of marketing of each individual Self-Build and Custom Housebuilding Plot not later than 14 Working Days after that date.

6.7 If after two (2) years from the date of the commencement of marketing of the Self-Build and Custom Housebuilding Plots pursuant to paragraph 6.4 of this Schedule 3 contracts for the sale of any of the Self-Build and Custom Housebuilding Plots have not been exchanged;

6.7.1 the restrictions and obligations in this paragraph 6 shall be released in relation to the relevant Self-Build and Custom Housebuilding Plot(s) and shall no longer apply to those Self-Build and Custom Housebuilding Plot(s), and

6.7.2 the relevant Self-Build and Custom Housebuilding Plot(s) may be sold on the open market free from the provisions of this paragraph 6.

SCHEDULE 4

Provisions relating to the transfer of the Amenity Greenspace and Provision for Children and Young People and the SUDS

The transfer of the Amenity Greenspace and Provision for Children and Young People and the SUDS to the Management Company shall:

- i. be a transfer of the entire freehold interest of the Amenity Greenspace and Provision for Children and Young People and the SUDS
- ii. be free from any pre-emption or option agreement
- iii. be free from any mortgage, charge, lien or other such incumbrance
- iv. be free from any lease, licence or any other third party interests
- v. be subject to a covenant which prohibits the use of the Amenity Greenspace and Provision for Children and Young People for any purpose other than for public recreation and amenity
- vi. include all usual and necessary rights of way with or without vehicles for the benefit of the Amenity Greenspace and Provision for Children and Young People and SUDS
- vii. reserve in favour of the Owners any usual and necessary rights and easements to enable the proper construction, maintenance and use of the Development and to use existing services in so far as they are necessary based upon the final approved layout of the Development and location of the Amenity Greenspace and Provision for Children and Young People and the SUDS
- viii. reserve in favour of the Owners the right to lay and use new services subject to the prior written agreement of the Council together with any rights of entry to inspect, repair, renew, cleanse and maintain the same
- ix. declare that boundary structures shall belong to and be maintained by the owners of the Dwellings which adjoin the Amenity Greenspace and Provision for Children and Young People or the SUDS

- x. not require consideration in excess of one pound (£1)
- xi. contain a covenant for the benefit of the Council to manage and maintain the SUDS and Amenity Greenspace and Provision for Children and Young People in accordance with the approved Amenity Greenspace Management Scheme and the Provision for Children and Young People Management Scheme.

SCHEDULE 5

Owners' Covenants to the County Council

The Owners covenant to the County Council as follows:

1. Progress of development

The Owners shall notify the County Council:

- 1.1 upon the grant of Approval (Reserved Matters)
- 1.2 upon the Commencement of Development, and
- 1.3 upon the first Occupation of the Development.

2. Payment of contributions

- 2.1 Prior to the Commencement of Development to pay 50% of the Travel Plan Contribution to the County Council.
- 2.2 Not to Commence the Development until the payment referred to at paragraph 2.1 above has been made to the County Council.
- 2.3 Prior to the first Occupation of 50 Dwellings to pay the remaining 50% of the Travel Plan Contribution to the County Council.
- 2.4 Not to Occupy nor permit the first Occupation of 50 Dwellings until the payment referred to at paragraph 2.3 above has been made to the County Council.
- 2.5 Within 20 Working Days following the grant of an Approval (Reserved Matters) to notify the County Council that an Approval (Reserved Matters) has been granted and request that the

County Council calculates the Primary Education Contribution relating to the Approval (Reserved Matters) in accordance with this deed.

- 2.6 To notify the County Council on first Occupation of the first Dwelling.
- 2.7 Prior to the Occupation of the 48th Dwelling to pay 33% of the Primary Education Contribution to the County Council.
- 2.8 Not to Occupy the 48th Dwelling unless the payment referred to at paragraph 2.7 above has been paid to the County Council.
- 2.9 Prior to the Occupation of the 96th Dwelling to pay 33% of the Primary Education Contribution to the County Council.
- 2.10 Not to Occupy the 96th Dwelling unless the payment referred to at paragraph 2.9 above has been made to the County Council.
- 2.11 Prior to the Occupation of the 144th Dwelling to pay the balance of the Primary Education Contribution to the County Council.
- 2.12 Not to Occupy the 144th Dwelling unless the payment referred to at paragraph 2.11 has been made to the County Council.

SCHEDULE 6

Social Rent Eligibility Criteria

- 1 An approved person must intend (and be required) to use the Affordable Housing Unit as their main and principal residence.
- 2 None of the Social Rented Units shall be Occupied except by households of persons who meet the following criteria in descending order of priority:

A person deemed to be in Housing Need and satisfying one of the following:

- 2.1 Be a person/family ordinarily resident within the Borough for a minimum of three out of the last five years calculated from the date of the application;
- 2.2 Be a person/family who can demonstrate a local connection or who has a family association within the Borough;

2.3 Be a person/family with employment in the Borough.

2.4 In the event that more than one applicant satisfies the above criteria applicants will be considered in order of the date of their application;

3. If after a Social Rented Unit has been advertised via 3 Select Move Scheme cycles (or where an alternative Choice Based Lettings system is adopted if the Social Rented Unit has been advertised via 3 cycles of that system or where a subsequent lettings policy has been adopted by the Council if after the Social Rented Unit has been marketed for 3 months) and there is no interest from applicants who comply with paragraphs 2.1 to 2.3 then applicants who are ordinarily resident outside the Borough and who can demonstrate a need for Affordable Housing can be considered for that particular unit.

4. For the avoidance of doubt local connection means (not in order of priority)

4.1 A person who has previously had their only or principal home in the Borough for the property in question for a continuous period of three years calculated from the date of the application; or

4.2 A person who for a period of 12 months prior to the date of the application had their principal place of work within the Borough for the property in question; or

4.3 A person who has immediately prior to the date of the application one or more of their parents children or siblings living within the Borough for a continuous period of five years calculated from the date of the application.

5. Upon allocation of the Social Rented Units for first lets and all subsequent lets the Registered Provider will confirm the details of each successful applicant detailing the criteria by which they qualify and the property address allocated to them and send this information to the Housing Options and Support Manager at the Council.

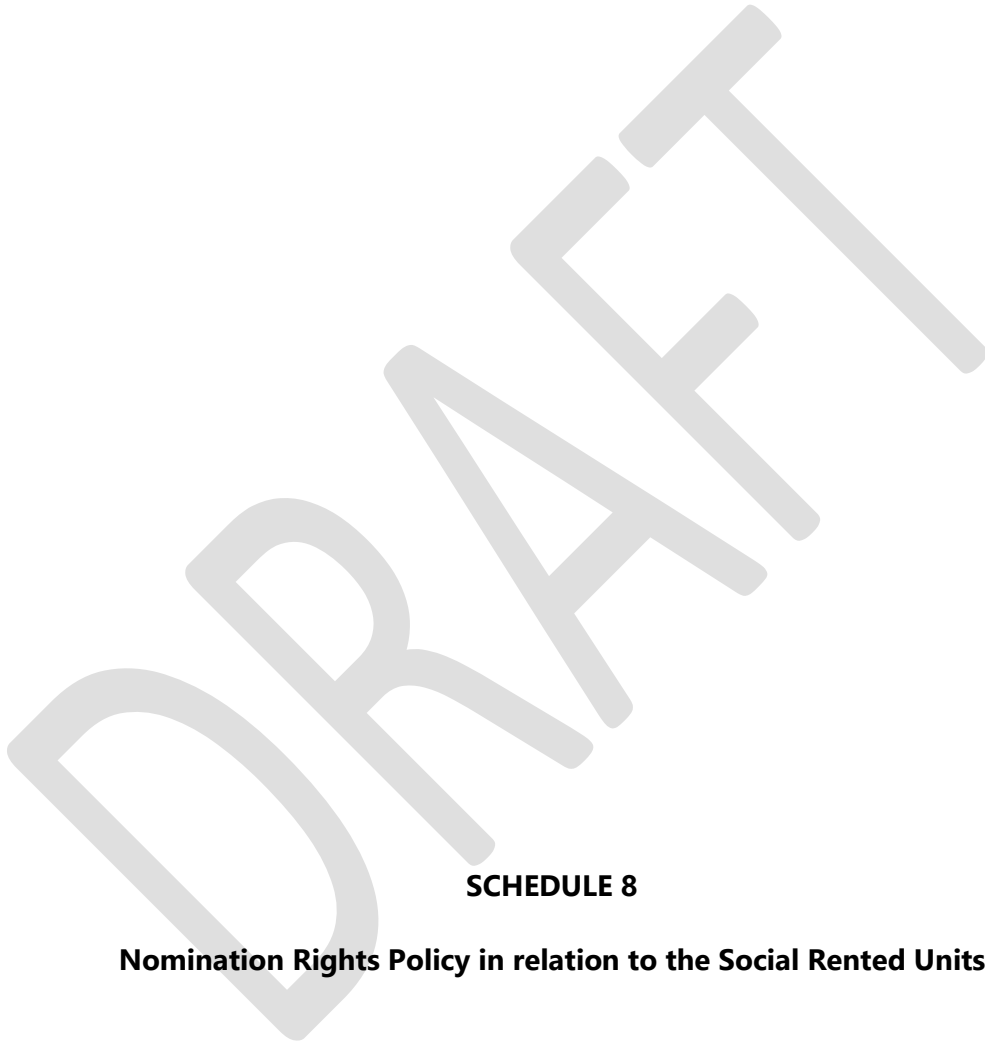
SCHEDULE 7

Shared Ownership Eligibility Criteria

1. An Approved Person should meet the following Eligibility Criteria for the Intermediate Units:
 - 1.1 applicants must have a local connection with the area in which they are seeking to live;
 - 1.2 applicants must be deemed to be in need of financial assistance to purchase a property on the open market;
 - 1.3 applicants must be able to demonstrate a housing need for a property type.

2. For the avoidance of doubt local connection means (not in order of priority)

- 2.1 applicants who have previously had their only or principal home in the Borough for a continuous period of three out of the last five years calculated from the date of the application;
 - 2.2 applicants who for a period of 12 months prior to proposed Occupation of an Affordable Housing Unit had their principal place of work within the Borough ; or
 - 2.3 applicants who have immediately prior to the proposed Occupation of an Affordable Housing Unit one or more of their parents children or siblings living within the Borough for a continuous period of five years
 - 2.4 be a person/family who can demonstrate any special circumstances that the Council should take into consideration
3. For the avoidance of doubt when considering the ability of a person to purchase on the open market the Council will take into account household income levels, and other commitments.
 4. For the avoidance of doubt applicants will be assessed on their current housing need. Applicants will only be authorised to proceed with a purchase after meeting the criteria above. Applicants will only be permitted to purchase Affordable Housing Units with an excess of one bedroom for their current housing need.
 5. Provided Always that notwithstanding the above the Council and Registered Provider may agree between themselves any amendment to the Eligibility Criteria where the Council shall deem it reasonable to do so and provided further that after such amendments are applied the applicant is able to demonstrate a housing need for a property type. The Applicants must use the accommodation as their main and principal residence.
 6. If after the Intermediate Units have been marketed for 6 months there is no interest from applicants who comply with clauses 1 to 2.4 applicants who are ordinarily resident within the Borough can be considered as well as applicants who can demonstrate a need for affordable housing.



SCHEDULE 8

Nomination Rights Policy in relation to the Social Rented Units

1. Definitions:

"Agreed Letting Policy"

The Select Move choice based lettings policy or other lettings policy as adopted by the Council

"Allocations Policy"	The Select Move choice based lettings scheme or other lettings policy as adopted by the Council
"Completion Certificate"	means a notice issued by the National Housing Building Council under its Buildmark Scheme (or equivalent such as the LABC New Home Warranty) confirming the Dwelling is ready for Occupation
"Council Nominee"	Person/s who the Council formally nominates to the Registered Provider to house on the development using the procedure in paragraph 1.11 of this Schedule
"First Letting"	The first grant of a Tenancy in respect of an Affordable Housing Unit within the Nomination Period
"Nominations Period"	125 years
"Select Move Scheme"	a choice based lettings scheme adopted by the Council
"Social Rent"	a rent which is charged by the Registered Provider based upon guideline target rents determined through the national rent regime based on the guidance and formulae set by Homes England on social rents.

“Subsequent Letting” any subsequent grant of a Tenancy in respect of an Affordable Housing Unit within the Nomination Period

“Tenancy” an introductory tenancy or assured tenancy in standard form of introductory tenancy or assured tenancy agreement

- 1.1 In the event of Select Move Scheme being the agreed procedure for allocations in Chorley, all Social Rented Units under this Agreement will be advertised and allocated under the Select Move Scheme.
- 1.2 Allocations under the Select Move Scheme will include the advertising of any Affordable Housing Units to be advertised on the Select Move Scheme website in the property shops used by Select Move Scheme and in any other media used by the Select Move Scheme by the Affordable Housing Provider or the Council. All Affordable Housing Units will be advertised for at least one cycle. The Registered Provider will then be responsible for short listing the bidders and selecting the successful bidder.
- 1.3 First Lettings and Subsequent Lettings to successful bidders will be made by the Registered Provider.
- 1.4 In the event that the Council no longer wishes to participate in the Select Move Scheme, the Council acting reasonably will provide the Registered Provider with 2 months written notice after which time, the procedure for nominations will be as stated in sections 1.9 to 1.13 below
- 1.5 In the event that the Registered Provider ceases to engage in the Select Move Scheme they will provide two months’ notice after which, the Council will advertise the Social Rented Units

using the Select Move Scheme to identify successful bidders. The bidder's details will be provided to the Registered Provider as a nomination.

- 1.6 In the event of the Select Move Scheme' no longer being operational, the system of nominations from the Council will be triggered. The local connection criteria will continue to apply and local connection means (not in order of priority);
 - 1.6.1 A person who has previously had their only or principal home in the Borough for the property in question for a continuous period of three years calculated from the date of the application; or
 - 1.6.2 A person who for a period of 12 months prior to the date of the application had their principal place of work within the Borough for the property in question; or
 - 1.6.3 A person who has immediately prior to the date of the application one or more of their parents children or siblings living within the Borough for a continuous period of five years calculated from the date of the application.
- 1.7 The Registered Provider covenants with the Council to use all reasonable endeavours to procure the letting of Affordable Housing Units by the grant of a Tenancy to a Council Nominee.
- 1.8 The Registered Provider shall during the Nomination Period grant to the Council the right to nominate a Council Nominee for 100% of the First Lettings and 100% of the Subsequent Lettings of each Affordable Housing Unit PROVIDED such nomination shall be in accordance with the Agreed Letting Policy.

1.9 The Registered Provider shall notify the Council of the availability of an Affordable Housing Unit ("the Notice") and as regards First Letting the Notice may be served on the Council prior to the issue of the Completion Certificate.

- 1.10
- (i) If the Council fails to nominate a Council Nominee for a First Letting of an Affordable Housing Unit within fifteen (15) Working Days of the Notice; or
 - (ii) If despite the reasonable efforts of the Registered Provider no Council Nominee shall on the occasion of a First Letting enter into a Tenancy of an Affordable Housing Unit within a reasonable time (being not less than twenty one (21) Working Days from the date of the Notice); or
 - (iii) If the Council fails to nominate a Council Nominee for a Subsequent Letting of an Affordable Housing Unit within fifteen (15) Working Days of the date of the Notice; or
 - (iii) If despite reasonable efforts of the Registered Provider no Council Nominee shall on the occasion of a Subsequent Letting enter into a Tenancy of an Affordable Housing Unit within a reasonable time (being not less than fifteen (15) Working Days from the date of the Notice)

the Registered Provider shall be free to grant a Tenancy of such Affordable Housing Unit to any person satisfying the Eligibility Criteria.

1.11 The provisions of this Agreement during the Nomination Period shall apply in respect of all grants of a Tenancy by the Registered Provider until such a time when it is reviewed. Any amendments to the nominations will be negotiated and agreed between the parties.

- 1.12 The Council and the Registered Provider agree that the nomination provisions contained in this Agreement are personal to the Council and shall not be enforceable against any mortgagee in possession of any Affordable Housing Unit or any part of the Site or any purchaser acquiring from a mortgagee in possession.
- 1.13 The Registered Provider shall on demand provide to the Council details of the first and subsequent lets made with respect to the Affordable Housing Units.
- 1.14 The parties will agree a standard format of information to be provided by the Council for all nominations in accordance with each party's policy on confidentiality.

2. Liaison arrangements

- 2.1 The Council's nominated officers, detailed below, will act as an initial point of contact.
- Housing (Options) Team Leader Tel. 01257 515151
 - Housing Options and Support Manager Tel: 01257 515151

3. Allocations Criteria

- 3.1 The Council will forward a copy of its Allocations Policy to the Registered Provider.
- 3.2 The Affordable Housing Provider shall provide the Council with copies of the following documentation:
- The Registered Provider's housing application form (where this is different from the one used by the Council)

- The Registered Provider's allocations/ lettings policy (where this is different to the one used by the Council)
- The Registered Provider's equal opportunities statement

4. Criteria for selecting nominations

- 4.1 The Council will endeavour to make nominations in line with its current allocation policies and any changes will be notified to the Registered Provider.
- 4.2 The Council will consult the Registered Provider in the event of considering any changes to its Housing Allocation Policy.
- 4.3 In the event of a dispute arising regarding a nomination or bidder, the Registered Provider covenants with the Council to provide evidence regarding the refusal and to commit to adhering to the requirements of the agreed allocation policy.

5. Procedures for nominations

- 5.1 The Registered Provider will provide the Council with a timetable for the handover of the properties at least 3 months prior to anticipated completion and first Occupation of the Affordable Housing Units. Following the provision of this timetable the Registered Provider will provide the Council with a monthly progress report.
- 5.2 The Social Rented Units should be rented out at no more than the social rent.
- 5.3 With the object of preserving the nature of the Affordable Housing Units as affordable homes for rent the same shall be managed by a Registered Provider with its usual and normal leasehold terms and conditions in such form of lease as shall be appropriate for the site.

6. CONFIDENTIAL INFORMATION

The Council and the Registered Provider shall share confidential information relating to the nominee such information may affect the nomination in some way, e.g. people at risk, domestic violence, ex-offenders, people with drug or alcohol related problems. The Council and the Registered Provider shall comply with the Data Protection Act 2018 at all times.

7. EQUAL OPPORTUNITIES

The Council and the Registered Provider shall agree that disadvantaged and minority groups shall have equal access to nominations as laid down in the Council's equal opportunities policy from time to time.

8. NOTICES

Any notice required to be served hereunder shall be sufficiently served on the parties at the address indicated above or such other address notified by one party to the other and any notice shall be deemed to have been served 2 Working Days after posting.

9. TRANSFERS TO OTHER AFFORDABLE HOUSING PROVIDERS

The Registered Provider shall use reasonable endeavours to ensure that any Registered Provider to which the Affordable Housing Units are transferred otherwise than by direction of Homes England under its statutory powers shall enter into a similar agreement in substantially the same form with the Council.

10. DISPUTES

Where any matters fail to be agreed between the parties or any dispute or difference occurs the question shall be referred on the application of either party for the determination of a single expert to be agreed between the parties or in default of agreement (after 10 Working Days) to be nominated by or on behalf of the President for the time being of the Chartered Institute of Housing on the application of either party.

DRAFT

APPENDIX 1

County Council's Contribution Education Methodology May 2016 (April 2020 Revision)

DRAFT

IN WITNESS of which the Owners and the Promoter have executed this unilateral undertaking as a deed and delivered it the day and year first before written.

SIGNED AS A DEED by

THOMAS ANTHONY GLAISTER

In the presence of:

Witness name:

Witness address:

.....

.....

Occupation:

SIGNED AS A DEED by

JOHN TOWNLEY KEVILL

In the presence of:

Witness name:

Witness address:

.....

.....

Occupation:

EXECUTED as a deed by

GLADMAN DEVELOPMENTS LIMITED

Acting by a director

.....
Director

in the presence of:

Witness name:

Witness address:

.....

.....

Occupation:

DRAFT