DATED

3rd March

2020

<u>RIBBLE VALLEY BOROUGH COUNCIL</u>

- and –

LANCASHIRE COUNTY COUNCIL

and

RIBBLE VALLEY PROPERTY DEVELOPMENT LIMITED

SECTION 106 PLANNING AGREEMENT TOWN AND COUNTRY PLANNING ACT 1990

RELATING TO LAND KNOWN AS

LAND AT PRIMROSE WORKS PRIMROSE ROAD CLITHEROE

Document Ref : 2282452961/04/11/15

Page 1 of 12

THIS AGREEMENT AND DEED is made the 3rd day of March, 2020

BETWEEN

- 1. **RIBBLE VALLEY BOROUGH COUNCIL** of Council Offices Church Walk Clitheroe Lancashire BB7 2RA (hereinafter called "the Council") and
- 2. LANCASHIRE COUNTY COUNCIL of County Hall, Fishergate, Preston, Lancashire, PR1 8XJ (hereinafter called "the County Council") and
- 3. **RIBBLE VALLEY PROPERTY DEVELOPMENT LIMITED** (Company Registration Number.09794556) of Eastham House Clitheroe Road Mitton Clitheroe BB7 9PH (hereinafter called "the Owner")

WHEREAS

- (1) The Owner is the freehold owner of land at Primrose Works Primrose Road, Clitheroe the title of which land is registered at HM Land Registry under numbers LAN149140 and LA691235 and shown edged red on the Plan attached hereto ("the Property")
- (2) 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 contain in this Agreement is enforceable
- (3) 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
- () The Owners on the 28th day of October 2019 applied to the Council for planning permission for a development comprising 25 residential units on the Property as detailed in the plans and particulars deposited with Council under reference 3/2019/0954
- (5) 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:

Document Ref : 2282452961/04/11/15 Page 2 of 12

Application

"Application" means the application for Planning Permission submitted to the Council reference number 3/2019/0954 for residential use and associated amenities on the Property

BCIS

and a

"BCIS" means the BCIS General Building Cost Index published by the Royal Institution 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 Agreement although if payment shall be made within two years of the date hereof B shall equate with C for the purposes of this calculation

C = the figure shown in the BCIS General Buildings Cost Index for the period last published before that date of this Agreement and

D = the recalculated sum under this Agreement

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 £16,050.54 adjusted by Education Indexation for the provision

of an additional primary school place at St James' Church of England Primary School,

Clitheroe or Clitheroe Edisford Primary School or any subsequent name or designation

by which they are known

3

Document Ref : 2282452961/04/11/15

Page 3 of 12

Shall mean the BCIS All-in Tender Price Index published by the Royal Institute of Chartered Surveyors or any successor body (or such 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 All-in Tender Price Index for the period immediately prior to the date of payment under this Agreement

C = the figure shown in the All-in Tender Price Index for the period last published before the date of this Agreement and D = the recalculated sum under this Agreement

Implementation

"Implementation" means the carrying out of any of the material operations listed 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

Market Dwellings

"Market Dwellings" means Residential Units

Market Value

8

"Market Value" means the market value of the Affordable Housing Unit assessed in accordance with the Appraisal and Valuation Manual of the Royal Institute of Chartered Surveyors (the Red Book) current for the time being

Document Ref: 2282452961/04/11/15

Page 4 of 12

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

Off Site Leisure Contribution

"Off Site Leisure Contribution" means the sum of £8,350.65 (eight thousand three hundred and fifty pounds sixty five pence) to be paid to the Council for sports facilities in Clitheroe

Over 55 Accommodation

"Over 55 Accommodation" means a unit of accommodation/dwelling that shall not be occupied unless the primary occupier is 55 years or older provided that should the primary occupier die a spouse, civil partner (or person living as such) may continue to reside irrespective that they may be younger than 55 years of age;

the internal arrangements of the unit of accommodation/dwelling shall accord with the specifications and requirements of category 2 housing as defined in M4(2) of Approved Document M (volume 1 2015) of The Building regulations 2010 (or any subsequent revisions).

Plan

"Plan " means the Property location plan annexed hereto.

Planning Permission

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

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

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 statue 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 but shall be binding on a Purchaser from a mortgagee in possession
- 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

Document Ref : 2282452961/04/11/15 Page 6 of 12

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 Council and 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 an independent expert to be agreed by the parties or failing agreement between them to be nominated by the President for the time being of the Royal Institution of Chartered Surveyors as the case may be and the costs of the independent expert shall be paid as directed by the independent expert
- 8.7 The Owner shall pay the Council's and the County Council's legal fees incurred in relation to this Agreement on the date of this Agreement in the sum of £744.60 (seven hundred and forty four pounds sixty pence) and £350 (Three Hundred and Fifty Pounds) respectively.

SCHEDULE 1

The Owner covenants with the Council as follows:

1. Over 55 Accommodation

1.1 The Owner covenants with the Council that not less than 2 Dwellings to be constructed on the Site pursuant to the Planning Permission shall be Over 55 Accommodation Market Dwellings

2. Off Site Leisure Contribution

2.1 The Owner covenants with the Council to pay to the Council the Off Site Leisure Contribution prior to the Occupation of the 10th Market Dwelling

SCHEDULE 2

- 1. The Council covenants with the Owner as follows:
 - 1.1 To grant the Planning Permission not more than 14 days from the date of completion of this Agreement.
 - 1.2 When requested in writing the Council shall provide written confirmation of compliance with the obligations contained in this Agreement when satisfied that such obligation have been performed.

SCHEDULE 3

The Owner's Covenants with the County Council.

- 1. Education Contribution
 - 1.1 Prior to the Occupation of the 20th dwelling to pay to the County Council the full Education Contribution.

SCHEDULE 4

The County Council's Covenants with the Owner

- 1. Use and return of contributions
- 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 one primary school place at St James' Church of England Primary School, Clitheroe or Clitheroe Edisford Primary School or any subsequent name or designation by which they are known.

Should the Education Contribution not be spent on the infrastructure projects named within this Agreement, the County Council will return the entire sum to the Owner. The Council shall hold the Education Contribution in an interest bearing account pending use for the purpose set out in paragraph 1.1 above.

1.2 If on the day 5 years after the day on which 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 interest calculated at the Bank of England base lending rate.

Document Ref : 2282452961/04/11/15

Page 9 of 12





1.3 Upon request, the County Council shall provide to the Owner reasonable evidence as to the expenditure of the sums paid by the Owner under this agreement.

SCHEDULE 5 Draft Planning Permission

Page 10 of 12

RIBBLE VALLEY BOROUGH COUNCIL Department of Development		
Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA		
Telephone: 01200 425111	Fax: 01200 414488	Pianning Fax: 01200 414487
Town and Country Planning Act 1990		
PLANNING PERMISSION		
APPLICATION NO:	3/2019/0954	
DECISION DATE:	DEFER	
DATE RECEIVED:	28/10/2019	
APPLICANT:		AGENT:
Ribble Valley Property Development Ltd		Mr Philip Cottier
Eastham House		Sunderland Peacock and Assoc Ltd
Clitheroe Road		Hazelmere
Mitton		Pimlico Road
Clitheroe		Clitheroe
8B7 9PH		BB7 2AG

DEVELOPMENT Demolition of existing workshop buildings conversion of two main vacant mill structures to provide 25 residential apartments erection of cycle/refuse store, laying out of parking and circulation areas and associated landscaping.

AT: Lodematic Ltd Primrose Works Primrose Road Clitheroe BB7 1BS

Ribble Valley Borough Council hereby give notice that **permission has been granted** for the carrying out of the above development in accordance with the application plans and documents submitted subject to the following <u>condition(s)</u>:

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

REASON: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004.

P.T.O.

APPLICATION NO. 3/2019/0954

- 2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:
 - Location Plan Rev: A:
 - 5857-07 Rev: C: Proposed Lower Floor Plan
 - 5857-08 Rev: C: Proposed Ground Floor Plan
 - 5857-09 Rev: C: Proposed First Floor Plan
 - 5857-10 Rev: B: Proposed second Floor Plan
 - 5857-11 Rev: D: Proposed Elevations
 - 5857-12 Rev: C: Proposed Section A-A
 - 5857-13 Rev: A: Existing and Proposed Site Section C-C
 - 5857-14 Rev: C: Existing and Proposed Site Section D-D
 - 5857-15 Rev: H: Proposed Site Plan
 - 5857-16 Rev: F: Visibility Splay
 - 5857-18 Rev: A: Proposed Internal Courtyard Elevations
 - 5857-19 Rev: C: Proposed Access Road Surfacing and Refuse Collection Point
 - 5857-20 Rev: A: Swept Path Analysis

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent hereby approved.

3. Matters of Design

Notwithstanding the submitted details, details or specifications of all new or replacement materials to be used on the external surfaces of the development hereby approved (including external surfaced areas and car-parking) shall have been submitted to and approved in writing by the Local Planning Authority before their use in the proposed development. The approved materials shall be implemented within the development in strict accordance with the approved details.

REASON: In order that the Local Planning Authority may ensure that the materials to be used are appropriate to the locality and respond positively to the inherent character of the existing buildings.

4. Notwithstanding the submitted details, no other work other than site clearance/demolition shall be undertaken until details, at a scale of not less than 1:20, of each elevation have been submitted to and approved by the Local Planning Authority. For the avoidance of doubt the sections shall clearly detail all eaves, guttering/rain water goods, soffit/overhangs, window/door reveals and the proposed window/door framing profiles and materials. The development shall be carried out in strict accordance with the approved details.

REASON: In order that the Local Planning Authority may ensure that the detailed design of the proposal is appropriate to the locality and conserves and enhances the character and external appearance of the buildings to be converted. P.T.O.

APPLICATION NO. 3/2019/0954

DECISION DATE: DEFER

5. Notwithstanding the submitted details, no other work other than site clearance/demolition shall be undertaken until details, at a scale of not less than 1:20, of the glazed canopy have been submitted to and approved by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.

REASON: In order that the Local Planning Authority may ensure that the detailed design of the proposal is appropriate to the locality and conserves and enhances the character and external appearance of the buildings to be converted.

6. Details of the alignment, height, and appearance of all boundary treatments, fencing, walling, retaining wall structures and gates to be erected within the development shall have been submitted to and approved in writing by the Local Planning Authority prior to their installation. The development shall be carried out in strict accordance with the approved details.

To ensure a satisfactory standard of appearance of the external areas of the development in the interests of the visual amenities of the area.

Notwithstanding the submitted details, the proposed roof-lights to be installed on the development hereby approved shall be of the Conservation type, recessed with a flush fitting, details of which shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The development shall be carried out in strict accordance with the approved details.

REASON: In order that the Local Planning Authority may ensure that the detailed design of the proposal does not undermine the inherent character of the buildings to be converted

7. The area to be resurfaced as indicated on drawing 5857-19 C shall be fully surfaced and made available for use prior to first occupation of any of the dwellings hereby approved.

REASON: To ensure safe and adequate access is provided for motor-vehicles and pedestrians.

8. The cycle storage provision hereby approved shall be installed and made available for use prior to first occupation of any of the dwellings hereby approved and thereafter retained.

REASON: To ensure adequate storage for bicycles is provided on site and to encourage sustainable modes of transport.

P.T.O. Landscape and Ecology

APPLICATION NO. 3/2019/0954

9. Details of bat mitigation proposals as contained within submitted Bat Survey (Ref 5857 dated Sept 2019) shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The approved details shall be implemented in full and be made available for use prior to first occupation of any of the dwellings hereby approved and thereafter retained.

REASON: In the interests of biodiversity and to enhance nesting/roosting opportunities for species of conservation concern.

10. Unless otherwise agreed in writing with the Local Planning Authority the development shall be carried out in strict accordance with the recommendations and timings contained within the Bat Survey (Ref 5857 dated Sept 2019).

REASON: To protect the bat population from damaging activities and to mitigate the impact of the development upon species of conservation concern.

11. Notwithstanding the submitted details, no development, including any site preparation, demolition, scrub/hedgerow clearance or tree works/removal shall commence or be undertaken on site until a scheme for the hard and soft landscaping of the site shall be submitted to and approved in writing by the local planning authority.

The submitted details shall include the types and numbers of trees and shrubs, their distribution on site, those areas to be seeded, turfed, paved or hard landscaped, including details of any changes of level or landform and the types and specifications of all retaining structures (where applicable).

The approved soft landscaping scheme shall be implemented in the first planting season following occupation or use of the development, whether in whole or part and shall be maintained thereafter for a period of not less than 10 years to the satisfaction of the Local Planning Authority. This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted.

For the avoidance of doubt all trees/hedgerow shown as being retained within the approved details shall be retained as such in perpetuity.

REASON: To ensure the proposal is satisfactorily landscaped and trees/hedgerow of landscape/visual amenity value are retained as part of the development.

P.T.O.

Flooding and Drainage

APPLICATION NO. 3/2019/0954

- 12. No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:
 - i. An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
 - ii. A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
 - iii. A timetable for its implementation.

The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. The development shall be carried out in strict accordance with the approved details.

REASON: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

13. Foul and surface water shall be drained on separate systems.

REASON: To secure proper drainage and to manage the risk of flooding and pollution.

Heritage and Archaeology

14. No development shall take place until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological works. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and agreed in writing by the Local Planning Authority. The programme of works should include:

i. The creation of an archaeological record of the buildings to Level 2/3 as set out in the specifications contained in 'Understanding Historic Buildings' (Historic England 2016); and ii. A formal archaeological watching brief during all groundworks required as part of the development.

This work shall be carried out by an appropriately qualified and experienced professional contractor to the standards and guidance of the Chartered Institute for Archaeologists (CIFA). The development shall be carried out in accordance with these agreed details.

REASON: To ensure and safeguard the recording and inspection P.T.O.

APPLICATION NO. 3/2019/0954

15. Highways

No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. For the avoidance of doubt the submitted information shall provide precise details of:

A. The siting and location of parking for vehicles of site operatives and visitors

B. The siting and location for the loading and unloading of plant and materials

C. The siting and locations of all site cabins

D. The siting and location of storage of plant and materials used in constructing the development

E. The siting and locations of security hoarding

F. The siting location and nature of wheel washing facilities to prevent mud and stones/debris being carried onto the Highway (For the avoidance of doubt such facilities shall remain in place for the duration of the construction phase of the development).

G. The timings/frequencies of mechanical sweeping of the adjacent roads/highway

H. Periods when plant and materials trips should not be made to and from the site (mainly peak hours but the developer to identify times when trips of this nature should not be made)

I. The highway routes of plant and material deliveries to and from the site.

J. Measures to ensure that construction and delivery vehicles do not impede access to adjoining properties.

K. Days and hours of operation for all construction works.

L. Contact details for the site manager(s)

The approved statement shall be adhered to throughout the construction period of the development hereby approved.

REASON: To ensure the safe operation of the highway and to protect nearby residential amenities for the duration of the construction period of the development.

No residential unit hereby permitted shall be occupied until details of arrangements for the future management and maintenance of proposed carriageways, footways, footpaths, landscaped areas and bin storage areas not put forward for adoption within the site have been submitted to and approved in writing by the Local Planning Authority. Following occupation of the first residential unit on the site, the areas shall be maintained in accordance with the approved management and maintenance details.

REASON: To ensure that all private streets, landscaped areas and other communal spaces are appropriately managed and maintained to ensure the safety of all users.

P.T.O.

16.

APPLICATION NO. 3/2019/0954

Note(s)

- 1. For rights of appeal in respect of any condition(s)/or reason(s) attached to the permission see the attached notes.
- 2. The applicant is advised that should there be any deviation from the approved plan the Local Planning Authority must be informed. It is therefore vital that any future Building Regulation application must comply with the approved planning application.
- 3. The Local Planning Authority operates a pre-planning application advice service which applicants are encouraged to use. Whether or not this was used, the Local Planning Authority has endeavoured to work proactively and positively to resolve issues and considered the imposition of appropriate conditions and amendments to the application to deliver a sustainable form of development.

NICOLA HOPKINS DIRECTOR ECONOMIC DEVELOPMENT & PLANNING **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



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

uthorised Signatory



EXECUTED AS A DEED BY RIBBLE VALLEY PROPERTY DEVELOPMENT LIMITER Acting by:

A Director in the presence of:

Signature of Witness:7 Name of Witness: Address: Hamson Drung Colta, 21 Church Street, Clubere

Document Ref : 2282452961/04/11/15

Page 11 of 12

L

Page 12 of 12

1 l L