

Dated 21 March

2022

(1) RIBBLE VALLEY BOROUGH COUNCIL

(2)



(3) DEWHURST PROPERTIES LIMITED

**Planning Obligation by Deed of Agreement under
Section 106 of the Town and Country Planning Act 1990**

relating to the development of land at Beech House, Alston Lane, Longridge PR3 3BN

THIS DEED IS MADE ON

2022

BETWEEN:

(1) **RIBBLE VALLEY BOROUGH COUNCIL** of Council Offices Church Walk Clitheroe Lancashire ("**Council**");

(2)

(3) **DEWHURST PROPERTIES LIMITED** (Company Registration Number [REDACTED]) of [REDACTED] ("**Owner B**")

INTRODUCTION

- 1 The Council is the local planning authority for the purposes of the Act for the area in which the 2019 Site and the Application Site is situated and the Council is entitled to enforce the obligations contained in this Deed.
- 2 Owner A is the freehold owner of the 2019 Site, which is registered at HM Land Registry under title number LA732988.
- 3 Owner A is the freehold owner of the part of the Application Site which is registered at HM Land Registry under title number LA732988 and Owner B is the freeholder owner of the remainder of the Application Site which is registered at HM Land Registry under title numbers LA744090 and LAN153453.
- 4 Other than those interests set out in recitals 2 and 3 above, the Owners warrant to the Council that no other person has a legal or equitable interest in the 2019 Site or the Application Site.
- 5 On 12th April 2019 the Council granted the 2019 Planning Permission for the demolition of stables and construction of four holiday cottages with associated parking and amenity areas on the 2019 Site.
- 6 Owner A has submitted the Application to the Council for the construction of three holiday cottages with associated parking and amenity areas on the Application Site.
- 7 The Council is minded to grant the Planning Permission subject to the prior completion of this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

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

"2019 Development"

means the development of the 2019 Site approved by the 2019 Planning Permission comprising the demolition of stables and construction of four holiday

	cottages with associated parking and amenity areas;
"2019 Planning Permission"	means the planning permission for the 2019 Development granted on 12 th April 2019 subject to conditions and allocated reference number 3/2019/0153;
"2019 Site"	means the freehold property known as Beech House, Alston Lane, Alston, Preston PR3 3BN registered at HM Land Registry under title number LA732988 and shown edged red on Plan 1;
"Act"	means the Town and Country Planning Act 1990;
"Application"	means the application for full planning permission for the Development registered by the Council on 15 th July 2020 and allocated reference number 3/2020/0498;
"Application Site"	means the freehold property known as Boot Farm, Alston Lane, Longridge registered at HM Land Registry under title numbers LA732988, LA744090 and LAN153453 and shown edged red on Plan 2;
"Commencement of Development"	means the earliest date on which any material operation (as defined in Section 56(4) of the Act which includes, for the avoidance of doubt, any material change of use) forming part of the Development begins to be carried out and "Commence Development" shall be construed accordingly;
"Development"	means the development of the Application Site as set out in the Application comprising the construction of three holiday cottages with associated parking and amenity areas;
"Land"	means the 2019 Site and Site collectively against which this Deed may be enforced;
"Owners"	means Owner A and Owner B jointly and severally;
"Planning Permission"	means the full planning permission subject to conditions to be granted by the Council pursuant to the Application;
"Plan 1"	means the plan attached to this Deed at Appendix 1 showing the 2019 Site;
"Plan 2"	means the plan attached to this Deed at Appendix 2 showing the Application Site;
"Working Day(s)"	means Mondays to Fridays (excluding days that in England and Wales are public holidays or on which the Council's offices are closed) inclusive.

2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, schedule, paragraph or appendix such reference (unless the context otherwise requires) is a reference to a clause, schedule,

paragraph or appendix in this Deed.

- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 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 as being interchangeable in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 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 of Parliament or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council any successors to its statutory functions.
- 2.7 The headings and contents list are for reference only and shall not affect the construction of this Deed.

3 LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers.
- 3.2 The covenants, restrictions and requirements imposed under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owners and their successors in title.

4 CONDITIONALITY

This Deed is conditional (and shall take effect immediately) upon the grant of the Planning Permission SAVE FOR the provisions of this clause 4 and clauses 1, 2, 6, 8, 9 and 10 which shall come into effect immediately upon completion of this Deed.

5 OWNERS COVENANTS

The Owners covenant with the Council to comply with the obligations set out in the Schedule of this Deed.

6 MISCELLANEOUS

- 6.1 The Owners shall immediately upon completion of this Deed pay to the Council the legal costs and disbursements of the Council incurred in the preparation, negotiation and execution of this Deed.
- 6.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 6.3 This Deed shall be registrable as a local land charge by the Council.
- 6.4 Following the performance and satisfaction of all the obligations contained in this Deed to

the satisfaction of the Council, the Council shall upon request from the Owners forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

- 6.5 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid, illegal or unenforceable then such invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 6.6 Any notice or other written communication to be served by one party upon any other pursuant to the terms of this Deed 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.
- 6.7 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owners) it is modified by any statutory procedure (other than an application made under Section 96A of the Act) or expires prior to the Commencement of Development.
- 6.8 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after parting with their entire interest(s) in the Land but without prejudice to liability for any subsisting breach arising prior to parting with such interest(s).
- 6.9 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the 2019 Planning Permission and the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 6.10 It is agreed that the obligations contained in this Deed are:
- 6.10.1 necessary to make the Development acceptable in planning terms;
- 6.10.2 directly related to the Development; and
- 6.10.3 fairly and reasonably related in scale and kind to the Development.

7 WAIVER

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

8 CHANGE IN OWNERSHIP AND MONITORING

- 8.1 The Owners agree with the Council to give the Council within 10 Working Days written notice of any change in ownership of any of their interests in the Land such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Land purchased by reference to a plan.
- 8.2 The Owners shall give the Council no less than 5 Working Days written notice of Commencement of Development.

9 DISPUTE RESOLUTION

- 9.1 In the event of any dispute or difference arising between the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an

independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

- 9.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to clause 9.1 or as to the appropriateness of the professional body then such question may be referred by either party to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute, such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.
- 9.3 Any expert howsoever appointed shall be subject to the express requirement that a decision is reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than 20 Working Days after the conclusion of any hearing that takes place or 20 Working Days after he has received any file or written representation.
- 9.4 The expert shall be required to give notice to each of the parties requiring them to submit to him within 10 Working Days of notification of his appointment written submissions and supporting material and the other party shall be entitled to make a counter-written submission within a further 10 Working Days.

10 JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and Wales (as it applies in England) and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

11 DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

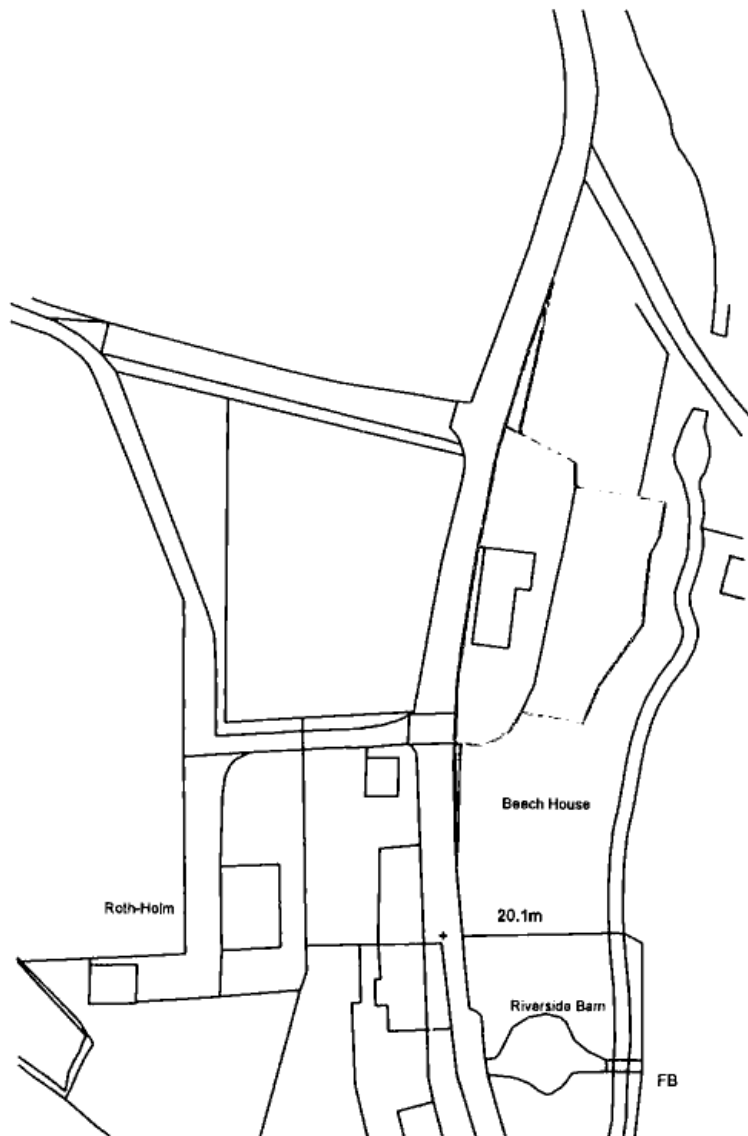
THE SCHEDULE

Owners' Covenants

The Owners covenant with the Council, notwithstanding the grant of the 2019 Planning Permission:

1. not at any time to erect, build, construct, implement, occupy, commence development (either in whole or in part) nor procure or permit the erection, building, construction, implementation, occupation or commencement of development (either in whole or in part) of the 2019 Development authorised by the 2019 Planning Permission.
2. not to claim compensation pursuant to section 97 of the Act or any other relevant legislation in force as at the date of this Deed or brought into force thereafter in respect of the effective partial revocation of the 2019 Planning Permission resulting from this Deed (without any admission on the part of the Council that this Deed gives rise to any such right to compensation).

APPENDIX 1
Plan 1 (2019 Site)

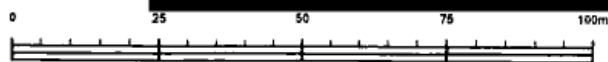


Mapping contents (c) Crown copyright and database rights 2016 Ordnance Survey 100035207

Title Plan:

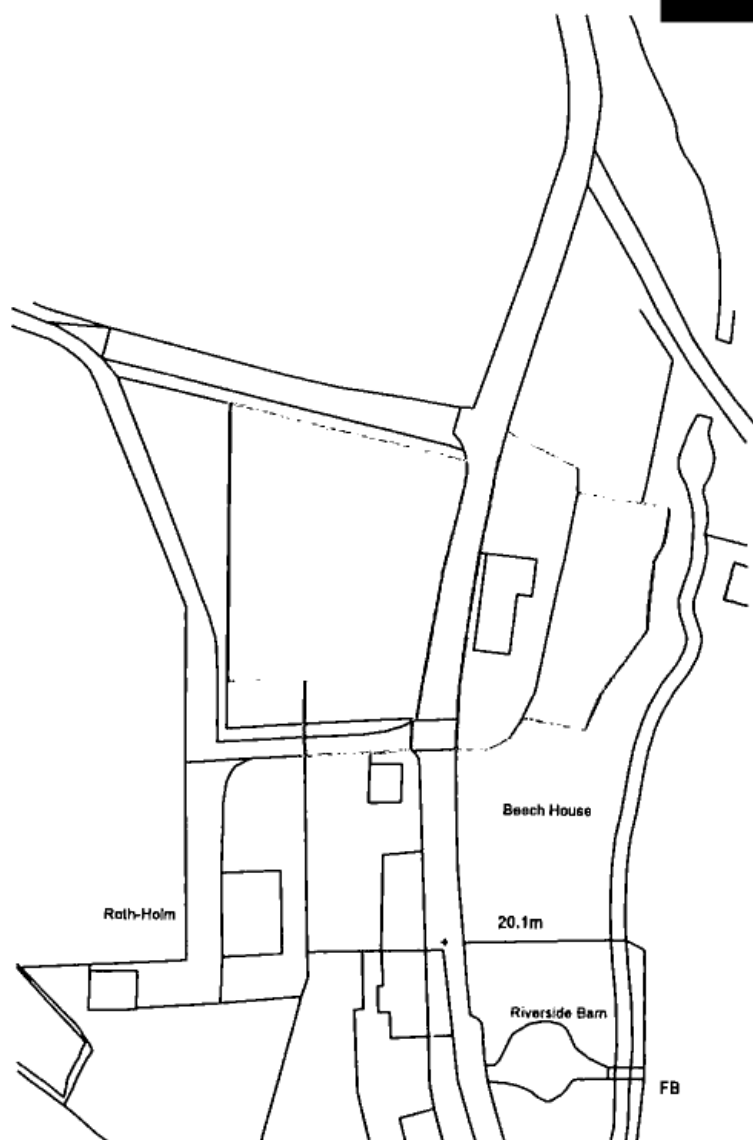
Mr M Dewhurst
Beech House
Alston Lane
Alston
Preston
PR3 3BN

Scale 1:1250



APPENDIX 2

Plan 2 (Application Site)

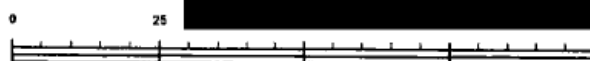


Mapping contents (c) Crown copyright and database rights 2016 Ordnance Survey 100035207

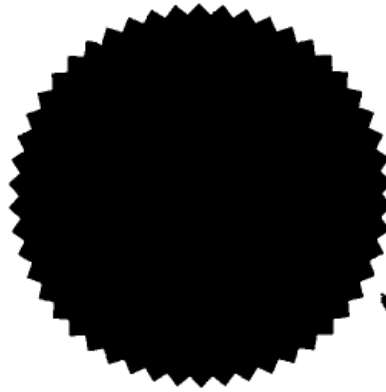
Title Plan:

Mr M Dewhurst
Beech House
Alston Lane
Alston
Preston
PR3 3BN

Scale 1:1250

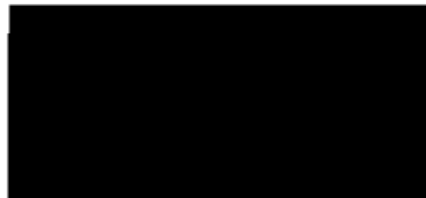


THE COMMON SEAL of
RIBBLE VALLEY BOROUGH COUNCIL
was affixed in the presence of:



[Redacted]
Authorised Signatory

[Redacted]
SIGNED as a DEED by
MARK ANTHONY DEWHURST



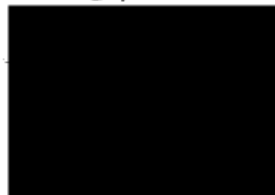
in the presence of:

[Redacted]
Witness name (block capitals):

Occupation of witness:

Address of witness:

Solicitor



SIGNED as a DEED by

LIANNE MICHELLE DEWHURST



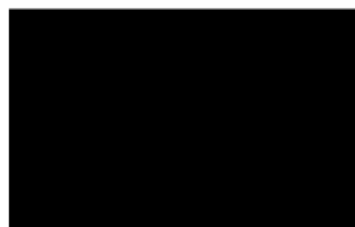
Signature

in the presence of:

[Redacted]
Occupation of witness:

Address of witness:

Solicitor



EXECUTED as a DEED by
DEWHURST PROPERTIES LTD

acti

.....
Director

in the presence of:

Occupation of witness:

Address of witness:

Solicitor.

