

DATED

26 January

3  
2022

**LANCASHIRE COUNTY COUNCIL**

- and -

**RIBBLE VALLEY BOROUGH COUNCIL**

- and -

**THE CLITHEROE ROYAL GRAMMAR SCHOOL FOUNDATION**

**SECTION 106 AGREEMENT**

**TOWN AND COUNTRY PLANNING ACT 1990**

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**RELATING TO LAND AT HIGHMOOR FARM FARM, CLITHEROE**



**THIS AGREEMENT AND DEED** is made the                      day of                      2022

**BETWEEN**

1.     **LANCASHIRE COUNTY COUNCIL** of PO Box 78, County Hall, Fishergate, Preston, Lancashire, PR1 8XJ (hereinafter called "the **County Council**");
2.     **RIBBLE VALLEY BOROUGH COUNCIL** of Council Offices Church Walk Clitheroe Lancashire BB7 2RA (hereinafter called "the **Council**");
3.     **THE CLITHEROE ROYAL GRAMMAR SCHOOL FOUNDATION** (CIO Registration Number 1174177) of York Street, Clitheroe BB7 2DJ ("the **Owner**").

**WHEREAS**

- (1)    The Owner is the freehold owner of the Application Site the title of which land is as at the date of this Deed registered at HM Land Registry as part of title number LAN182878 and is indicatively shown edged red on Plan 1, against which this Agreement is enforceable.
- (2)    The Council is the Local Planning Authority for the purposes of Section 106 of the 1990 Act for the area within which the Application Site is situated and by whom the obligations contained in Schedule 1 and Schedule 2 are enforceable
- (3)    The County Council is the County Planning Authority and education authority for the area within which the Application Site is situated and by whom the obligations contained in Schedule 1 and 3 are enforceable
- (4)    There are no other interests in the Application Site that would prevent the Owner entering into and complying with this Agreement.
- (5)    The Owner has made the Application to the Council for outline planning permission for the construction of up to 125 dwellings with public open space, landscaping and sustainable drainage system and vehicular access point as detailed in the plans and particulars deposited with Council under reference 3/2020/0601.
- (6)    The Council resolved that the Application be approved subject to the Owner entering into this Planning Obligation Deed in accordance with Section 106 of the 1990 Act.

**NOW THIS DEED WITNESSETH** as follows:

**1. Definitions**

In this Deed unless the context otherwise requires:

**1990 Act**

means the Town and Country Planning Act 1990 (as amended).

**Affordable Housing**

"Affordable Housing" has the meaning given to it in Annex 2 of the NPPF and shall include Affordable Rented Housing Units, Shared Ownership Housing Units and Discount Market Sale Dwellings.

**Affordable Housing Provider**

"Affordable Housing Provider" means a company or organisation whose aim or function includes the provision and management of Affordable Housing (including Affordable Housing of the type and amount proposed within the Development) and which is either:

- (a) A Non-Profit Registered Provider as defined by the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment) and registered with Homes England (or similar successor body);
- (b) A Profit-Making Registered Provider as defined by the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment) and registered with Homes England (or similar successor body) and in receipt of Homes England strategic partnership funding; or
- (c) such other body approved by the Council to own and/or let the Affordable Housing.

**Affordable Housing Level**

'Affordable Housing Level' means the percentage of the total Dwellings which are to be provided as Affordable Housing Units which shall be a minimum of

30% (rounded up to the nearest whole number) of the total number of Dwellings to be constructed on the Application Site pursuant to the Planning Permission, of which:

- (i) 33.3% of the Affordable Housing Units shall be Affordable Rented Housing Units comprising:
  - a. 25% single person apartments;
  - b. 25% 3 bedroom dwelling houses;
  - c. 12.5% 2 bedroom dwelling houses;
  - d. 12.5% 4 bedroom dwelling houses;
  - e. 12.5% 3 bedroom Bungalows;
  - f. 12.5% 2 bedroom Bungalows.
  
- (ii) 33.3% of the Affordable Housing Units shall be Shared Ownership Housing Units comprising:
  - a. 25% single person apartments;
  - b. 25% 3 bedroom dwelling houses;
  - c. 25% 2 bedroom Bungalows;
  - d. 25% 4 bedroom dwelling houses.
  
- (iii) 33.3% of the Affordable Housing Units shall be Discount Market Sale Dwellings comprising:
  - a. 25% single person apartments;
  - b. 25% 3 bedroom dwelling houses;
  - c. 25% 2 bedroom Bungalows;
  - d. 25% 4 bedroom dwelling houses.

PROVIDED THAT the calculations set out at (i) – (iii) above shall not require the provision of more Affordable Housing Units than 30% (rounded up to the

nearest whole number) of the total number of Dwellings PROVIDED ALSO THAT at least one Affordable Housing Unit of each specified tenure and configuration shall be provided

### **Affordable Housing Scheme**

"Affordable Housing Scheme" means the scheme for the provision of the Affordable Housing Units to be submitted and approved in writing by the Council which:

- (a) identifies the quantum of Affordable Housing Units to be provided as part of the Development PROVIDED ALWAYS THAT the total number, tenure and housing type of Affordable Housing Units shall be in accordance with the Affordable Housing Level;
- (b) identifies the precise location and size of each of the Affordable Housing Units to be provided within the Development together with a plan.
- (c) Identifies which of the Affordable Housing Units are to be provided as Over 55 Accommodation PROVIDED ALWAYS THAT such units shall comprise 7.5% of the Dwellings within the Development in accordance with the provisions of this Agreement.

### **Affordable Housing Units**

"Affordable Housing Units" means the minimum of 30% of Dwellings within the Development which are to be constructed on the Application Site and provided as Affordable Housing to Eligible Households strictly in accordance with the Affordable Housing Scheme and the provisions of this Agreement and "Affordable Housing Unit" shall be construed accordingly.

### **Affordable Rent**

"Affordable Rent" means such rent (inclusive of service charges where applicable) as is set by the Affordable Housing Provider in line with such standard recommendations and guidelines as may from time to time be published by Homes England in relation to affordable costs being at the date hereof an initial maximum rental level of a maximum of the Local Housing Allowance rate.

### **Affordable Rented Housing Unit(s)**

"Affordable Rented Housing" means affordable rented housing constructed pursuant to the Planning Permission and Transferred to an Affordable Housing Provider for allocation as affordable rented housing to Eligible Households at Affordable Rent.

### **Allocations Scheme**

"Allocations Scheme" means the Council's policy for the allocation of Affordable Rented Housing Units.

### **Application**

"Application" means the application for outline Planning Permission submitted to the Council and registered by the Council on 11 August 2020 and given reference number 3/2020/0601 for the construction of up to 125 dwellings with public open space, landscaping and sustainable drainage system and vehicular access point from Highmoor Park to the Application Site.

### **Application Site**

"Application Site" means the freehold property comprising the land at Highmoor Farm, Clitheroe BB7 1PN as shown edged red on Plan 1 against which this Deed may be enforced and registered as at the date of this Deed at HM Land Registry as part of title number LAN182878.

### **Bungalow**

means a unit of accommodation that shall provide a principle bedroom and bathroom at ground floor, in addition to and without compromising kitchen/dining and living provision, all of which shall be designed to meet Nationally Described Space Standards, and the internal and external arrangements of the unit of accommodation 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 provisions)

### **Commencement of Development**

"Commencement of Development" means the earliest date on which any

material operation (as defined by Section 56(4) of the 1990 Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purposes) operations consisting of:

- (i) site clearance;
- (ii) demolition;
- (iii) archaeological investigation;
- (iv) advanced habitat creation;
- (v) investigation for the purposes of assessing contamination and minor or temporary general maintenance works or works of repair;
- (vi) remedial action in respect of contamination;
- (vii) diversion and provision of services and drainage;
- (viii) the erection of means of enclosure for the purpose of site security and/or the display of advertisements;
- (ix) tree works;
- (x) construction of temporary access;
- (xi) The temporary display of site notices;
- (xii) erection of fencing to site boundaries; and
- (xiii) marking of site boundaries; and

and "Commence Development" shall be construed accordingly.

### **Contribution**

"Contribution" means all or any of the Primary Education Contribution the Secondary Education Contribution the Off Site Recreation Contribution

### **Development**

"Development" means the development on the Application Site as approved by the Planning Permission.



### **Discount Market Sale Dwelling**

“Discount Market Sale Dwelling” means any units of the Affordable Housing which are to be sold to Eligible Households at the Discount Market Sale Price

### **Discount Market Sale Price**

“Discount Market Sale Price” means no more than 70% (seventy per cent) of the Market Value of that Dwelling

### **Discount for Sale Restriction**

“Discount for Sale Restriction” means the restriction to be entered in the proprietorship register at the Land Registry in relation to each Discount Market Sale Dwelling in the following terms:

“No disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a written consent by the solicitor of the disponor or the donee or Ribble Valley Borough Council that the provisions of paragraph 1.9.2.1 of Part 1 of Schedule 2 of a Section 106 Agreement dated *26 January 2023* and made between (1) Lancashire County Council (2) Ribble Valley Borough Council (3) The Clitheroe Royal Grammar School Foundation have been complied with or do not apply to the disposition”

### **Dwelling**

“Dwelling” means any building or residential unit within a building intended to be occupied as a dwelling (including a house, flat, bungalow or maisonette) to be constructed on the Application Site as part of the Development pursuant to the Planning Permission.

### **Eligible Households**

Means a person or household that the Council has confirmed in writing as being in need of Affordable Housing because their needs are not met by the market as determined with regard to housing need, local incomes, local house prices and:

- (i) in the case of Affordable Rented Units, identified in accordance with the provisions of the Allocations Scheme or other criteria adopted by

the Council from time to time and;

- (ii) in the case of Shared Ownership Housing Units, a household with an income of £80,000.00 (Eighty Thousand Pounds) or less and a first-time buyer, or someone who owns an existing home where they are unable to afford to buy a home suitable for meeting the housing needs on the open market; and
- (iii) in the case of Discount Market Sale Dwelling a household with an income of £80,000.00 (Eighty Thousand Pounds) or less and a first-time buyer, or someone who owns an existing home where they are unable to afford to buy a home suitable for meeting the housing needs on the open market.

### **Education Contribution**

“Education Contribution” means together the Primary Education Contribution and the Secondary School Contribution

### **Education Contribution Assessment**

“Education Contribution Assessment” means the assessment dated 18 August 2020 and annexed hereto at Appendix 2

### **Expert**

“Expert” means an independent person appointed in accordance with clause 13 to determine a dispute

### **First Occupation**

“First Occupation” means the date on which a Dwelling is first Occupied.

### **Index**

“Index” means:

- (i) in the case of the Primary Education Contribution and the Secondary Education Contribution the BCIS All-in Tender Price Index published by the Royal Institute of Chartered Surveyors or any successor body (or such other index replacing the same) for the quarter in which the

contribution (or any part of it) is paid; and

- (ii) in all other cases the All Items Index of Retail Prices issued by the Office for National Statistics or in the event of discontinuance any replacement thereof or such alternative index as may be proposed by the Owner and agreed by the Council;

### **Indexation**

“Indexation” means the recalculation of a financial contribution to be made under this Deed applying the following formula:

$$\text{Contribution} \times \frac{\text{Index for the period immediately prior to the date of payment under this Agreement}}{\text{Index for the period last published before the date of the Planning Permission}}$$

And for the avoidance of doubt, where payment of any Contribution is triggered in instalments in this Agreement, Indexation will apply at each trigger point.

### **Highways Infrastructure**

“Highways Infrastructure” means improvements to the Waterloo Road/Shawbridge Street junction to mitigate the combined impact of the Highmore Farm (3/2020/00601), Waddow View (3/2014/0597 later varied under 3/2019/0056) and Standen (3/2012/0942 later varied under 3/2015/0895) developments in accordance with agreed programming of the offsite highway works as denoted on the Highways Plan.

### **Highways Plan**

“Highways Plan” means the plan annexed hereto at Appendix 3 and marked “Highways Plan”.

**Homes England**

"Homes England" means Homes England or any successor government agency that funds and is responsible for the delivery of new Affordable Housing and the regulation of the Affordable Housing Providers in England.

**Interest**

"Interest" means interest at four (4) per cent above the base lending rate of Barclays Bank plc from time to time;

**LEAP**

"LEAP" means a local equipped area for play with details of the precise location and specification to be in accordance with the details approved by the Council;

**Local Housing Allowance**

"Local Housing Allowance" means the list of rents set by the Valuation Office Agency for the area in which the Application Site is situated.

**Maintenance Period**

"Maintenance Period" means in respect of the Open Space Works a period of 12 (twelve) months from the date of completion of the Open Space Works to the Council's satisfaction.

**Managed Open Space**

"Managed Open Space" means that part of the Open Space to be managed by the Management Company

**Management Company**

"Management Company" means a private limited company incorporated and registered in England and Wales with the purpose of managing the Managed Open Space within the Development.

**Market Dwelling**

"Market Dwelling" means those Dwellings which comprise general market housing for sale between a willing seller and a willing buyer in an arm's length

transaction wherein the parties had each acted knowledgeably, prudently and without compulsion on the open market and which are not Affordable Housing.

### **Market Value**

“Market Value” means the estimated amount for which a Dwelling should sell on the open market for cash consideration on the date of valuation as agreed by the Council (or in the absence of agreement by an Expert) assuming:-

- (i) a willing buyer and a willing seller in an arm’s length transaction
- (ii) that prior to the date of valuation there had been a reasonable period (having regard to the nature of the Dwelling and the state of the market) for the proper marketing of the Dwelling for the agreement of price and terms and for the completion of the same;
- (iii) that the state of the market level of values and other circumstances were on any other earlier assumed date of exchange of contracts the same as on the date of valuation;
- (iv) that no account is taken of any additional bid by a purchaser with a special interest; and
- (v) that each party had acted knowledgeably prudently and without compulsion

### **Nationally Described Space Standards**

“National Described Space Standards” means the standards published by the Ministry of Housing Communities and Local Government setting out the minimum gross internal floor space requirements for the Affordable Housing Units at a defined level of occupancy.

### **Nominated Officer**

“Nominated Officer” means the Council’s Housing Strategy Officer.

## **NPPF**

"NPPF" means the Department for Communities and Local Government document entitled "National Planning Policy Framework" (July 2021) or any replacement or modification thereof in force from time to time.

## **Occupation**

"Occupation" means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out, decoration, cleaning, occupation for marketing or display or occupation in relation to security operations and "Occupied" and "Occupy" shall be construed accordingly;

## **Off Site Recreation Contribution**

"Off Site Recreation Contribution" means a sum calculated using the following occupancy ratios at a rate of £216.90 (Two Hundred and Sixteen Pounds and Ninety Pence) per person based on the following:

- 1 bed Dwelling – 1.3 people
- 2 bed Dwelling – 1.8 people
- 3 bed Dwelling – 2.5 people
- 4 bed Dwelling – 3.1 people
- 5 or more bed Dwelling – 3.5 people

to be paid to the Council in accordance with the terms of this Deed for the provision of improvements to the grounds of Clitheroe Castle

## **Open Space**

"Open Space" means areas of onsite public open space including the LEAP and all landscaping, grassed areas and roadside verges within the Development

### **Open Space Management Plan**

"Open Space Management Plan" means a management plan for the ongoing management and maintenance of the Open Space which shall include details of the extent of the Managed Open Space.

### **Open Space Specification**

"Open Space Specification" means the specification for the carrying out of the Open Space Works on the Open Space, which shall include landscaping proposals and details of the timing of the carrying out of the Open Space Works and the timing of the release of Dwellings for Occupation.

### **Open Space Works**

"Open Space Works" means the works to be carried out on the Open Space (including the LEAP) in accordance with the Open Space Specification.

### **Over 55 Accommodation**

"Over 55 Accommodation" means a Dwelling that shall not be Occupied by a person under the age of 55 years (except that in circumstances of a married couple or civil partnership at least one person in the married couple or civil partnership is not less than 55 years of age) and the unit of accommodation shall provide a principle bedroom and bathroom at ground floor, in addition to and without compromising kitchen/dining and living room provision, all of which shall be designed to meet Nationally Described Space Standards and 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) and FOR THE AVOIDANCE OF DOUBT the ground floor accommodation shall possess the ability to be habitable without necessitating the need for access to upper floor accommodation by the user;

### **Over 55 Accommodation Units**

Means the Dwellings to be constructed and provided on the Application Site as part of the Development as Over 55 Accommodation in accordance with the

provisions of this Agreement which shall comprise 15% of the total number of Dwellings and "Over 55 Accommodation Unit" shall be construed accordingly;

### **Plan 1**

"Plan 1" means the plan annexed hereto at Appendix 1 and so marked.

### **Planning Permission**

"Planning Permission" means the outline planning permission subject to conditions to be granted pursuant to the Application, a draft of which is set out in Schedule 5 (and including any variation of it granted pursuant to an application under Section 96A of the 1990 Act)

### **Practical Completion**

"Practical Completion" means the issue of a cover note by a home warranty provider for the relevant Dwelling confirming that the new home warranty provider has inspected the relevant Dwelling and that they are satisfied with the relevant Dwelling and that the new home warranty will be issued and "Practically Completed" shall be construed accordingly

### **Primary Cost Per Place**

"Primary Cost Per Place" means £16,749.96

### **Primary Education Contribution**

"Primary Education Contribution" means the sum equating to the number of primary Pupil Places Required x Primary Cost Per Place to be paid to the County Council in accordance with the terms of this Deed for the provision of additional primary school places at Clitheroe Brookside Primary School and/or St Michael And St John's Roman Catholic Primary School or any subsequent name or designation by which they are known

### **Pupil Places Required**

"Pupil Places Required" means the number of primary or secondary Pupils Expected to be Resident in the Development less any Spare Places expected to be available to cater for the Development;



### **Pupils Expected to be Resident**

"Pupils Expected to be Resident" means the sum of the number of Dwellings with more than one bedrooms less Over 55 Accommodation Units x corresponding Pupil Yield Figure for primary or secondary education (rounded to the nearest whole number);

### **Pupil Yield Figure**

"Pupil Yield Figure" means

	<b>Total Number of Bedrooms in Dwelling – Pupil Yield per Dwelling</b>				
	<b>One</b>	<b>Two</b>	<b>Three</b>	<b>Four</b>	<b>Five</b>
<b>Primary</b>	0.01	0.07	0.16	0.38	0.44
<b>Secondary</b>	0	0.03	0.09	0.15	0.23

### **Priority Order**

"Priority Order" means the following cascading order of persons to whom an Affordable Housing Unit must be offered in accordance with paragraph 1.9 of Schedule 2 in the first instance where at least one ordinarily resident member of the Eligible Household is a person who is in housing need and who:

- (i) have lived in the Borough of Ribble Valley for at least 5 years of the last 10 years;
- (ii) currently live within the Borough of Ribble Valley and have done so for at least the past 12 months (proof of residence for the relevant period must be provided in the form of the electoral roll or (if such persons are not on the electoral roll) utility and council tax bills);
- (iii) used to live in the Borough of Ribble Valley for not less than three years but was forced to move away because of the lack of Affordable Housing;

- (iv) currently work in the Borough of Ribble Valley and have done so for at least the past 12 months for more than 18 hours per week;
- (v) currently has a close family member (mother, father, brother, sister, son, daughter) living in the Borough of Ribble Valley and who have done so for not less than three years.
- (vi) is the wife, husband or civil partner (as defined in the Civil Partnership Act 2004) or is the resident dependent (such as a child) of such a person specified in (i) to (v) above.

PROVIDED ALWAYS THAT the Affordable Housing Units shall be provided to Eligible Households and PROVIDED ALWAYS THAT the Affordable Housing Units which comprise Over 55 Accommodation Units shall at all times be offered and Occupied as Over 55 Accommodation.

#### **Protected Tenant**

“Protected Tenant” means any tenant who:

- (i) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;
- (ii) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; or
- (iii) has been granted a shared ownership lease by an Affordable Housing Provider (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the Affordable Housing Provider) by the Affordable Housing Provider in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Affordable Housing Provider all the remaining shares so that the tenant owns the entire Affordable Housing Unit and/or in circumstances where the tenant has also taken a Transfer of the reversion.

#### **Reserved Matters Consent(s)**

“Reserved Matters Consent(s)” means any reserved matters approval granted

pursuant to the Planning Permission and in relation to any part of the Development which permits residential development and specifies the number of Dwellings and number of bedrooms permitted on that part of the Development;

### **Secondary Cost Per Place**

"Secondary Cost Per Place" means £23,061.75

### **Secondary Education Contribution**

"Secondary Education Contribution" means the sum equating to the number of secondary Pupil Places Required x Secondary Cost Per Place to be paid to the County Council in accordance with the terms of this Deed for the provision of additional secondary school places at St Augustine's Roman Catholic High School and/or Clitheroe Royal Grammar School or any subsequent name or designation by which they are known;

### **Spare Places**

"Spare Places" means the number of primary or secondary places expected to be available to meet the needs of the Development calculated in accordance with the principles set out in Schedule 4 hereto;

### **Shared Ownership Housing Units**

"Shared Ownership Housing Units" means shared ownership housing made available to an Affordable Housing Provider and sold to Eligible Households subject to a Shared Ownership Lease.

### **Shared Ownership Lease**

"Shared Ownership Lease" means a lease containing the Homes England shared ownership lease fundamental clauses as amended from time to time and on terms that permit part purchase of a minimum of 25% of the equity in a Dwelling together with the rent payable for the open market rack rental value of the un-purchased percentage of the equity in the unit up to a value which does not exceed the rent set by Homes England from time to time (or such other rent or form of lease approved in writing by the Council in its absolute discretion) and permits staircasing up to 100% ownership.

## **Transfer**

"Transfer" means in relation to the transfer of an interest in property the transfer of a freehold interest

## **Working Days**

"Working Days" means those days that are not a Saturday or Sunday, Christmas Day, Good Friday or any day that is a bank holiday

## **Interpretation**

- 1.1. The headings in this Deed do not and will not by implication form any part of this Deed and shall have no legal force whatsoever.
- 1.2. Unless the context requires otherwise reference to this Deed to a clause schedule or paragraph are references respectively to a clause schedule of paragraph of this Deed.
- 1.3. Where any part to this Deed comprises two or more persons any obligation on the part of that party contained or implied in this Deed 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.
- 1.4. 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.
- 1.5. 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.
- 1.6. 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 and County Council the successors to their respective statutory functions.

## **2. Legal Basis and Enforceability**

- 2.1. This Deed is made pursuant to Section 106 of the 1990 Act, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all

other enabling powers.

- 2.2. This Deed is a planning obligation under Section 106 the 1990 Act with the intent to bind the Application Site and is enforceable by the Council (and where applicable the County Council) as local planning authority against the Owner and successors in title who shall observe and perform the covenants herein.
- 2.3. The obligations of this Deed are conditional on:
- (i) the grant of the Planning Permission and;
  - (ii) the Commencement of the Development

SAVE FOR the provisions of Clauses 2-6 (inclusive), 8-11 (inclusive), 13-16 (inclusive) which shall come into effect immediately upon completion of this Deed and FURTHER SAVE FOR the provisions of Clause 7 which shall come into effect upon the grant of the Planning Permission to the extent that any covenant is expressed to be complied with prior to the Commencement of the Development or upon the grant of Reserved Matters Consent(s).

- 2.4. No persons shall be liable for a breach of covenant contained in this Deed after he shall have parted with his interest in the Application Site or the part in respect of which any liability has arisen which is the subject of a breach but without prejudice to liability for any existing breach of covenant prior to parting with such interest. Neither the reservation of any rights or the inclusion of any covenants or restrictions over the Application Site in any transfer of the Application Site will constitute an interest for the purposes of this clause 2.4.

- 2.5. This Deed shall not be enforceable against:

2.5.1. individual owner-occupiers or tenants of the Dwellings SAVE THAT the provisions of Part 1 Schedule 2 shall remain binding on owners occupiers and tenants of the Affordable Housing Units and their respective successors in title and their mortgagees and SAVE FURTHER THAT the provisions of Part 2 Schedule 2 shall remain binding on owners occupiers and tenants of the Over 55 Accommodation Units and their respective successors in title and their mortgagees.

2.5.2. an Affordable Housing Provider SAVE THAT the provisions of Part 1

Schedule 2 and Part 2 Schedule 2 (in respect of the Affordable Housing Units which also comprise Over 55 Accommodation) shall remain binding upon an Affordable Housing Provider.

2.5.3. any mortgagee or chargee or any new mortgagee or chargee of a Market Dwelling including any receiver appointed by such mortgagee or any person deriving title through any such mortgagee or receiver SAVE THAT if a mortgagee or chargee of the Application Site becomes a mortgagee in possession of the Application Site (or any part thereof) it too will be bound by the planning obligations in this Deed as if it were a person deriving title from the Owner and any legal charge taken over the Application Site in the future will take effect subject to this Deed.

2.5.4. any statutory undertakers or telecommunications provider in respect of any plant, equipment or apparatus installed on the Application Site for the purposes of the Development.

2.6 The provisions of this Deed shall not 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 Owners) pursuant to the Contract (Rights of Third Parties) Act 1999.

### **3. Expiry Modification Variation or Amendments of Planning Permission**

3.1. 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 Owner) 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.

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

### **4. Registration**

This Deed 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 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. 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 Deed 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 and 2.
- 7.2. The Owner hereby covenants with the County Council to perform the obligations as specified in Schedule 1 and Schedule 3.
- 7.3. The County Council covenants with the Owner in the terms set out in Schedule 4.
- 7.4. The Council covenants with the Owner in the terms set out in Schedule 6.

**8. 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 for acting upon any subsequent breach or default.

**9. Change of Ownership**

The Owner agrees with the Council to give the Council within 10 Working Days written notice of any change in the ownership of any if its interests in the Application Site (save for any transfer in respect of an individual Dwelling)

occurring before all the obligations under this Deed have been discharged 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 Site purchased by reference to a plan.

**10. Interest**

If any payment due under this Deed is paid late, Interest shall be payable from the date payment is due to the actual date of payment.

**11. VAT**

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

**12. Indexation**

Any Contribution in this Deed shall be subject to Indexation from the date of the Planning Permission until the date on which such sum is payable.

**13. Dispute Resolution**

- 13.1. In the event of any dispute or difference arising between any of the parties to this Deed touching or concerning any matter or thing arising or contained in this Deed (other than a dispute or difference touching or concerning the meaning or construction of this Deed) such dispute or difference shall be referred to an Expert being an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England to such qualifications.
- 13.2. In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to clause 13.1 or as to the appropriateness of the professional body then within fourteen Working Days after any party has given to the other parties to the dispute or difference a written request to concur in the professional qualifications of the Expert to be appointed pursuant to clause 13.1 then such question may be referred by either party to the president for the time being of the Law Society of England and Wales and 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 a manifest



error and his 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

- 13.3. The Expert howsoever appointed shall act as an expert and not as an arbitrator and his reasonable costs shall be at his discretion and the Expert shall be subject to the express requirement that he reaches his decision and communicates it 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 forty-six Working Days after the date of his appointment to act.
- 13.4. The Expert shall be required to give notice to each of the said parties inviting each of them to submit to him within ten Working Days of notification of his appointment written submissions and supporting material and shall afford to each of the said parties an opportunity to make counter submissions within a further fifteen Working Days in respect of any such submission and material and the Expert's decision shall be given in writing within twenty-one Working Days from receipt of any counter submissions or in the event that there are no counter submissions within twenty-one Working Days of receipt of the written submissions and supporting material with reasons and in the absence of manifest error the Expert's decision shall be final and binding on the said parties.
- 13.5. The provisions of this clause shall not affect or fetter the ability of the Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Deed and consequential and interim orders and relief.

#### **14. Miscellaneous**

- 14.1. Nothing contained or implied in this Deed shall prejudice or affect or restrict the rights, discretions, powers, duties and obligations of the Council and the County Council under all statutes, by-laws, statutory instruments, orders and regulations in the exercise of its functions as a local authority.
- 14.2. If any provision in this Deed 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.

- 14.3. This Deed is a Deed and is enforceable by the Council and the County Council in relation to the obligations respectively entered into with each of them.
- 14.4. The Council and the County Council will upon written request of the Owner at any time after the obligations of the Owner under this Deed have been fulfilled (and subject to the payment of the Council and County Council's reasonable and proper costs and charges) issue written confirmation thereof.
- 14.5. The Developer shall pay the Council's legal fees incurred in relation to this Deed the sum of £1500.00 and the County Council's legal fees of £350 on or before the date of this Deed.
- 14.6. This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales (as they apply in England) and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

#### **15. Charities Act 2011**

- 15.1. The Application Site is held by **THE CLITHEROE ROYAL GRAMMAR SCHOOL FOUNDATION**, a non-exempt charity.
- 15.2. The trustees of the Owner, being the persons who have the general control and management of its administration certify that they have power under the provisions establishing the Owner and regulating its purposes and administration to effect this Agreement

#### **16. Delivery**

- 16.1. 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.

## **SCHEDULE 1**

### **Owner's Obligations**

**1. Notice of Commencement**

To give written notice to the Council (via the Nominated Officer) and the County Council of the Commencement of Development on the Application Site within 15 (fifteen) Working Days of the same.

**2. Notice of Occupations**

Within 15 (fifteen) Working Days of each date to give written notice to the Council (via the Nominated Officer) and the County Council of the following:

- 2.1 the date of First Occupation of a Dwelling
- 2.2 Practical Completion of the first Affordable Housing Unit
- 2.3 the date of each other Occupation that triggers a payment or other obligation or which is otherwise referred to under the terms of this Deed

## **SCHEDULE 2**

### **The Owner's Covenants with the Council**

The Owner covenants with the Council in the following terms:-

#### **Part 1 – Affordable Housing**

##### **1. Affordable Housing**

- 1.1. The Owner shall provide and deliver Affordable Housing as part of the Development in accordance with the provisions of this Part 1 Schedule 2 and the Affordable Housing Units which also comprises Over 55 Accommodation shall also be subject to the provisions of Part 2 Schedule 2 of this Deed as well as the provisions of this Part 1 Schedule 2.
- 1.2. The Owner shall submit the Affordable Housing Scheme to the Council for approval prior to Commencement of Development and the Owner shall not Commence Development or permit the Commencement of Development until the Affordable Housing Scheme has been approved in writing by the Council.
- 1.3. The Affordable Housing Units (which shall comprise a minimum of 30% of the Dwellings within the Development including 7.5% of the Dwellings within the Development that shall be Over 55 Accommodation) shall be constructed and provided strictly in accordance with the approved Affordable Housing Scheme and the Affordable Housing Level.
- 1.4. All of the Affordable Housing Units must be constructed strictly in accordance with the relevant standards laid down by the National House-Building Council so as to secure the National House-Building Council's Buildmark cover (or any equivalent new home warranty cover) and comply with minimum internal space standards set out in the Nationally Described Space Standards (or equivalent successor standards from time to time) or other such standards agreed in writing between the Owner and the Council PROVIDED THAT such standards are no less than those applied to the Market Dwellings and PROVIDED FURTHER THAT the internal arrangements of the Affordable Housing Units which shall also comprise Over 55 Accommodation 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)

- 1.5. Not to Occupy or permit the Occupation of more than 75% (seventy five per cent) of the Market Dwellings within the Development until the Owner has made bona fide offers on an arm's length basis to enter into a contract or contracts to sell the Affordable Housing Units within the Development to an Affordable Housing Provider in accordance with the approved Affordable Housing Scheme and the terms of this Deed (save in respect of the Affordable Ownership Housing Units which are Discount Market Sale Dwellings and shall be offered to Eligible Households) and has given to the Council a summary of those Affordable Housing Providers to whom such offers have been made.
- 1.6. From the date the Affordable Housing Units within the Development are first offered to an Affordable Housing Provider pursuant to paragraph 1.5 of this Schedule 2 (above) the Owner shall use all reasonable endeavors to complete a Transfer of the Affordable Housing Units to the Affordable Housing Provider (save in respect of the Affordable Ownership Housing Units which are Discount Market Sale Dwellings which shall be Transferred to Eligible Households) in accordance with the terms of this Deed prior to the Occupation of 75% (seventy five per cent) of the Market Dwellings and the Owner shall not Occupy or permit the Occupation of more than 75% (seventy five per cent) of the Market Dwellings until all of the Affordable Housing Units have been Transferred to an Affordable Housing Provider (save in respect of the Affordable Ownership Housing Units which are Discount Market Sale Dwellings which shall be Transferred to Eligible Households) in accordance with the terms of this Deed PROVIDED THAT for the avoidance of doubt there shall be no obligation on the Owner to have commenced construction of the relevant Affordable Housing Units at the point when the said Affordable Housing Units are offered in accordance with this paragraph 1.6.
- 1.7. No more than 75% (seventy five per cent) of the Market Dwellings within the Development shall be Occupied until all of the Affordable Housing Units within the Development have been Practically Completed in accordance with the approved Affordable Housing Scheme, subject to such variations as may be agreed between the Council and the Owner from time to time.
- 1.8. From the date of Practical Completion each Affordable Housing Unit shall be used only as Affordable Housing (and PROVIDED ALSO THAT the Affordable

Housing Units which also comprise Over 55 Accommodation shall also be used in accordance with Part 2 of this Schedule 2) and shall (unless otherwise agreed in writing with the Council) only be offered for Occupation to and Occupied by Eligible Households in accordance with the Priority Order unless otherwise agreed in writing with the Council save that this obligation shall not be binding upon:

1.8.1. any mortgagee chargee or institution, agent or trustee holding the benefit of any security by way of any assignment by way of security, mortgage, charge, pledge, lien or other security interest securing any obligation of any person and any other agreement or arrangement having a similar effect against the Affordable Housing Units or any of them or any receiver any liquidator, receiver, administrator, administrative receiver, receiver and manager, compulsory manager or other similar officer or any other person appointed under any security documentation ('Receiver') to enable such mortgagee Receiver chargee or institution, agent or trustee to realise its security PROVIDED THAT:

1.8.1.1 such mortgagee or chargee or institution, agent or trustee or Receiver shall first give written notice to the Council of its intention to dispose of the relevant Affordable Housing Unit and shall have used reasonable endeavours over a period of 3 (three) months from the date of the written notice to complete a disposal of the relevant Affordable Housing Unit to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

1.8.1.2. if such disposal has not completed within the 3 (three) month period, the mortgagee, chargee or receiver shall be entitled to dispose of the relevant Affordable Housing Unit free from the affordable housing provisions in this Agreement which provisions shall determine absolutely in respect of such Affordable Housing Unit(s).

BUT FURTHER PROVIDED THAT at all times the rights and obligations of the mortgagee or chargee or receiver in this 1.8.1 shall not require the mortgagee to act contrary to its duties under the charge or mortgage nor oblige the mortgagee to dispose of an Affordable Housing Unit at a sum which is insufficient to redeem the outstanding sum of the mortgage plus costs.

1.8.2. any Protected Tenant or any mortgagee or chargee of a Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or

1.8.3. A disposal (and any subsequent Occupation) required by:

1.8.3.1. any statutory provisions now or hereafter in force; or

1.8.3.2. Homes England; or

1.8.3.3. a court order

1.9. The Owner shall ensure that any Transfer of an Affordable Housing Units:

1.9.1. to an Affordable Housing Provider shall contain the following provisions and that the following obligations shall be binding on the Affordable Housing Provider to whom the Affordable Housing Units are Transferred and all future successors in title:

1.9.1.1. A covenant that the Affordable Housing Provider shall not use the Affordable Housing Unit otherwise than for Affordable Housing (and PROVIDED ALSO THAT the Affordable Housing Units which also comprise Over 55 Accommodation shall also be used in accordance with Part 2 of this Schedule 2);

1.9.1.2. A covenant that the Affordable Housing Unit shall only be offered for Occupation by Eligible Households in accordance with the Priority Order (unless otherwise agreed in writing with the Council); and

1.9.1.3. A covenant that those Affordable Housing Units which are

Affordable Rented Housing Units shall be made available for letting at a rent level not exceeding the Affordable Rent.

1.9.1.4. A covenant that the Affordable Ownership Housing Units which are for Shared Ownership shall not be Occupied other than under the terms of the Shared Ownership Lease.

1.9.2. in respect of a Discount Market Dwelling, to an Eligible Household:

1.9.2.1 shall contain a covenant that the Eligible Household shall not use the Affordable Housing Unit otherwise for Affordable Housing (and PROVIDED ALSO THAT if the Dwelling shall also comprise Over 55 Accommodation Units to be used in accordance with Part 2 of this Schedule 2) and shall only be Occupied by Eligible Households; and

1.9.2.2. shall be subject to the Discount for Sale Restriction which shall be entered in proprietorship register at the Land Registry for each and every Discount Market Dwelling on the first sale of that Discount Market Dwelling to a plot purchaser.

1.10. In the event that:

1.10.1. the Affordable Housing Provider to whom an offer is made by the Owner in accordance with paragraph 1.5 of this Schedule 2 declines to accept a Transfer of some or all of the Affordable Housing Units within the Development: or

1.10.2. no sale of some or all of the Affordable Housing Units within the Development has been effected within 6 (six) months from either the Commencement of Development or the date the Affordable Housing Units were offered to the Affordable Housing Provider in accordance with paragraph 1.5 of this Schedule 2 (whichever is the later);

then paragraph 1.11 of this Schedule 2 (below) shall apply in respect of such Affordable Housing Units.

1.11. Where this paragraph 1.11 applies then.



- 1.11.1. the Owner shall serve notice upon the Council stating that this paragraph 1.11 applies and providing evidence as to why despite complying with paragraph 1.5 of this Schedule 2 the Owner has been unable to Transfer the Affordable Housing Units to the Affordable Housing Provider, together with evidence from the Affordable Housing Provider that they are not willing to so purchase the Affordable Housing Units (if such evidence is available);
  - 1.11.2. upon receipt of the Owner's written notice served pursuant to sub-paragraph 1.11.1 above the Council shall consider the evidence (if any is available) and confirm in writing within 10 (ten) Working Days of the date of receipt whether or not it agrees that despite complying with paragraph 1.5 of this Schedule 2 the Owner has been unable to Transfer the Affordable Housing Units to the Affordable Housing Provider and in the event that the Council disagrees the Council shall set out its full reasons for such disagreement.
- 1.12. In the event that the Council confirms in writing pursuant to sub-paragraph 1.11.2 that it disagrees that despite complying with paragraph 1.5 of this Schedule 2 the Owners have been unable to Transfer the Affordable Housing Units to the Affordable Housing Provider then the Owners may:
  - 1.12.1. make a further offer to Transfer the relevant Affordable Housing Units to the Affordable Housing Provider or another Affordable Housing Provider in accordance with paragraph 1.9 of this Schedule 2 (in which case the Owner shall be entitled to invoke the procedure set out in this paragraph 1.12 in the event that some or all of the Affordable Housing Units have still not been Transferred to an Affordable Housing Provider at the end of a further period of 20 (twenty) Working Days beginning with the date of the making of such an offer); or
  - 1.12.2. submit further evidence and submissions to the Council in order to address the Council's reasons for disagreement (in which case sub-paragraphs 1.11.1 to 1.11.2 of this Schedule 2 shall apply mutatis mutandis to the Council's consideration of such evidence and submission; or
  - 1.12.3. refer any dispute or disagreement for independent determination in

accordance with Clause 13 of this Deed.

- 1.13. In the event that the Council or Expert pursuant to Clause 13 of this Deed confirms pursuant to this paragraph 1.13 of this Schedule 2 or Clause 13 (as the context requires) that despite complying with paragraph 1.5 of this Schedule 2 the Owner has been unable to Transfer the Affordable Housing Units to the Affordable Housing Provider then the Owner shall be entitled to dispose of the relevant Affordable Housing Units as Discount Market Sale Dwellings PROVIDED that such disposal shall be at no more than the Discount Market Sale Price and shall be to Eligible Households subject to Priority Order in perpetuity and a Discount for Sale Restriction shall be entered in the proprietorship register at the Land Registry for each and every Discount Market Sale Dwelling on the first sale of that Discount Market Sale Dwelling to a plot purchaser.

## **Part 2 - Over 55 Accommodation**

### **2. Over 55 Accommodation**

- 2.1. The Owner shall provide and deliver Over 55 Accommodation as part of the Development in accordance with the provisions of this Part 2 Schedule 2 PROVIDED ALSO THAT the Over 55 Accommodation Units which comprise an Affordable Housing Units shall also be subject to the provisions of Part 1 of Schedule 2 of this Deed as well as the provisions of this Part 2 of Schedule 2.
- 2.2. 15% of the Dwellings to be provided within the Development shall be constructed and provided in accordance with the terms of the Deed as Over 55 Accommodation Units of which:
  - 2.2.1. 50% of the Over 55 Accommodation Units shall also comprise Affordable Housing; and
  - 2.2.2. 50% of the Over 55 Accommodation Units shall be Market Dwellings (**"the Market Over 55 Accommodation Units"**)
- 2.3. The Owner shall submit to the Council details of the Over 55 Accommodation Units prior to Commencement of Development such details to include the locations size and housing types of the Over 55 Accommodation Units and the Owner shall not Commence Development or permit the Commencement of

Development until such details have been approved in writing by the Council.

- 2.4. The Over 55 Accommodation Units shall be constructed and provided strictly in accordance with the details approved pursuant to paragraph 2.3 of this Part 2 Schedule 2.
- 2.5. The Over 55 Accommodation Units shall each provide a principle bedroom and bathroom at ground floor, in addition to and without compromising kitchen/dining and living room provision, all of which shall be designed to meet Nationally Described Space Standards and the internal and external arrangements of the unit of accommodation 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 provisions) and FOR THE AVOIDANCE OF DOUBT the ground floor accommodation shall possess the ability to be habitable without necessitating the need for access to upper floor accommodation by the user.
- 2.6. The Over 55 Accommodation Units shall not be Occupied by a person under the age of 55 years (SAVE THAT in circumstances of a married couple or civil partnership at least one person in the married couple or civil partnership is not less than 55 years of age)
- 2.7. Any Transfer of the Over 55 Accommodation shall contain a covenant that The Over 55 Accommodation shall not be Occupied by a person under the age of 55 years (SAVE THAT in circumstances of a married couple or civil partnership at least one person in the married couple or civil partnership is not less than 55 years of age)
- 2.8. The Market Over 55 Accommodation Units shall be properly marketed and advertised as such on the open market subject to the occupancy condition as set out in paragraph 2.6 of this Part 2 Schedule 2.
- 2.9. In the event that despite the proper marketing of the Market Over 55 Accommodation Units no sale of some or all of the Market Over 55 Accommodation has been effected within 6 (six) months of Practical Completion of the relevant unsold unit then paragraph 2.10 of this Schedule 2 (below) shall apply in respect of such Market Over 55 Accommodation units.
- 2.10. Where paragraph 2.9 applies then:

- 2.10.1. the Owner may at any time serve notice upon the Council stating that this paragraph 2.10.1 applies and providing evidence as to why despite complying with paragraph 2.8 of this Schedule 2 the Owner has been unable to sell of some or all of the Market Over 55 Accommodation Units to those eligible for such units together with evidence of such proper marketing as was carried out to effect the sale;
- 2.10.2. upon receipt of the Owner's written notice served pursuant to sub-paragraph 2.10.1 above the Council shall consider the evidence (if any is available) and confirm in writing within 10 (ten) Working Days of the date of receipt whether or not it agrees that despite complying with paragraph 2.8 of this Part 2 Schedule 2 the Owner has been unable to sell some or all of the Market Over 55 Accommodation Units to those eligible for such units and in the event that the Council disagrees the Council shall set out its full reasons for such disagreement.
- 2.11. In the event that the Council confirms in writing pursuant to sub-paragraph 2.10.2 that it disagrees that despite complying with paragraph 2.8 of this Schedule 2 the Owner has been unable to sell the Market Over 55 Accommodation Units to those eligible for such units then the Owners may:
- 2.11.1. submit further evidence and submissions to the Council in order to address the Council's reasons for disagreement in which case sub-paragraphs 2.10.1 and 2.10.1 of this Schedule 2 shall apply mutatis mutandis to the Council's consideration of such evidence and submission; or
- 2.11.2. refer any dispute or disagreement for independent determination in accordance with Clause 13 of this Deed.
- 2.12. In the event that the Council or an Expert (pursuant to Clause 13 of this Deed) confirms pursuant to this paragraph 2.4 of this Schedule 2 or Clause 8.5 (as the context requires) that despite complying with paragraph 2.8 of this Schedule 2 the Owners have been unable to sell some or any of the Market Over 55 Accommodation Units to those eligible for such then the Owner shall be entitled to dispose of the relevant the Market Over 55 Accommodation Units on the open market free from the occupancy restrictions in this Schedule 2.

### **Part 3 - Off Site Recreation Contribution**

#### **3. Off Site Recreation Contribution**

- 3.1. The Owner shall not Occupy nor permit the Occupation of more than 40 Dwellings until 50% (fifty per cent) of the Off Site Recreation Contribution has been paid to the Council
- 3.2. The Owner shall not Occupy nor permit the Occupation of more than 80 Dwellings until the remaining 50% (fifty per cent) of the Off Site Recreation Contribution has been paid to the Council

### **Part 4 – Open Space**

#### **4. Open Space**

- 4.1. The Owner shall not Commence Development or permit the Commencement of Development until
  - 4.1.1. the Owner has submitted to the Council for its approval details of the Management Company its corporate structure directors and officers and the mechanism of funding the Management Company demonstrating that the proposed Management Company can carry out the management and maintenance of the Open space; and
  - 4.1.2. the Open Space Specification and the Open Space Management Plan has been submitted to and approved in writing by the Council.
- 4.2. The Owner shall not Occupy or permit the Occupation of any Dwellings until:
  - 4.2.1. the Management Company approved pursuant to paragraph 4.1.1 of this Schedule has been established and suitable funding mechanism(s) have been secured, to enable the management regime for the site to commence on the Occupation of the first Dwelling, strictly in accordance with the details approved by the Council and certified copies of the company certificate and incorporation and memorandum and articles of association have been provided to the Council; and
  - 4.2.2. the Management Company has appointed a named manager to be responsible for liaising with the Council and the owner-occupiers and

tenants of the Dwellings and the name and contact details of the manager have been provided to the Council.

- 4.3. To ensure that:
- 4.3.1. the manager of the Management Company appointed pursuant to paragraph 4.1.2 of this Schedule regularly updates and distributes to the owner-occupiers and tenants of each and every Dwelling their contact details (to include their name, address and telephone number); and
  - 4.3.2. the Management Company's articles of association provide that an increase in any service charge payable by the owners of the Dwellings shall be no higher than the equivalent increase in the Index over the relevant period.
- 4.4. The Owner shall carry out and complete the Open Space Works in accordance with the Open Space Specification PROVIDED THAT the Open Space Specification may be amended in writing from time to time with the approval of the Council.
- 4.5. The Owner shall not Occupy any Dwelling unless the Owner has completed the Open Space Works and provided the Open Space in respect of that Dwelling strictly in accordance with the Open Space Specification to the reasonable satisfaction of the Council.
- 4.6. The Owner shall notify the Council of completion of the Open Space Works and invite the Council to inspect the Open Space and the Owner shall carry out any reasonable remedial works (always to be in accordance with the Open Space Specification) at the Owner's cost until the Council confirms in writing that the Open Space Works have been completed to the Council's reasonable satisfaction and should there be any disagreement subject to Clause 13.
- 4.7. Upon completion of the Open Space Works (including any remedial works) on the Open Space to the reasonable satisfaction of the Council the Owner shall during the Maintenance Period:
- 4.7.1. permit full and unfettered public access to the Open Space from the date of completion of the Open Space Works; and

- 4.7.2. be responsible for the management and maintenance of the Open Space free of defects during the Maintenance Period.
- 4.8. Upon the expiry of the Maintenance Period the Owner shall serve notice on the Council notifying it of completion of the Maintenance Period and invite the Council to inspect the Open Space Works and the Owner shall carry out any further remedial works (always to be in accordance with the Open Space Specification) at the Owner's cost identified by the Council acting reasonably to ensure that the Open Space Works function as designed without defects and and should there be any disagreement subject to Clause 13.
- 4.9. The Owner shall as soon as reasonably practicable following the expiry of the Maintenance Period Transfer the Managed Open Space to the Management Company and pay to the Management Company such funding as may have been identified in the details approved by the Council pursuant to paragraph 4.1.1.
- 4.10. Upon completion of the Transfer to the Management Company the Management Company (and absent any such Transfers the Owner) shall:
- 4.10.1. Not use the Open Space for any purpose other than for the provision of public open space for the benefit of members of the public
- 4.10.2. Maintain and manage the Open Space in a clean and tidy condition and free of defects and in accordance with the approved Open Space Management Plan;
- 4.10.3. Not to build or allow or suffer to be built any building on the relevant part of the Open Space save for any buildings and structures permitted in the Open Space Specification; and
- 4.10.4. Allow full and unfettered public access to the Open Space, subject to any byelaws the Council may make.
- 4.11. In the event of any failure by the Owner to manage and maintain the Open Space (including any failure to carry out any remedial works required to address any defaults) in accordance with the provisions of this Deed, the Council may in its absolute discretion be entitled to serve notice of such default on the Owner specifying a reasonable period within which the Owner must

remedy those defects and may thereafter enter and remain on the Application Site (by its employees or by contractor or otherwise) and carry out such works and/or implement such measures as the Council considers reasonably necessary.

- 4.12. The Owner shall pay to the Council the reasonable costs incurred by the Council in carrying out any remedial works and/or implementing any measures required pursuant to paragraph 4.12 above, with such costs to be paid to the Council within 10 (ten) Working Days of receipt of an invoice or the same and to be registrable as a charge over the Application.

## **Part 5 – Monitoring**

### **5. Monitoring Costs**

- 5.1. Within 20 working days following the grant of a Reserved Matters Consent the Owner shall pay to the Council:

- 5.1.1. the sum of £1,000 in respect of the Council's costs in monitoring compliance with Parts 1, 2 and 4 of this Schedule 1
- 5.1.2. 1% (one per cent) of the Off Site Recreation Contribution payable in respect of that Reserved Matters Consent in respect of the Council's costs in monitoring compliance with Part 3 of this Schedule 1



## **SCHEDULE 3**

### **The Owner covenants to the County Council**

The Owner hereby covenants with the County Council as follows:

**1. Education Contribution**

- 1.1. Within 20 working days following the grant of a Reserved Matters Consent to notify the County Council's School Planning Team that a Reserved Matters Consent has been granted and request that the County Council calculates the Primary Education Contribution and the Secondary Education Contribution relating to the said Reserved Matters Consent in accordance with this Deed.
- 1.2. Not to Occupy nor permit the Occupation of more than 50 Dwellings until 50% (fifty per cent) of the Primary Education Contribution and the Secondary Education Contribution has have been paid to the County Council.
- 1.3. Not to Occupy nor permit the Occupation of more than 100 Dwellings until the remaining 50% (fifty per cent) of the Primary Education Contribution and Secondary Education Contribution has have been paid to the County Council.

**2. Highway Works**

- 2.1 Not to Occupy nor permit the Occupation of more than 49 Dwellings unless either;
  - (a) the Highway Infrastructure has been or should have been completed by or on the behalf of or at the direction of the County Council; or
  - (b) the Owner has entered into an agreement pursuant to Section 278 and/or Section 38 of the Highways Act 1980 in respect of and thereafter completed the Highway Infrastructure any such agreement providing for the Owner to pay all costs associated with the Highway Infrastructure to be carried out under such agreement

**3. Notification**

- 3.1 To notify the County Council at the address shown in this Deed within 10 (ten) Working Days of the above trigger points in paragraph 1 to this Schedule 3 having been reached.

## **SCHEDULE 4**

### **Covenants by the County Council**

#### **Education Contributions**

1. Within 20 working days of the written notice of Reserved Matters Consent to calculate the Primary Education Contribution and the Secondary Education Contribution.

#### **Calculation of the Education Contributions**

2. The calculation of the Primary Education Contribution and the Secondary Education Contribution generally and of Spare Places shall be undertaken in the same manner as demonstrated in the County Council's Education Contribution Methodology – September 2020.
3. The County Council's pupil projections that are current at the time of the calculation shall be used.
4. For the avoidance of doubt, if the County Council's re-calculations show that the number of Spare Places in primary or secondary schools has increased then there may be a reduction in the payment due in accordance with the re-calculated shortfall. If, however the re-calculated number of Spare Places is expected to exceed the calculated pupil yield from this development as per this Schedule, then no Primary Education Contribution or Secondary Education Contribution (as the case may be) shall be payable.
5. To pay any Contributions received into an interest-bearing account pending use as soon as reasonably practicable.
6. The Contributions paid to the County Council shall be used solely for the purposes set out in this Deed and for no other purpose.
7. The County Council shall not use the Primary Education Contribution or any part of it other than for the provision of additional primary school places at Clitheroe Brookside Primary School and/or St Michael And St John's Roman Catholic Primary School or the Secondary Education Contribution other than for the provision of additional secondary school places at St. Augustine's RC High School and/or Clitheroe Royal Grammar School or any subsequent name

or designation by which they are known.

8. Should the Contributions not be committed for expenditure or spent on the projects named within this Deed within 5 years of payment of the final instalment of the Education Contribution, the County Council will return the sum which has not been expended or committed for expenditure to the party who paid the Contribution together with interest accrued, calculated at the Bank of England base lending rate, from date of payment to the date of refund. Furthermore, the County Council will ensure that sufficient local school places are provided to address the impact of the Development at no cost to the Owners.

**SCHEDULE 5**

**Draft Planning Permission**

RIBBLE VALLEY BOROUGH COUNCIL

Development Department

Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA

Telephone: 01200 425111 [www.ribblevalley.gov.uk](http://www.ribblevalley.gov.uk) [planning@ribblevalley.gov.uk](mailto:planning@ribblevalley.gov.uk)

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Town and Country Planning Act 1990

OUTLINE PLANNING PERMISSION

**APPLICATION NO:** 3/2020/0601

**DECISION DATE:** DecisionDate

**DATE RECEIVED:** 27/07/2020

**APPLICANT:**

VH Land Partnerships Ltd and The  
Clitheroe Royal Grammar School  
Foundation  
c/o Agent

**AGENT:**

Gary Hoerty  
Gary Hoerty Associates  
Suite 9  
Grindleton Business Centre  
The Spinney  
Grindleton  
Clitheroe  
BB7 4DH

**PARTICULARS OF DEVELOPMENT:**

Outline planning application for the construction of up to 125 dwellings with public open space, landscaping and sustainable drainage system and vehicular access point from Highmoor Park. All matters reserved except for means of access.

**AT:** Land at Highmoor Farm Clitheroe BB7 1PN

**Ribble Valley Borough Council** hereby give notice in pursuance of provisions of the Town and Country Planning Act 1990 that **outline planning permission has been granted** for the carrying out of the development referred to above in accordance with the application and plans submitted subject to the following conditions:

1 Time limit, plans and details

An application for approval of the reserved matters (namely the appearance, layout, scale and landscaping of the site) must be made to the Council before the expiration of three years from the date of this permission and the development hereby permitted must be begun two years from the date of approval of the last of the reserved matters to be approved.

**REASON:** This condition is required to be imposed by the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 
- 2 The outline planning permission hereby approved relates to the erection of up to 125 residential units and shall be carried out in accordance with the following plans and documents:

Location Plan dated 23/07/2020

REASON: In the interests of the appropriate development of the site, to prevent intensification in the development of the site and in the interests of the visual amenities of the area.

- 3 Notwithstanding the submitted details, the height of any of the dwellings proposed in any subsequent reserved matters application(s) shall not exceed two storeys in height.

REASON: In the interests of the visual amenities and character of the area and to ensure that the proposed development remains compatible with the landscape character of the area and responds appropriately to the topography of the site so as to minimise undue visual impact.

- 4 The details in respect of the submission of any reserved matters shall be generally in accordance with the design principles and parameters as set out in the following approved documentation:

Masterplan Rev C (dated February 2021)

Design and Access Statement (June 2020 (Revised September 2020))

REASON: To ensure the development accords with the agreed general principles in relation to design, green infrastructure and pedestrian, cycle and vehicular movement within the site.

- 5 The reserved matters application(s) shall include details of all proposed boundary treatments/fencing/walling, refuse collection points and existing and proposed land levels, including proposed slab levels.

For the avoidance of doubt the submitted information shall include existing and proposed sections through the site including details of the height, scale and location of proposed housing in relation to adjacent existing development/built form (where applicable). The development shall be carried out in strict accordance with the approved details.

REASON: In order that the Local Planning Authority should be satisfied as to the details and because the application was made for outline permission.

- 
- 6 The reserved matters application(s) shall include full details of the proposed play area and a Play Space Management Plan including long term design objectives, timing of works, management responsibilities and maintenance schedules for the play area.

For the avoidance of doubt the Play Space Management Plan shall also provide precise details of all play equipment and its maintenance and indicate a timescale when the play area shall be provided and made available for use. The development shall be carried out in strict accordance with the approved details and the play area managed in accordance with the timings and methodology contained within the approved Management Plan.

REASON: To ensure that the application includes adequate areas on-site public open space provision.

- 7 Landscape, Ecology and trees

The submission of the reserved matters shall include an Arboricultural Impact Assessment and Tree Constraints Plan in respect of the existing trees situated within influencing distance of the development site and shall include details of all root protection measures to be undertaken during the construction process. The development shall be carried out in strict accordance with the approved details and the specified tree protection measures shall remain in place throughout the construction phase of the development.

REASON: To ensure the adequate protection of trees/hedging of landscape and visual amenity value on and adjacent to the site or those likely to be affected by the proposed development.

The reserved matters application(s) shall include full details of proposed mitigation measures detailed/recommended within Section 7 of the submitted Ecological Appraisal (Ref 4851, report version 4).

This shall include information to establish the value of the Category 1 trees identified in the Ecological Appraisal in relation to their potential use by bats. The trees shall be subjected to a detailed climbing investigation by a qualified and licensed ecologist and the results of the investigation shall be submitted to the local planning authority.

The development shall thereafter be carried out in accordance with the approved details and recommendations.

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

- 
- 9 The reserved matters application(s) shall include details of the provisions to be made for building dependent species of conservation concern, artificial bird nesting boxes and artificial bat roosting sites. The details shall be submitted on a dwelling/building dependent bird/bat species development site plan and include details of plot numbers and the numbers of artificial bird nesting boxes and artificial bat roosting site per individual building/dwelling and type. The details shall also identify the actual wall and roof elevations into which the above provisions shall be incorporated.

The artificial bird/bat boxes shall be incorporated into those individual dwellings/buildings during the actual construction of those individual dwellings/buildings identified on the submitted plan before each such dwelling/building is first brought into use and retained thereafter.

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

- 10 The reserved matters application(s) shall include details of a scheme for any external building or ground mounted lighting/illumination. For the avoidance of doubt the submitted details shall include luminance levels and demonstrate how any proposed external lighting has been designed and located to avoid excessive light spill/pollution and shall include details to demonstrate how artificial illumination of important wildlife habitats is minimised/mitigated.

The lighting schemes(s) shall be implemented in accordance with the approved details and retained.

REASON: To enable the Local Planning Authority to exercise control over development which could prove materially harmful the character and visual amenities of the immediate area and to minimise/mitigate the potential impacts upon protected species resultant from the development.

- 11 Highways

11. Any application for the approval of reserved matters shall include details of the provision of domestic external or internal (within garages) sockets for the charging of electric/hybrid vehicles on no less than 30% of the dwellings. Development shall be carried out in strict accordance with the approved details and the agreed charging points shall be installed and be made available for use prior to first occupation of the dwelling(s) upon which they are to be located/are intended to serve.

REASON: To ensure that the development provides adequate and appropriate sustainable transport options and in the interest of lowering emissions resultant from vehicular movements associated with the development.



- 
- 12 No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway improvement has been submitted to, and approved by, the Local Planning Authority..

For the avoidance of doubt the submitted details shall also include the precise nature and design of all pedestrian/cycleway accesses into and out of the site including details of their interface with existing pedestrian/cycle routes or networks. The development shall be carried out in strict accordance with the approved details.

REASON: In order to satisfy the Local Planning Authority that the final details of the highway scheme/works are acceptable before work commences on site.

- 13 The proposed access from the site to Highmoor Park shall be constructed to a width of 7.3m with 2m footways on either side.

REASON: To enable vehicles to enter and leave the premises in a safe manner without causing a hazard to other road users.

- 14 No dwelling hereby approved shall be occupied until the approved scheme for the construction of the site access referred to in Condition 12 has been constructed and completed in accordance with the approved details.

REASON: In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway scheme/works.

- 15 The new estate road/access between the site and Highmoor Park shall be constructed in accordance with Lancashire County Council's Specification for Construction of Estate Roads to at least base course level before any development takes place within the site.

REASON: To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative.

- 16 Prior to the commencement of any development, details of the programming of the offsite highway works, including details of any associated financial contribution(s) and works required for improvements at the junction of Waterloo Road and Shawbridge Street, shall have been submitted to and agreed in writing by the Local Planning Authority. The off-site highway works shall be undertaken in accordance with the agreed program.

REASON: In order that traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of completion of the highway works, in the interests of highway safety.

- 17 No dwelling shall be occupied until visibility splays 2.4 metres back from the centre line of the access and extending 43 metres on the nearside carriageway edge in both directions have been provided at the access as shown on the approved plans. Nothing shall be erected, retained, planted and / or allowed to grow at or above a height of 0.9 metres above the nearside carriageway level which would obstruct the visibility splay. The visibility splays shall be maintained free of obstruction at all times thereafter for the lifetime of the development.

REASON: To ensure adequate inter-visibility between highway users at the street junction or site access, in the interests of highway safety.

- 18 Prior to the first use of the development hereby permitted, a detailed Travel Plan shall be submitted to, and approved in writing, by the Local Planning Authority. The Travel Plan shall be implemented within the timescale set out in the approved plan and will be audited and updated at intervals not greater than 18 months to ensure that the approved Plan is carried out.

Reason: To promote and provide access to sustainable transport options.

- 19 No development shall take place, including any works of demolition or site clearance, until a Construction Management Plan (CMP) or Construction Method Statement (CMS) has been submitted to, and approved in writing by the Local Planning Authority. The approved plan / statement shall provide:

24 Hour emergency contact number;  
Details of the parking of vehicles of site operatives and visitors;  
Details of loading and unloading of plant and materials;  
Arrangements for turning of vehicles within the site;  
Swept path analysis showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available and maintained, including any necessary temporary traffic management measures;  
Measures to protect vulnerable road users (pedestrians and cyclists);  
The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;  
Wheel washing facilities;  
Measures to deal with dirt, debris, mud or loose material deposited on the highway as a result of construction;  
Measures to control the emission of dust and dirt during construction;  
Details of a scheme for recycling/disposing of waste resulting from demolition and construction works;  
Construction vehicle routing;  
Delivery, demolition and construction working hours;  
Contact details for the site manager.

The approved Construction Management Plan or Construction Method Statement shall be adhered to throughout the construction period for the development.

REASON: In the interests of the safe operation of the adopted highway during the demolition and construction phases.

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- 20 During the period of construction deliveries to the site shall only be accepted between the hours of 9.30am and 2.30pm Monday - Friday, to avoid peak traffic on the surrounding highway network.

REASON: In the interest of highway safety and consideration to the school traffic.

- 21 For the full period of construction facilities shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud, stones and debris being carried onto the highway. Provision to sweep the surrounding highway network by mechanical means will be available and the roads adjacent to the site shall be mechanically swept as required during the full construction period.

Reason: To prevent stones, mud and debris being carried onto the public highway to the detriment of road safety.

- 22 No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the users of the highway and the visual amenities of the locality.

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23 Drainage and flood risk

No development shall commence until final details of the design and implementation of an appropriate surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. Those details shall include:

- a) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates;
- b) A final surface water drainage layout plan; appropriately labelled to include all pipe/structure references, dimensions, design levels, finished floor levels and external ground levels (in AOD);
- c) A full set of flow calculations for the surface water drainage network. The calculations must show the full network design criteria, pipeline schedules and simulation outputs for the 1 in 1 year, 1 in 30 year and 1 in 100 year return period, plus an additional 40% allowance for climate change and a 10% allowance for urban creep. The calculations must demonstrate that surface water runoff will not exceed the existing pre-development greenfield runoff rates and volumes for the corresponding rainfall event;
- d) A final site plan showing all on-site surface water catchment areas, i.e. areas that will contribute to the proposed surface water drainage network;
- e) Confirmation of how surface water is to be managed within any non-drained areas of the site, i.e. gardens and public open space;
- f) A final site plan showing all overland flow routes and flood water exceedance routes, both on and off site;
- g) Details of any measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses; and
- h) Details of an appropriate management and maintenance plan for the surface water drainage network over the lifetime of the development.

The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

**REASON:** To ensure that the proposed development can be adequately drained, to ensure that there is no flood risk on or off the site resulting from the proposed development, to ensure that water quality is not detrimentally impacted by the development proposal and to ensure that appropriate maintenance mechanisms are put in place for the lifetime of the development.

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DECISION DATE: DRAFT

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- 24 The application(s) for the approval of reserved matter(s) shall be accompanied by full details of the proposed surface water attenuation pond. For the avoidance of doubt the submitted information shall include proposed sections through the pond including relevant existing and proposed land levels and details of all associated landscaping and boundary treatments where applicable. The development shall be carried out in strict accordance with the approved details prior to the occupation of the first dwelling hereby approved.

REASON: To ensure a satisfactory form of development in the interests of visual and residential amenities and to ensure the Local planning Authority can make an accurate assessment of the details relating to matters of flood risk and sustainable drainage.

- 25 No development shall commence until details of how surface water and pollution prevention will be managed have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented and operational prior to the commencement of the construction of the dwellinghouses.

REASON: To ensure that the construction of development does not pose an undue flood risk on site or elsewhere and to ensure that any pollution arising from the development as a result of the construction works does not adversely impact on existing or proposed ecological or geomorphic condition of water bodies.

- 26 The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Flood Risk Assessment (Ref No.: 18522, Dated: Jan 2021) which was prepared by Topping Engineers. No surface water will be permitted to drain directly or indirectly into the public sewer. The development shall be completed in accordance with the approved details.

REASON: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding.

- 27 Foul and surface water shall be drained on separate systems.

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

- 28 No ground levels within the 100-year return period plus 35% allowance for climate change extent of Shaw Brook (as identified by Flood Risk Assessment (Ref No.: 18522, Dated: Jan 2021) shall be raised.

REASON: To reduce the risk of flooding to the proposed development and its future users.

- 29 Prior to the occupation of the first dwellinghouse hereby approved a post-development 'Operation and Maintenance Plan and Verification Report', shall be submitted to and approved in writing by the Local Planning Authority.

The Verification Report must demonstrate that the sustainable drainage system has been constructed as per the agreed scheme, and contain information and evidence (including photographs) of details and locations (including national grid reference) of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of a final 'operation and maintenance manual' for the sustainable drainage scheme as constructed.

REASON: To ensure that the proposed development has been adequately drained.



NICOLA HOPKINS  
DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING

#### Notes

##### Right of Appeal

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
- If this is a decision to refuse planning permission, or approve with conditions, a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision to refuse planning permission, or approve with conditions, a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000. The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary

**RIBBLE VALLEY BOROUGH COUNCIL  
OUTLINE PLANNING PERMISSION**

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of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 114 of the Town and Country Planning Act 1990.

**Purchase Notices**

If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, they may serve on the Council of the county borough or county district in which the land is situated a purchase notice requiring that Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.





## **SCHEDULE 6**

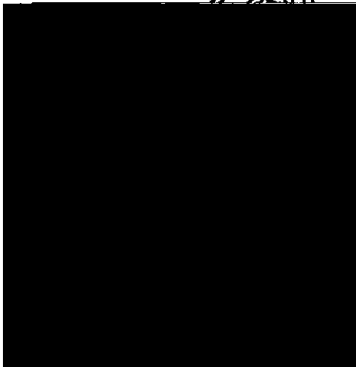
### **Covenants by the Council**

1. To issue the Planning Permission as soon as reasonably practicable following the completion of this Deed
2. To pay any Contributions received into a separately identified interest-bearing section of the Council's combined accounts as soon as reasonably practicable.
3. The Contributions paid to the Council shall be used solely for the purposes set out in this Deed and for no other purpose
4. Should the Contributions not be spent on the projects named within this Deed within 5 years of the final payment of the Contribution, the Council will return the sum which has not been expended or committed for expenditure (and money shall be deemed to be expended if the Council has entered into a contract for the expenditure of the money for the purpose for which it is paid which is reasonably likely to result in the fulfilment of that purpose) to the party who paid the Contribution **SAVE THAT** it is agreed that the Council may use public funds to carry out the purposes specified in the Agreement in advance of receiving any of the sums from the Owner and may apply the sums received towards offsetting the amount spent from public funds.



## APPENDIX 1

### Plan 1



Drawing No: VHLP/778/2576/05

Project: (No: VHLP/778/2576)

Proposed Development of Land at

Highmoor Farm  
Clitheroe

Title: Site Plan for use in Section 106 Agreement

**Notes:**  
All work is to be carried out to the latest current British standard Codes of Practice and recognised working practices. All work and materials should comply with Health and Safety legislation. All dimensions are in millimetres except where explicitly shown otherwise. The contractor should check and certify all dimensions as work proceeds and notify the architect of any discrepancies. Do not scale off the drawings, if in doubt ask.

Client: VH Land Partnerships Ltd + The Clitheroe Royal Grammar School Foundation

Drawn: KA

Date: 04.08.22

Scale: 1:2500 @ A4

Amendments:

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## APPENDIX 2

**Education Contribution Assessment dated 18 August 2020**





# Education Contribution Assessment

**Land at Highmoor Farm - 3/2020/0601**

*Ribble Valley Council*

18/08/2020



## **Education Assessment 18<sup>th</sup> August 2020**

Lancashire County Council is responsible for the provision of school places across the 12 county districts. The county has been facing significant increases in the birth rate at the same time as capital funding from the Department for Education has been significantly reduced.

In accordance with Lancashire County Council's 'School Place Provision Strategy', the following will apply:

Where the growth in pupil numbers is directly linked to housing development and existing school places are not sufficient to accommodate the potential additional pupils that the development may yield, Lancashire County Council would seek to secure developer contributions towards additional school places. Only by securing such contributions (which, depending upon the scale of development, may also include a contribution of a school site), can Lancashire County Council mitigate against the impact upon the education infrastructure which the development may have.

This assessment shows the level of impact relevant to the following development:

### **Land at Highmoor Farm**

#### **Pupil Yield**

Through a detailed research project carried out during 2012 LCC have established a pupil yield to be applied for the bedroom mix within a development.

Using the Rightmove database (based on Land Registry information), a cross matching exercise was undertaken to match the first occupation of a house with the relevant School Census. The research enabled LCC to ascertain the likely impact of a dwelling with 1, 2, 3, 4, or 5+ bedrooms in terms of the child yield. This enabled LCC to project the pupil yield of new houses, based on the number of bedrooms per dwelling.

LCC will seek to apply these pupil yields to our assessment, however, if bedroom information has not been provided by the developer LCC will apply the 4 bedroom yield, to provide a medium to worst case scenario. Once bedroom information is available the impact of this development will be reassessed using the yield information provided in the 'Development details' section below.

**Local primary schools within 2 miles of development**

When assessing the need for an education contribution from this development Lancashire County Council considers primary school provision within a 2 mile radius of the proposed site. Details of the schools relevant to this site are provided below:

<b>School Name</b>	<b>Latest Number on Roll *</b>	<b>Future Planned Net Capacity (Jan 2025) **</b>	<b>Projected Pupils by Jan 2025 ***</b>
Clitheroe Brookside Primary School	179	210	226
St Michael And St John's Roman Catholic Primary School Clitheroe	182	210	212
Clitheroe Pendle Primary School	349	321	401
St James' Church Of England Primary School Clitheroe	316	300	351
Clitheroe Edisford Primary School	225	210	254
Waddington And West Bradford Church Of England Voluntary Aided Primary School	166	189	174
Chatburn Church Of England Primary School	111	112	130
<b>Total</b>	<b>1528</b>	<b>1552</b>	<b>1748</b>

\* Latest Number on Roll (NOR) reflects the most up-to-date pupil numbers at the school. Assessments between 1<sup>st</sup> December and 31<sup>st</sup> March will use October NOR, assessments between 1<sup>st</sup> April and 31<sup>st</sup> July will use January NOR and assessments between 1<sup>st</sup> August and 30<sup>th</sup> November will use May NOR.

\*\* The net capacity figure is agreed via consultation with the schools, during September each year. The future net capacity includes any agreed capacity changes, which LCC have been informed about.

\*\*\* Based on the latest projections at the time of the assessment. Please note that the figures provided are based upon current circumstances and this position is subject to change in response to a number of factors that can affect parental preference. The figures take into account the latest available birth information, evidence of migration and also the projected pupil place demand in 5 years.

Projected places in 5 years: -196

Additional information which may provide context to the figures above has been included in the table below. This table provides year by year pupil projections for the schools affected by the development.

JAN 2021	JAN 2022	JAN 2023	JAN 2024	JAN 2025
1501	1469	1527	1555	1576

The figures above show the forecast number on roll before housing and migration is applied. Using the appropriate district's 5 year Housing Land Supply documents (or equivalent) and migration figures in 5 years' time we forecast there will be 1748 pupils in these schools.

#### Development details

Number of bedrooms	Yield applied per dwelling	Number of dwellings	Primary yield for this development
1	0.01		
2	0.07		
3	0.16		
4	0.38	125	47.5
5	0.44		
<b>Totals</b>		<b>125</b>	<b>(47.5) 48 Places</b>

#### Education requirement

Latest projections for the local primary schools show there to be a shortfall of 196 places in 5 years' time. These projections take into account the current numbers of pupils in the schools, the expected take up of pupils in future years based on the local births, the expected levels of inward and outward migration based upon what is already occurring in the schools and the housing development within the local 5 year Housing Land Supply document (or equivalent), which already have planning permission.

With an expected yield of 48 places from this development the shortfall would increase to 244.

Therefore, we would be seeking a contribution from the developer in respect of the full pupil yield **of this development**, i.e. 48 places.

### Local Secondary schools within 3 miles of the development

When assessing the need for an education contribution from this development Lancashire County Council considers secondary school provision within a 3 mile radius of the proposed site. Details of the schools relevant to this site are provided below:

School Name	Latest Number on Roll *	Future Planned Net Capacity (Jan 2025) **	Projected Pupils by Jan 2025 ***
Ribblesdale High School	1292	1425	1454
Clitheroe Grammar Academy	718	599	810
<b>Total</b>	<b>2010</b>	<b>2024</b>	<b>2264</b>

\* Latest Number on Roll (NOR) reflects the most up-to-date pupil numbers at the school. Assessments between 1<sup>st</sup> December and 31<sup>st</sup> March will use October NOR, assessments between 1<sup>st</sup> April and 31<sup>st</sup> July will use January NOR and assessments between 1<sup>st</sup> August and 30<sup>th</sup> November will use May NOR.

\*\* The net capacity figure is agreed via consultation with the schools, during September each year. The future net capacity includes any agreed capacity changes, which LCC have been informed about.

\*\*\* Based on the latest projections at the time of the assessment. Please note that the figures provided are based upon current circumstances and this position is subject to change in response to a number of factors that can affect parental preference. The figures take into account the latest available birth information, evidence of migration and planned housing development, to provide a 5 year projection.

Projected places in 5 years: -240

Additional information which may provide context to the figures above has been included in the table below. This table provides year by year pupil projections for the schools affected by the development.

JAN 2021	JAN 2022	JAN 2023	JAN 2024	JAN 2025
2104	2148	2154	2147	2114

The figures above show the forecast number on roll before housing and migration is applied. Using the appropriate districts 5 year Housing Land Supply documents (or equivalent) and migration figures in 5 years' time we forecast there will be **2264** pupils in these schools.

**Development details**

<b>Number of bedrooms</b>	<b>Yield applied per dwelling</b>	<b>Number of dwellings</b>	<b>Secondary yield for this development</b>
1	0.00		
2	0.03		
3	0.09		
4	0.15	125	18.75
5	0.23		
<b>Totals</b>		<b>125</b>	<b>(18.8) 19</b>

**Education Requirement**

Latest projections for the local secondary schools show there to be a shortfall of 240 places in 5 years' time. These projections take into account the current numbers of pupils in the schools, the expected take up of pupils in future years based on the local births, the expected levels of inward and outward migration based upon what is already occurring in the schools and the housing development within the local 5 year Housing Land Supply document, which already have planning permission.

With an expected yield of 19 places from this development the shortfall would increase to 259.

Therefore, we would be seeking a contribution from the developer in respect of the full pupil yield **of this development**, i.e. 19 places.

### **Summary and Final Calculations**

The latest information available at this time was based upon the 2020 School Census and resulting projections.

Based upon the latest assessment, taking into account all approved applications, LCC will be seeking a contribution for 48 primary and 19 secondary school places.

Calculated at the current rates, this would result in a claim of:

Primary places:

$(£12,257 \times 0.97) \times \text{BCIS All-in Tender Price (336 / 240) (Q1-2020/Q4-2008)}$

= £16,645.01 per place

£16,645.01 x 48 places = **£798,960.48**

Secondary places:

$(£18,469 \times 0.97) \times \text{BCIS All-in Tender Price (336 / 240) (Q1-2020/Q4-2008)}$

= £25,080.90 per place

£25,080.90 x 19 places = **£476,537.10**

*This assessment represents the current position on 18/08/2020. LCC reserve the right to reassess the education requirements taking into account the latest information available.*

### **Named Infrastructure Project**

The final position assessment of the impact of the development on school places including infrastructure details should be provided as part of your development control committee process. Where the secured education contribution will be spent to deliver additional school places will be provided at the point at which the application is considered for decision. The local planning authority will need to notify the School Planning Team of the final decision date to enable the final position, including the school infrastructure project, to be provided.

### **Please Note**

- **LCC have assessed the viability of this development by assuming the 125 dwellings are all 4 bedroom houses. Should this not be the case a reassessment will be required once accurate bedroom information becomes available. This could result in a reduced pupil yield dependant on dwelling size.**
- **The cost per place used in this assessment is in line with the Education Methodology at the point of assessment. However, the cost per place to**

**be used within the s106 agreement, if this is the district's chosen method of mitigation of the development impact on school places, will be that within the Education Methodology at the point of sealing.**

### **Further Information**

If the education contribution assessment identifies the need for a contribution to be provided Lancashire County Council is, in effect, objecting to the application. A developer contribution to deliver school places, to Lancashire County Council as the education authority, including indexation will, in most cases, overcome the objection. If a developer does not agree to payment of the requested education contribution or the local planning authority does not pursue Lancashire County Council's request on its behalf, Lancashire County Council cannot guarantee that children yielded by the development will be able to access a school place within reasonable distance from their home, so the development could be considered to be unsustainable. Furthermore, if the planning application is approved without the required education contribution LCC would request that the local planning authority confirm how the shortfall of school places, resulting from the development, will be addressed. (Please see page 10 of the Education Contribution Methodology).

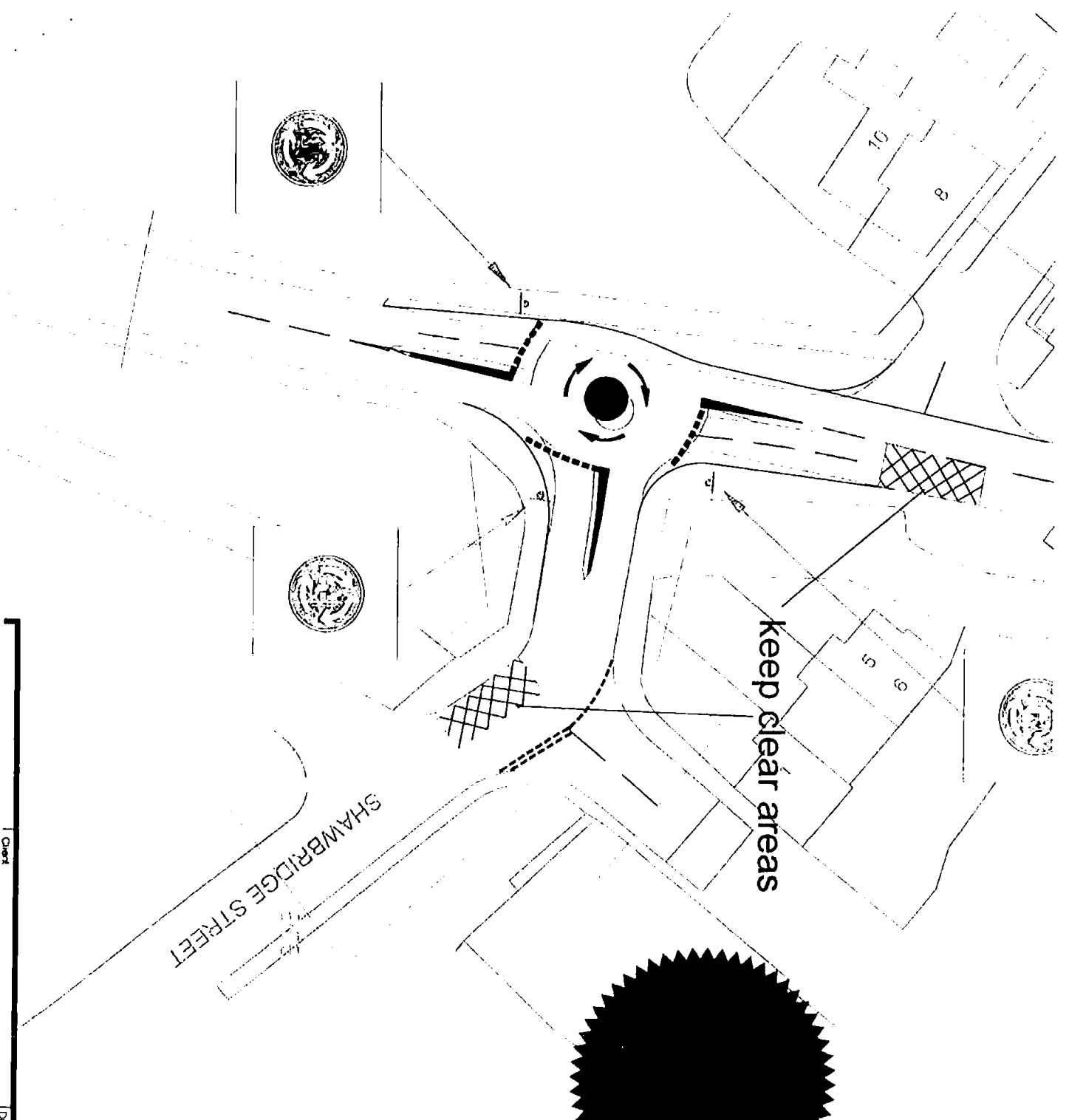
If you require any further information about the assessment process (including the current rates), in the first instance, please refer to LCC's Planning Obligations Education Methodology and supporting information at:  
<http://www.lancashire.gov.uk/council/planning/planning-obligations-for-developers.aspx>

## **APPENDIX 3**

### **Highways Plan**





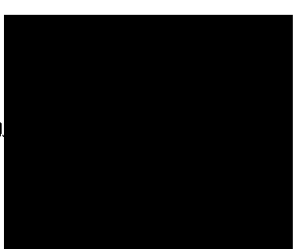


keep clear areas

SHAWBRIDGE STREET

31020

Authorized Signato



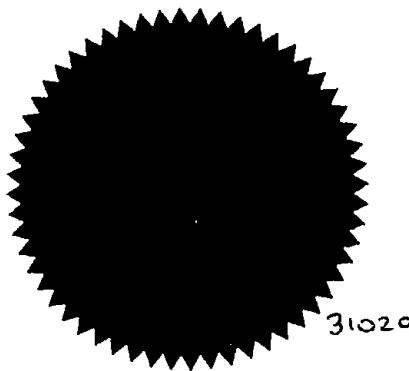
Client | Drawing | Checked | Approved

REV	DATE

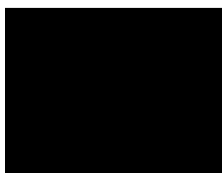


**IN WITNESS** whereof this Deed has been duly executed by the parties the day and year first before written

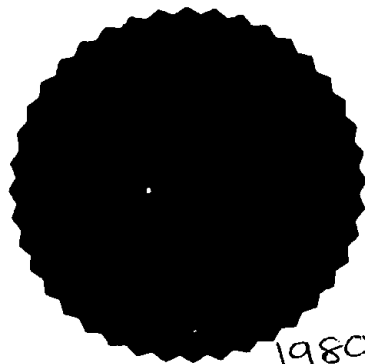
**THE COMMON SEAL OF  
LANCASHIRE COUNTY COUNCIL  
was hereunto affixed to this Deed  
in the presence of:-**



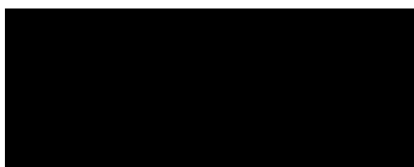
**Authorised Signatory**



**THE COMMON SEAL OF  
RIBBLE VALLEY BOROUGH COUNCIL  
was hereunto affixed to this Deed  
in the presence of :-**



**Mayor**



**Chief Executive**





EXECUTED as a deed by **THE CLITHEROE  
ROYAL GRAMMAR SCHOOL FOUNDATION**, a  
"Charitable Incorporated Organisation" acting by

and

two of its charity trustees.



