

DATED

2012

BECK DEVELOPMENTS LIMITED

- and -

HAYDOCK FINANCE LIMITED

and

HELENA BALMFORTH AND TOR PENSION TRUSTEES LIMITED

and

LANCASHIRE COUNTY COUNCIL

- and -

RIBBLE VALLEY BOROUGH COUNCIL

- and -

VICKY ANNE CAWThERLEY AND SUSAN WELLS

and

DAVID HOWARD EVENTHALL

or

MILLER HOMES LTD

DRAFT

**SECTION 106 PLANNING AGREEMENT
TOWN AND COUNTRY PLANNING ACT 1990**

RELATING TO LAND KNOWN AS

LAND AT WOONE LANE AND LAND SOUTH WEST OF PRIMROSE MILL,

CLITHEROE

THIS AGREEMENT is made the day of 2012

BETWEEN

1. **BECK DEVELOPMENTS LIMITED** (Company Registration Number.) of Challenge House Challenge Way Blackburn BB1 5QB (hereinafter called "the **Developer**")
and
2. **HAYDOCK FINANCE LIMITED** (Company Registration Number.....) of Challenge House Challenge Way Blackburn BB1 5QB (hereinafter called "the **First Lender**")
and
3. **HELENA BALMFORTH** of Holdens The Street Slinfold Horsham West Sussex RH13 0RR and **TOR PENSION TRUSTEES LIMITED** (Company Registration Number 5026390) of 4 Cannon Court High Street Lymington Hampshire SO41 9AQ acting as **The Trustees of the Stalwart Commission Tufters (Self Administered) Pension Fund** (hereinafter together called "the **Second Lender**")
and
4. **LANCASHIRE COUNTY COUNCIL** of County Hall, Fishergate, Preston, Lancashire, PR1 8XJ (hereinafter called "the **County Council**")
and
5. **RIBBLE VALLEY BOROUGH COUNCIL** of Council Offices Church Walk Clitheroe Lancashire BB7 2RA (hereinafter called "the **Council**")
and
6. **VICKY ANNE CAWThERLEY** of 55 Standen Road Clitheroe BB7 1JY and **SUSAN WELLS** of 6 Balmoral Avenue Clitheroe BB7 2QH (hereinafter together called "the **Option Land Owners**")
and
6. **DAVID HOWARD EVENTHALL** of Earlscliffe Lodge Groby Road Altrincham Cheshire WA14 2AS (hereinafter called "**Eventhall**")
or
7. **MILLER HOMES LIMITED** (Company Registration Number.) of C/o Wragges & Co LLP Solicitors 55 Colmore Row Birmingham B3 2AS (Daniel Leather) (hereinafter called "**Miller**")

WHEREAS

- (1) The **Developer** is the freehold **Owner** of land at Woone Lane Clitheroe the title of which land is registered at HM Land Registry under number **LA633037** and shown edged red and annotated "Mearley Croft" on Plan 1 attached hereto ("**Mearley Croft**")
- (2) The **Developer** is the freehold **Owner** of land at Primrose Mill Clitheroe the title of which land is registered at HM Land Registry under number [LA817039, LA820688, LA935228, LAN97789, LAN114405, LAN99434 & LA835961]. The land is subject to a Legal Charge dated the []th day of [] made between the **Owner** and the **First Lender** and is shown tinted yellow on Plan 1 attached hereto
- (3) The **Developer** is the freehold **Owner** of land at Primrose Mill Clitheroe the title of which land is registered at HM Land Registry under number [LA817039, LA820688, LA935228, LAN97789, LAN114405, LAN99434 & LA835961]. The land is subject to a Legal Charge dated the []th day of [] made between the **Owner** and the **Second Lender** and is shown tinted pink on Plan 1 attached hereto
- (4) The **Developer** has the benefit of an **Option** to purchase the **Option Land** being land to the south west of Primrose Mill Clitheroe the title of which is registered at HM Land Registry under the number **LA808059 ?** and owned by the **Option Land Owners** and is shown edged red and annotated "Phase 2" on Plan 1 attached hereto ("**Phase 2**")
- (5) **Eventhall** is the owner of land adjacent to Primrose Mill Clitheroe over which part of the access to **Phase 2** is situated and which is registered at HM land Registry under the number [LA817039? LA820688? LA935228? LAN97789? LAN114405? LAN99434? LA835961?] and is shown tinted brown on Plan1 attached hereto

OR (subject to timing)

Miller is the owner of land at Primrose Mill Clitheroe over which the access to **Phase 2** is situated and which is registered at HM land Registry under the number [LA817039? LA820688? LA935228? LAN97789? LAN114405? LAN99434? LA835961?] and is shown tinted brown on Plan1 attached hereto

- (6) The Council is the Local Planning Authority for the purposes of the Town and Country Planning Act 1990 (as amended) for the area within which the Property is situated and by whom the obligations contained in this Agreement is enforceable
- (7) The County Council is the education authority for the area within which the Property is situated by whom the obligations contained in schedule 3 are enforceable
- (8) The Developer on the 16th day of December Two Thousand and Eleven applied to the Council for full planning permission for a development comprising 32 residential units on **Mearley Croft** and outline planning permission for 81 residential units on **Phase 2** as detailed in the plans and particulars deposited with Council under reference [3/2012/0000]
- (9) The Council is satisfied that the development is such as may be approved by it under the Act of 1990 (as amended) but subject to the Owner entering into this Planning Obligation Agreement in accordance with Section 106 of the Town and Country Planning Act 1990 ("the 1990 Act")

IT IS HEREBY AGREED as follows:

1. DEFINITIONS

1.1 In this Agreement unless the context otherwise requires:

Affordable Housing

"Affordable Housing" means housing that is affordable to local persons who cannot afford to rent or buy accommodation generally available on the open market on readily available terms who have need of local housing

Affordable Rented Housing

"Affordable Rented Housing " means the Residential Unit constructed pursuant to the Planning Permission and transferred to a Registered Provider for allocation as affordable rented housing where the lettings shall be made under a form of tenancy prescribed by the Homes and Communities Agency and at a rent equal to or less than the prevailing affordable rent (inclusive of applicable service charges) permitted by the Homes and Communities Agency which shall normally be 80% of the open market rental value (or the maximum amount of local housing allowance payable for

the Dwelling if this is lower than the calculated 80% figure). The Affordable Rented Housing (as identified on Plan 2 attached) shall comprise:

	Affordable Rent
2 Bedroom Apartments	9
2 Bedroom Bungalows	4
2 Bedroom Houses	
3 Bedroom Houses	4
TOTAL	17 (53%)

Affordable Housing Unit

"Affordable Housing Unit" means each unit of Affordable Housing to be constructed on the Mearley Croft site to no lesser standard than the Market Dwellings pursuant to the Planning Permission and which in total will comprise 17 (seventeen) Affordable Rented Housing units and 15 (fifteen) Shared Ownership Housing units.

Application

"Application" means the application for Planning Permission submitted to the Council reference number 3/2011/0000 for residential use and associated amenities on the Property

Development

"Development" means such development as may be authorised by the Planning Permission

Dispose

"Dispose" means in relation to the transfer of an interest in property the transfer of a freehold interest or of a Leasehold interest of 99 years or more

Education Contribution

Shall mean the sum of £. increased by the Indexation Factor from the date 2 years from the date hereof unless it has been paid prior to that date

Implementation

"Implementation" means the carrying out of any of the material operations listed in Section 56 of the 1990 Act pursuant to the Planning Permission provided that for the purposes of determining whether or not the material operation has been carried out there shall be disregarded property surveys and investigations and tests (including drilling bore holes, digging trial pits and taking soil samples) environmental assessments and similar studies (including geological, archaeological and ecological surveys and landscape assessments). Site investigations preparatory works including ground, modelling and contamination remediation works and "implement" and "implemented" shall be construed accordingly

'Index'

"Index means the BCIS All-in Tender Price Index published by the Royal Institute of Chartered Surveyors (RICS) or any successor body (or such other index replacing the same)

'Indexation Factor'

"Indexation Factor" means the recalculation of a financial contribution to be made under this Agreement applying the following formula:

$$A \times (B/C) = D \quad \text{where:}$$

A = the contributions payable under Schedule 3 of this Agreement

B = the figure shown in the BCIS All-in Tender Price Index for the period immediately prior to the date of payment under this Agreement.

C = the figure shown in the BCIS All-in Tender Price Index for the period published before the date of this Agreement and

D = the recalculated sum payable under this Agreement.

Market Dwellings

"Market Dwellings" means Residential Units excluding any Affordable Housing Units

Occupation

"Occupation" shall have the same meaning as defined in the Local Government Finance Act 1988 but for the avoidance of doubt shall not include occupation for the purposes of works carried out prior to or during construction, fitting out, commissioning, advertising, marketing, security or management of land for parking

Plan 1

"Plan 1" means the **Development** location plan annexed hereto for the two sites.

Plan 2

"Plan 2" means the planning layout for the Mearley Croft site.

Plan 3

"Plan 3" means the planning layout for the Primrose Village, Clitheroe site.

Planning Permission

"Planning Permission" means the Planning Permission granted pursuant to the Application. A draft of which is set out in Schedule 5.

Registered Provider

"Registered Provider" means Housing Association or another housing association approved by the Council, such approval not to be unreasonably withheld, being a registered social landlord or other body recognised by the Homes and Communities Agency (which shall include any successor in title) as a registered provider of affordable housing in accordance with the provisions of the Housing and Regeneration Act 2008.

Residential Unit

"Residential Unit" means any unit including house, flat or maisonette to be constructed on the Property pursuant to the Planning Permission primarily for the purpose of residential occupation

Shared Ownership Housing

"Shared Ownership Housing" means the residential units constructed pursuant to the Planning Permission and transferred to a Registered Provider for allocation as Shared Ownership Housing. Each occupier may acquire an interest in the Dwelling of between 25% and 80% and may staircase up to 100% of the Open Market Value of the Dwelling in increments at times of his/her election the balance of the equity in the Dwelling being let to the occupier at a rent equal to or less than that permitted by the Homes and Communities Agency. The Shared Ownership Housing (as identified on Plan 2 attached) shall comprise:

	New Build HomeBuy
2 Bedroom Houses	8
3 Bedroom Houses	7
TOTAL	15 (47%)

Interpretation

- 1.2 The headings in this Agreement do not and will not by implication form any part of this Agreement and shall have no legal force whatsoever
- 1.3 Unless the context requires otherwise reference to this Agreement to a clause schedule or paragraph are references respectively to a clause schedule of paragraph of this Agreement
- 1.4 Where any part to this Agreement comprises two or more persons any obligation on the part of that party contained or implied in this Agreement shall be deemed to be joint and several obligations on the part of these persons and references to that party shall include reference to each or any of those persons
- 1.5 A reference to any statute or statutory section shall be taken to include a reference to any statutory, amendment, modification or re-enactment of it for the time being in force
- 1.6 Words denoting the singular shall include the plural and vice versa words denoting any gender shall include all genders and words denoting persons shall include bodies corporate and vice versa

2 Enforceability

- 2.1 This Agreement is a Planning Obligation with the intent to bind the Property and the Owner and Successors in Title to observe and perform the covenants herein
- 2.2 The obligations of this Agreement shall take effect on the implementation of the relevant part of the development pursuant to the Planning Permission
- 2.3 No persons shall be liable for a breach of covenant contained in this Agreement after he shall have parted with his interest in the Property or the

part in respect of which such a breach occurs but without prejudice to liability for any existing breach of covenant prior to parting with such interest

2.4 This Agreement shall not be binding or enforceable against any mortgagee or chargee exercising a power of sale

2.5 The provisions of this Agreement are not intended to be enforceable by any third party (which for the avoidance of doubt shall exclude any statutory successor or authority to the Council or the County Council or successors in the title to the Owner) pursuant to the Contract (Rights of Third Parties) Act 1999

3 Expiry Modification Variation or Amendments of Planning Permission

3.1 If the Planning Permission shall expire before implementation of Development or shall at any time be revoked this Agreement shall forthwith determine and cease to have effect

3.2 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Property in accordance with any planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement and this Agreement shall not apply to development carried out under any planning permission other than the Planning Permission

4 Registration

This Agreement is a Local Land Charge and shall be registered as such by the Council

5 Service of Notices

Any notice or other written communication to be served by one party upon any other pursuant to the terms of this Agreement shall be deemed to have been validly served if delivered by hand or sent by pre-paid registered delivery post to the party to be delivered to the address herein specified or to such other address as may from time to time be notified for the purposes of notice in writing

6 Reasonableness

Where any agreement, certificate, consent, permission expression of satisfaction or other approval is to be given by any party or any person on behalf of any party hereto under this Agreement the same shall not be unreasonably withheld or delayed

7 Covenants

- 7.1 The Owner hereby covenants with the Council to perform the obligations as specified in Schedule 1
- 7.2 The owner hereby covenants with the County Council to perform the obligations as specified in Schedule 3
- 7.3 The Council hereby covenants to perform the obligations as specified in Schedule 2
- 7.4 The County Council hereby covenants to perform the obligations as specified in Schedule 4

8 Miscellaneous

- 8.1 Nothing in this Agreement shall affect, bind or be enforceable against any individual person in respect of any completed Residential Unit and its curtilage acquired or leased by them for residential occupation on the Property
- 8.2 Nothing in this Agreement is intended to restrict the exercise by the Council of any of its powers
- 8.3 If any provision in this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired
- 8.4 This Agreement is a Deed and is enforceable by the Council and the County Council
- 8.5 The County Council will upon written request of the Owner at any time after the obligations of the Owner under this Agreement have been fulfilled issue written confirmation thereof
- 8.6 Any dispute or difference arising between the parties with regard to their respective rights and obligations as to any matter or thing in anyway arising out or connected with this Agreement shall except as otherwise expressly provided be referred to the decision of a single arbitrator to be agreed by the parties or failing agreement between them to be nominated by the President for the time being of the Royal Institute of Chartered Surveyors as the case may be and any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1996 or any statutory modification or enactment for the time being in force

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- 8.7 The Owner shall pay the Council's and the County Council's reasonable legal fees incurred in relation to this Agreement on the date of this Agreement in the sum of £330 (three hundred and thirty pounds) and £250 (Two Hundred and Fifty Pounds) respectively.

SCHEDULE 1

The Owner covenants with the Council as follows:

1. Affordable Housing

- 1.1 The Owner covenants with the Council that all 32 Dwellings to be constructed on Mearley Croft pursuant to the Planning Permission shall be Affordable Housing Units and shall be completed and transferred to a Registered Provider before commencement of any development of the Phase 2 site.
- 1.2 The Landowner covenants with the Council that the Affordable Housing Units shall be made available as [17] Affordable Rented Housing units and [15] Shared Ownership Housing units (or such other type or mix of tenure as the Council may approve in writing).
- 1.3 To construct the Affordable Housing in accordance with the approved planning permission and to no lesser standard than the Market Dwellings.

1.4 Affordable Rent Housing Units

- 1.4.1 that the Affordable Rent Units be available for rent
- 1.4.2 that on completion of the Affordable Rent Housing Units they will be allocated by 100% nomination arrangements or first let to approved persons nominated by the Council in accordance with the Council's allocations policy
- 1.4.3 that subsequent lets will be on a 50% nomination arrangement to approved persons by the Registered Provider
- 1.4.4 that rents to be charged on the Affordable Rents Housing Units will be in accordance with the Governments Guidance on Affordable rent as issued by the Homes and Communities Agency which governs the rents to be charged by all social landlords whether they be registered providers or local authorities

1.5 Shared Ownership Affordable Housing Units

- 1.5.1 that on completion of the Affordable Housing Units (for Shared Ownership) or as soon as possible thereafter the Registered Provider shall dispose of the Affordable Units intended for Shared Ownership
 - (a) at Open Market Value on a Shared Ownership basis with the rental element being discounted by the Registered Provider

- (b) to an Approved person who shall purchase the Affordable Housing Unit for occupation by the Approved person and in accordance with the requirements of this Agreement
 - (c) in consultation with the Council and having first obtained the Council's consent to the Disposal to the Approved person
- 1.5.3 the approved person shall be allowed to purchase additional shares in increments of no less than 10% up to a maximum of 100% provided that at the point of purchase of each additional share they continue to occupy the Affordable Unit in compliance with the requirements of this Agreement
- 1.5.4 The provisions of Clauses 1.5 to 1.6.4 of this Schedule 1 shall not be binding on a mortgagee in possession of the whole or any part of the Affordable Housing Units
- 1.6 That each and every Affordable Housing Unit shall not be occupied or purchased by any person except an Approved Person who shall be approved in writing by the Council
- 1.7 Approved Persons for the purposes of the Affordable Housing Scheme and in order of priority are detailed below:
 - 1.7.1 First time buyers who can demonstrate a housing need requirement for the type of Affordable Housing Unit who are either
 - a) currently living in the Borough of Ribble Valley for more than 10 years or
 - b) currently living in the Borough of Ribble Valley and have done so continually for between 5 to 10 years or
 - c) currently living in the Borough of Ribble Valley and have done so continually for a minimum of 12 months or
 - d) currently permanently employed in the Borough of Ribble Valley for a minimum of 12 months and work for a minimum of 18 hours per week paid or unpaid or
 - e) Persons who at least one of the adult applicants have next of kin who have lived in the Borough of Ribble Valley continually for a minimum of five years. Next of kin for the

purposes of this clause shall be defined as mother, father, brother, sister or adult dependent children.

- f) Persons who are former residents of the Borough of Ribble Valley who have moved from the Borough because of a lack of affordable housing in the Borough
- g) Non first time buyers who can meet one of the qualification provisions set out in paragraphs a -g above

2 **Public Open Space**

To pay the Council a commuted sum of £140,000 in respect of the improvement and regeneration of Mearley Lodge shown hatched green on the Plan 1. The initial £70,000 of this commuted sum shall be paid prior to the sale of the 35th Market Dwellings on the Phase 2 Site with the remaining balance of £70,000 to be paid prior to the sale of the 70th Market Dwelling on the same site.

SCHEDULE 2

1. The Council covenants with the Owner as follows:
 - a) Forthwith to grant the planning permission
 - b) To apply the Public Open Space commuted sum towards the improvement and regeneration of Primrose Lodge shown hatched green on the Plan provided that if the Public Open Space commuted sum has not been utilised or committed for such purposes within five years of it being received by the Council to repay the Owner any part of the Public Open Space commuted sum not so used within 28 days of the end of the five year period

SCHEDULE 3

The Owner's Covenants with the County Council.

1. Education Contribution

To pay the County Council a commuted sum of £x calculated from the number of Market Dwellings approved for the Phase 2 site and be evidenced on a needs basis by the County Council and which shall only become payable where it can be proved the payment demand meets the tests of ODPM Circular 05/2005. The initial 50% of this commuted sum shall be paid prior to the sale of the 35th Market Dwelling on the Phase 2 site with the remaining balance to be paid prior to the sale of the 70th Market Dwelling on the same site.

2. Highway Contribution

Within sixty days of commencement of Mearley Croft to pay the County Council a sum of £x calculated as the proper and appropriate detailed design fee for the Road junction and following such detailed design to pay the County Council the cost of the junction improvement within sixty days of demand.

SCHEDULE 4**The County Council's Covenants with the Owner/Developer****1. Use and return of the Education Contribution**

- 1.1 The County Council shall not use the Education Contribution other than for the purpose of a contribution towards the costs of the provision of an additional [x] pupils within the local Schools
- 1.2 The Council shall hold the Education Contribution in an interest bearing account pending use for the purpose set out in paragraph 1.1 above
- 1.3 If on the day 5 years after the day on which the last payment from the Owner under this deed was received a part of the sum paid or of the interest earned on it has not been used by the County Council in accordance with paragraph 1.1 of this Schedule, the County Council shall return the unspent portion to the party who made such payment together with any interest earned on it.
- 1.4 Upon request, the County Council shall provide to the Owner/Developer reasonable evidence as to the expenditure of the sums paid by the Owner under this agreement.

2. Use and return of the Highway Contribution

- 2.1 The County Council shall not use the Highway Contribution other than for the purpose of undertaking the improvement to the Primrose Road / Whalley Road junction.
- 2.2 The County Council shall complete the junction works within a reasonable timescale but in any event before occupation of the first Market Dwelling on Phase 2.
- 2.3 The Council shall hold the Highway Contribution in an interest bearing account pending use for the purpose set out in paragraph 1.1 above.
- 2.4 If on the day 5 years after the day on which the last payment from the Owner under this deed was received a part of the sum paid or of the interest earned on it has not been used by the County Council in accordance with paragraph 1.1 of this Schedule, the County Council shall return the unspent portion to the party who made such payment together with any interest earned on it.
- 2.5 Upon request, the County Council shall provide to the Owner/Developer reasonable evidence as to the expenditure of the sums paid by the Owner under this agreement.

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SCHEDULE 5
DRAFT PLANNING PERMISSION

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IN WITNESS whereof this Deed has been duly executed by the parties the day and
year first before written

THE COMMON SEAL OF)
RIBBLE VALLEY BOROUGH COUNCIL)
Was hereunto affixed to this Deed in the)
presence of:)

Mayor

Chief Executive

EXECUTED AND DELIVERED AS A DEED
BY DEVELOPER HOMES LIMITED
Acting by two Directors or one Director and
The Company Secretary

Director

Director/Secretary

EXECUTED AND DELIVERED AS A DEED
BY OWNER LLP
Acting by two Members

Member

Member

THE COMMON SEAL OF
LANCASHIRE COUNTY COUNCIL
Was hereunto affixed in the
presence of:-

320111064P

Authorised Officer

THE COMMON SEAL OF
MORTGAGEE COMPANY

Was hereunto affixed in the
Presence of:-

Authorised Sealing Officer

320111064P

PLANNING OBLIGATIONS DELIVERY PLAN

AS PART OF PROPOSED RESIDENTIAL
DEVELOPMENTS AT

**PRIMROSE VILLAGE PHASE 2 &
MEARLEY CROFT
CLITHEROE**

PREPARED ON BEHALF OF
BECK DEVELOPMENTS LIMITED

Bridgehouse
property consultants

DECEMBER 2011

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APPENDICES

A: PLANNING LAYOUTS

1.0 EXECUTIVE SUMMARY – DRAFT S106 HEADS OF TERMS
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A Affordable Housing

- 28.3% of the total dwellings across the two sites to be affordable - all to be delivered on the Mearley Croft site which will come forward much earlier than Primrose Village Phase 2.
- Property and affordable tenure mix on Mearley Croft to be:

	Affordable Rent	New Build HomeBuy
2 Bedroom Apartments	9	
2 Bedroom Bungalows	4	
2 Bedroom Houses		8
3 Bedroom Houses	4	7
TOTAL	17 (53%)	15 (47%)

- All affordable housing to be constructed to current Building Regulations standards.
- In requesting a minor concession to a full policy compliant level of affordable housing, Mearley Croft to commence on site within 18 months of grant of planning permission or to be completed prior to the 1st private sale dwelling on Primrose Village Phase 2, whichever is the sooner.

B Public Open Space

- £140,000 payable 50% (£70,000) prior to the 35th private sale occupation on Primrose Village Phase 2 and 50% (£70,000) prior to the 70th private sale occupation on Primrose Village Phase 2.

C Education Contribution

- No education contribution applicable to the affordable housing dwellings delivered on Mearley Croft.
- Education contributions from private sale housing on Primrose Village Phase 2 to be evidenced on a needs basis by the County and payable where it can be proved that the request meets the tests of the ODPM Circular 05/2005.
- If due, education contributions to be payable 50% prior to the 35th private sale occupation on Primrose Village Phase 2 and remaining 50% prior to the 70th private sale occupation on Primrose Village Phase 2.

D Highways

- Junction improvements to Primrose Road and Whalley Road to be completed prior to the 1st occupation of a private sale dwelling on Primrose Village Phase 2

The proposed scale, nature and timing of these planning obligations are to be considered as a whole due to their interdependence. Any request to vary one or more of the proposed terms will affect the ability of the schemes to deliver the scope of obligations as set out.

2.0 SCHEME CONTEXT

- 2.1 This Delivery Plan is submitted in support of the hybrid planning application made by Beck Development Limited ('Beck') covering the:
- Outline application for the development of 81 No residential dwellings at Primrose Village Phase 2, and
 - Detailed application for the development of 32 No. residential dwellings on the site known as Mearley Croft, Woone Lane, Clitheroe
- 2.2 It should be read in conjunction with the other supporting evidence and documentation relating to the hybrid application
- 2.3 This Delivery Plan covers the range of planning obligations that the two schemes will deliver and which will ultimately be secured by way of S106 Agreement.
- 2.4 Because of the nature of these proposals and the linkage being made between the two sites, delivery against this Plan is conditional on both applications being approved. Should one or either be refused for whatever reason then these proposals will be formally withdrawn.
- 2.5 A copy of the development proposals for each site are attached as appendices to this Delivery Plan.

3.0 NATIONAL PLANNING POLICY CONTEXT

- 3.1 It is acknowledged that national planning policy guidelines confirm new developments should contribute towards the costs of service infrastructure, particularly where the demands on those services will increase as a direct result of the new development. Ordinarily therefore the Local Planning Authority would be seeking financial contributions from the developer, in line with its stated planning policies, to ensure that there is the necessary infrastructure to serve the new development
- 3.2 Planning obligations, whether financial contribution or on-site delivery, do however have a direct impact on the value of any development site. If the value of the site is reduced to a level which is below its existing or alternative use value then the likelihood of a site coming forward for development is limited. General planning guidance suggests that planning obligations should be both lawful and reasonable so as not to deter development or render schemes unviable.
- 3.3 ODPM Circular 05/2005 provides guidance on planning obligations as noted below:

"B5. The Secretary of State's policy requires, amongst other factors, that planning obligations are only sought where they meet all of the following tests. The rest of the guidance in this Circular should be read in the context of these tests, which must be met by all local planning authorities in seeking planning obligations. A planning obligation must be:

- (i) relevant to planning;*
- (ii) necessary to make the proposed development acceptable in planning terms;*
- (iii) directly related to the proposed development;*
- (iv) fairly and reasonably related in scale and kind to the proposed development;*
- (iv) reasonable in all other respects.*

B10. In some instances, perhaps arising from different regional or site-specific circumstances, it may not be feasible for the proposed development to meet all the requirements set out in local, regional and national planning policies and still be economically viable. In such cases, and where the development is needed to meet the aims of the development plan, it is for the local authority and other public sector agencies to decide what is to be the balance of contributions made by developers and by the public sector infrastructure providers in its area supported, for example, by local or central taxation. If, for example, a local authority wishes to encourage development, it may wish to provide the necessary infrastructure itself, in order to enable development to be acceptable in planning terms and therefore proceed, thereby contributing to the sustainability of the local area. In such cases, decisions on the level of contributions should be based on negotiation with developers over the level of contribution that can be demonstrated as reasonable to be made whilst still allowing development to take place."

- 3.4 Planning Policy Statement 1 (PPS1): Delivering Sustainable Development contains guidance for considering affordable housing as a material planning consideration. PPS 1 states that in promoting sustainable economic development, planning authorities should: *"Ensure the provision of sufficient, good quality, new homes (including an appropriate mix of housing and adequate levels of affordable housing) in suitable locations"*
- 3.5 While PPS1 confirms that the provision of affordable housing is a material consideration for new residential developments, Planning Policy Statement 3 (PPS3) also requires that affordable housing obligations must consider development economics and should not promote policies which would make development unviable. PPS3: Housing (June 2010) states that: *"Local Planning Authorities will need to undertake an informed assessment of the economic viability of any thresholds and proportions of affordable housing proposed, including their likely impact upon overall levels of housing delivery and creating mixed communities"*.

- 3.6 Central Government is keen to encourage development as part of a wider stimulus to the economy and in a recent letter (31 March 2011) to the Chief Planning Officers of all local planning authorities in England, the Department for Communities and Local Government advised Councils that they should *"ensure that they do not impose unnecessary burdens on development"*. The letter goes further and confirms that as part of their strategy for growth and job creation *"all local authorities should reconsider, at the developers' request, existing section S106 agreements that currently render schemes unviable, and where possible modify these obligations to allow development to proceed"*.
- 3.7 To demonstrate the potential wider benefit to the local economy of the sites coming forward, regardless of the level of planning obligation delivered, we estimate the two new developments will generate:
- A gross investment value into the local economy of upwards of £32,000,000
 - Almost 170 direct and 450 indirect employment impacts (new jobs created or safeguarded)
 - £975,642 of New Homes Bonus payment to the Council
 - An additional £162,607 of council tax receipts per annum once the schemes are complete

4.0 LOCAL PLANNING POLICY CONTEXT

- 4.1 The four key source documents we have referenced to inform this Plan are:
- Ribble Valley Borough Council – Planning and Development Committee Report December 2008 – The Use of Planning Obligations
 - Lancashire County Council – Planning Obligations in Lancashire Policy – Updated September 2008
 - Ribble Valley Borough Council – Affordable Housing Memorandum of Understanding
 - Ribble Valley Strategic Housing Market Assessment – December 2008

- 4.2 The December 2008 Planning and Development Committee Report confirms that *"obligations will be negotiated on a site by site basis and the priority given to differing types of obligation will be at the discretion of planning officers"*. The following four areas were identified as those where the Council will seek to negotiate for contributions as a priority overall within the context of any other contributions required by partner bodies:
- Affordable housing
 - Open space
 - Education
 - Transport safety which cannot be reasonably be covered by planning condition or S278 Agreement
- 4.3 The County Council Policy sets out the methodology for calculating the financial contribution to be made towards education where it can be proven that the increased demand placed on local schools by a new development (or cumulatively by a number of local developments) exceeds the capacity of those schools to accommodate that demand
- 4.4 The Memorandum of Understanding confirms that on sites of 10 dwellings or more, in Clitheroe, the Council will seek an affordable housing provision of 30% of the number of units. The Strategic Housing Market Assessment identifies a high need for new affordable housing of all tenures and across a range of properties types - both Borough-wide and for Clitheroe specifically.
- 4.5 While there is a need for rented accommodation, the majority of affordable housing demand in Clitheroe comes from those seeking an opportunity to secure a form of subsidised home ownership – either Shared Equity sale delivered by a developer or New Build HomeBuy (formerly Shared Ownership) delivered by a Housing Association.
- 4.6 Demand is high for family accommodation (2 and 3 bedroom houses) but there is an increasing need for flats and bungalows to meet the needs of elderly people

5.0 AFFORDABLE HOUSING PROPOSALS

- 5.1 It is acknowledged that to be fully policy compliant, across the two schemes (113 dwellings), a total of 34 affordable dwellings would ordinarily be required.
- 5.2 Affordable housing need is significant in Clitheroe with the only delivery in recent years having been secured on Phase 1 of Primrose Village where some 25 No rented dwellings have been delivered, in partnership with Contour Housing Association, with the benefit of Grant funding from the Homes and Communities Agency
- 5.3 Conscious of this growing need and the proximity of the Mearley Croft site to the town centre, it is proposed that the entire affordable housing obligation arising from the two sites be delivered on the Mearley Croft site. This offers the considerable advantage of the potential for early delivery of the affordable housing without the need for reliance on the availability of Grant funding from the Homes and Communities Agency.
- 5.4 The development proposals for Mearley Croft, to be delivered as a wholly affordable housing scheme, are as follows:

	Affordable Rent	New Build HomeBuy
2 Bedroom Apartments	9	
2 Bedroom Bungalows	4	
2 Bedroom Houses		8
3 Bedroom Houses	4	7
TOTAL	17	15

- 5.5 While an affordable proposal totaling 32 dwellings is technically 2 short of being fully compliant, a minor relaxation is required to enable the delivery of both the Mearley Croft scheme in its entirety and also the highway junction improvements on Primrose Road/Whalley Road (see later). The financial benefit to Beck of this relaxation is estimated to be not more than £50,000 and all of this saving will be used to facilitate these two obligations.

- 5.6 The intention is that Beck will work with a Housing Association partner in the delivery of the Mearley Croft scheme. At this stage the most likely partner is St Vincents Housing Association; we have held initial discussions and they are very positive about the proposal.
- 5.7 The affordable housing on Mearley Croft will be constructed to prevailing Building Regulations standard with the final detailed specification to be agreed between Beck and the partner Housing Association. As a planning gain site, the scheme would not be eligible for Grant funding and therefore we would consider the imposition of the Homes and Communities Agency Design and Quality Standards to be inappropriate.
- 5.8 In summary therefore the affordable housing on Mearley Croft will be delivered as follows:

	Delivered By	Number	Percentage
Affordable Rent - (Mearley Croft)	RSL	17	53%
New Build HomeBuy - (Mearley Croft)	RSL	15	47%
Total		32	100%

- 5.9 There is considerable additional cost to Beck in bringing forward the Mearley Croft scheme. While this is partly off-set by the minor relaxation in the affordable number, flexibility is also required in terms of the timing of any financial contributions that may also be requested. In return Beck is willing to commit that the Mearley Croft scheme will commence within 18 months of the granting of planning permission or be completed prior to the 1st private sale on Primrose Village Phase 2 whichever is the sooner.

6.0 PUBLIC OPEN SPACE PROPOSALS

- 6.1 From Phase 1 of the Primrose Village scheme a total sum of £250,000 is to be made available by Beck to support the regeneration of Primrose Lodge. Working jointly with both the County and Borough Council the intention is that this Commuted Sum will facilitate the delivery of an enhanced area of open space for the benefit of both the residents of the new scheme and also the wider community.
- 6.2 Both Primrose Village Phase 2 and Mearley Croft present the opportunity for additional funding to be made available for the redevelopment of the Lodge so using a similar methodology as that used for the Phase 1 we are proposing a financial contribution towards the cost of regenerating the Lodge in lieu of on-site provision of public open space.
- 6.3 The original Phase 1 application was for a total of 162 dwellings of which 25 were affordable – equivalent to £1,825 per private market dwelling. Accordingly it is proposed that the total Commuted Sum payment due from the hybrid application, and across both sites, should be £140,000.
- 6.4 To help off-set the cost of early delivery of the affordable housing on Mearley Croft, it is proposed that 50% of the public open space contribution be made prior to the 35th occupation of the private market housing on the Primrose Village Phase 2 site, with the remaining 50% payable prior to the 70th occupation.

7.0 EDUCATION PROPOSALS

7.1 We understand that once the planning applications have been submitted, the County Council will be approached to assess:

- The current capacity of the existing primary and secondary schools adjacent to the proposed development sites,
- The additional demands placed on those schools as a result of the proposed developments
- Any additional demands created as a result of other new development proposals, either approved or coming forward, which in themselves might require a financial contribution to be made

7.2 At the time of the original Primrose Village Phase 1 scheme the County confirmed that there was existing capacity within the local schools and as such the original scheme was not required to make a financial contribution. However we understand that this is unlikely to be the case for Phase 2 and that the County is likely to request an education contribution. Although some property types are exempt, having reviewed the County's methodology, we estimate that the total amount could be as much as £940,000 or £9,500 per eligible dwelling

7.3 While the County still has to justify the validity of any request in accordance with ODPM Circular 05/2005 – we consider that the affordable housing should be **exempted** from their calculations as:

- This will materially impact on the ability to bring forward the affordable housing on Mearley Croft,
- Using the 'reasonable' test – affordable housing is for local people and therefore any families with children who are to benefit from the new affordable housing will already be utilising the education service. As such they will not be placing any additional demands on the service

- 7.4 The ability of the Mearley Croft site to be delivered early as a wholly affordable housing scheme is conditional on the affordable housing being exempt from any financial contribution towards education.
- 7.5 As with the public open space contribution, to assist in minimising the cost of the early affordable housing delivery it is proposed that the payment of any education payment requested by the County be linked to the occupation of the 35th and 70th private market dwellings on the Primrose Village Phase 2 scheme.

8.0 HIGHWAYS PROPOSALS

- 8.1 It is acknowledged that Primrose Village Phase 2 will place increased demands on the junction of Primrose Road and Whalley Road and proposals are included within the hybrid application to cover the improvements considered necessary by the Highways Authority.
- 8.2 Assuming the Mearley Croft scheme is approved and does come forward early, this should not place considerably increased demands on this junction both because of its scale and location; towards Eshton Terrace and the town centre. As such we would expect any planning condition, S278 agreement or planning obligation to undertake the proposed junction improvements on Whalley Road to be linked to the Primrose Village Phase 2 scheme.
- 8.3 It is acknowledged that the works to the junction have significant importance beyond simply these two development proposals. Beck is willing in principle to consider facilitating the delivery of the improvements prior to the sale of the 1st market sale dwelling on Primrose Village Phase 2 if the policy relaxation for the affordable housing and the payment profile for both the Public Open Space and Education contributions (if evidenced and required) is accepted as proposed.

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PLANNING OBLIGATIONS DELIVERY PLAN
PRIMROSE VILLAGE PHASE 2 & MEARLEY CROFT, CLITHEROE

9.0 SECURING THESE OBLIGATIONS

- 9.1 Beck expects to enter into a Town and Country Planning Act 1991 S106 Agreement to secure the obligations.
- 9.2 These proposals are summarised in the Executive Summary which is intended to act as Heads of Terms for the drafting of the planning agreement.

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