

◆ Gateley

DATED 22nd May 2015

- (1) LANCASHIRE COUNTY COUNCIL
- (2) CO-OPERATIVE GROUP LIMITED
- (3) BELLWAY HOMES LIMITED

SUPPLEMENTAL AGREEMENT

**Pursuant to section 106A of the Town and Country
Planning Act 1990 relating to land to the north of Ridings
Lane, Whalley**

Planning ref: 3/2014/0815

THIS DEED OF AGREEMENT is made on the 22nd day of May

2015

BETWEEN

- (1) **LANCASHIRE COUNTY COUNCIL** of PO Box 78, County Hall, Fishergate, Preston, Lancashire, PR1 8XJ (the **County Council**);
- (2) **CO-OPERATIVE GROUP LIMITED** (a registered Society number 525R) of 1 Angel Square, Manchester, M60 0AG (the **Group**); and
- (3) **BELLWAY HOMES LIMITED** (Company registration number 670176) whose registered office is situate at Seaton Burn House, Seaton Burn, Newcastle upon Tyne, NE13 6BE (the **Developer**).

INTRODUCTION

1. The County Council is the Local Highway Authority for the purposes of the Highways Act 1980 and the Local Education Authority and is also a Local Planning Authority for the purposes of the Act for the area within which the Property is situated.
2. The Group is the registered proprietor of the Property with freehold title absolute registered together with adjoining land at the Land Registry under title number LA624354.
3. The Developer is interested in the Property pursuant to a contract entered into with the Group to purchase the Property.
4. The Principal Agreement dated 16 August 2011 made pursuant to Section 106 of the Act and all other powers was entered into between the County Council and the Group in respect of the Property.
5. In the Principal Agreement, the Group agreed to pay Highway Contributions and Education Contributions.
6. The Principal Agreement was entered into in connection with the Application for the Proposed Development which resulted in Planning Permission 3/2010/0820 granted on appeal dated 16 September 2011 being outline planning permission for the erection of up to 80 residential units in the Property.
7. The Developer and the Group submitted the Planning Application for the Development on the Property to Ribble Valley Borough Council and this was approved by Ribble Valley Borough Council on 11th February 2015.
8. As a result of the grant of the Second Planning Permission, the parties have agreed to change one of the provisions in the Principal Agreement relating to Education Contributions.

IT IS AGREED

1. **DEFINITIONS**

- 1.1 In this Deed unless the context otherwise requires the following words and expressions and phrases shall have the meanings hereby prescribed to them:

1.2

BCIS

The BCIS General Building Cost Index published by the Royal Institute of Chartered Surveyors or any successor body (or such other index replacing the same), where;

$$A \times B/C = D$$

Where:

A = The contribution payable in accordance with this Deed

B = The figure shown in the BCIS General Buildings Cost Index for the period immediately prior to the date of payment under this Deed

C = The figure shown in the BCIS General Buildings Cost Index for the period last published before the date of this Deed

D = the recalculated sum under this Deed

The Development

The development of 71 dwellings and roads

The Planning Application

The application for approval of reserved matters for the Development pursuant to the Planning Permission and allocated reference number 3/2014/0815

Plan 1

The plan marked 'Plan 1' attached to this Deed

Primary Education Contribution

The sum of £192,474 towards the provision of 16 additional primary school places within three miles of the Property, adjusted by BCIS from the date of this Deed to the date of payment

The Principal Agreement

An agreement dated 16 August 2011 made between the County Council and the Group pursuant to section 106 of the Act

The Property

The land shown edged red on Plan 1

Second Planning Permission

Planning permission granted pursuant to the Planning Application and dated 11th February 2015

Secondary Education Contribution

The sum of £126,885 towards the provision of 7 additional secondary school places within three miles of the Property, adjusted by BCIS from the date of this Deed to the date of payment

- 1.2 Wherever the context so admits the definitions set out in the Principal Agreement shall apply to this Deed as if herein set out.
2. **INTERPRETATION**
- Unless the context otherwise requires:
- 2.1 Words incorporating the singular include the plural and vice versa and words importing any gender include every gender
- 2.2 References to natural persons are to include corporations and vice versa
- 2.3 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to cause permit or suffer any infringement of the restriction
- 2.4 References in this Deed to statutes shall include any statute amending re-enacting or made pursuant to the same as current and enforced from time to time.
- 2.5 If any provisions of this Deed shall be held to be invalid illegal or unenforceable, the validity legality and enforceability of the remaining provisions will not in any way be deemed thereby to be affected impaired or called into question.
- 2.6 References to "the parties" shall mean the parties to the Deed and reference to "party" shall mean any one of the parties.
- 2.7 The Interpretation Act 1978 shall apply to this Deed.
- 2.8 The clause and paragraph headings and the recitals are purely to aid interpretation, are for reference purposes only, and have no binding legal effect.
- 2.9 Where in this deed a party includes more than one person any obligations of that party shall be joint and several.

- 2.10 The expressions "the County Council" "the Group" and "the Developer" shall include their respective successors in title and assigns and in the case of the Council shall include any successor in function.

3. **STATUTORY AUTHORITY AND LEGAL EFFECT**

This Deed is made pursuant to section 106 of the Act and all other powers enabling which may be relevant for the purpose of giving validity to this Deed.

4. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

For the purposes of the Contract (Rights of Third Parties) Act 1999 nothing in this Deed shall confer on any third party any right to enforce any benefit or any terms of this Deed

5. **LOCAL LAND CHARGES**

This Deed is a local land charge and shall be registered as such for the purposes of the Local Land Charges Act 1975

6. **SUPPLEMENTAL**

- 6.1 The Principal Agreement shall be amended as follows but subject solely to the Second Planning Permission being implemented:

6.1.1 by the deletion of the words "for the Property" on line 4 of recital (1) and the substitution of the words "for the land".

6.1.2 by the deletion of recital (2) and by the inclusion of the following words as new recital (2):

"The Group is the proprietor of the freehold estate of the land to the north of Ridings Lane Whalley which is part of the land comprised in Title Number LA624364 and which is shown edged red on the Plan ("the Property")

6.1.3 by the deletion of paragraphs 3 and 4 from Schedule 1; and

6.1.4 by the inclusion of the following words as new paragraphs 3 and 4 of Schedule 1:-

"To pay to the County Council acting as local education authority the Primary Education Contribution for the provision of 16 additional primary school places within 3 miles of the Property calculated at £12,029.62 per place making a total of £192,474 payable and to be paid in 2 instalments with 50% of the contribution payable prior to first occupation of a dwelling on the Property pursuant to the Second Planning Permission and 50% of the contribution payable before first occupation of the 40th dwelling on the Property pursuant to the Second Planning Permission"

"To pay to the County Council acting as local education authority the Secondary Education Contribution for the provision of 7 additional secondary school places within 3 miles of the Property calculated at £18,126.38 per place making a total of £126,885 payable and to be paid in 2 instalments with 50% of the contribution payable prior to first occupation of a dwelling on the Property pursuant to the Second Planning Permission and 50% of the contribution payable before first occupation of the 40th dwelling on the Property pursuant to the Second Planning Permission".

7. **EFFECT**

7.1 The Principal Agreement (as amended) shall continue to have full force and effect in relation to the Property and will continue to bind the Property in relation to all matters remaining to be performed.

7.2 For the avoidance of doubt, the Group confirms that it will perform and comply with its obligations in the Principal Agreement only insofar as they remain to be satisfied subject to the provisions of the Principal Agreement.

8. **JURISDICTION**

This Deed is governed by and interpreted in accordance with the law of England and Wales.

PLAN

IN WITNESS whereof the County Council the Group and the Developer have executed this Deed the day and year first before written

THE COMMON SEAL of
LANCASHIRE COUNTY COUNCIL
was hereunto affixed in the presence of:



24265



EXECUTED as a DEED by the affixing of the Common Seal
of CO-OPERATIVE GROUP LIMITED
in the presence:



.....
Authorised Sealing Officer

Authorised Sealing Officer
CGL7168

EXECUTED as a DEED by
BELLWAY HOMES LIMITED
acting by:



.....
Director



.....
Director / Secretary