

This Unilateral Planning Obligation is dated 8th November 2013

And is given by:

(1) **Green Vale Homes Limited** (Industrial and Provident Society No. 30035R) whose registered office is at Green Vale Court, New Hall Hey Road, Rawtenstall, Rossendale, Lancashire, BB4 6HR ('the Applicant')

to:

(2) **Rossendale Borough Council** of The Business Centre, Futures Park, Bacup, Lancashire, OL13 0BB ('the Council')

1 Background

- 1.1 The Council is the registered proprietor under title number LAN37636 of the land being Mytholme House, Burnley Road East, Waterfoot, BB4 9AG shown for identification purposes only edged red on the Plan.
- 1.2 The Applicant is the registered proprietor under title number LA951118 of the land adjoining Mytholme House, Burnley Road, BB4 9AG shown for identification purposes only edged green on the Plan.
- 1.3 The Council is the local planning authority and the local housing authority
- 1.4 The Applicant is a registered provider within the meaning of the Housing and Regeneration Act 2008 section 80.
- 1.5 The Applicant has by the Application applied to the Council for planning permission to develop the land edged green and red on the Plan by the construction of 12 affordable housing dwellings.
- 1.6 The Applicant is willing to covenant to perform the obligations contained in this Unilateral Planning Obligation in order to facilitate the grant of planning permission by ensuring that the Council can regulate the Development by securing the benefits contained in this undertaking.

2 Interpretation

In this Unilateral Planning Obligation:

- 2.1 'the Act' means the Town and Country Planning Act 1990
- 2.3 'agreed' or 'approved' means agreed or approved in writing and given for the purpose of this Unilateral Planning Obligation

- 2.4 'the Application' means the planning application numbered 2013/0277 made by the Applicant to develop the Application Site
- 2.5 'the Application Site' means the land edged green and red on the Plan
- 2.5 'Close Family Association' means a spouse, parent, brother, sister, child, grandparent or grandchild who is resident in the relevant area and who has been resident there for a minimum of five continuous years.
- 2.6 'the Development' means the development of the Application Site proposed in the Application or permitted by planning permission granted pursuant to the Application or carried out substantially in accordance with such planning permission
- 2.7 'Employment' means that a person is permanently employed or has accepted in writing a firm offer of permanent employment or is in fulltime self employment within the relevant area
- 2.8 'the Plan' means the plan attached to this deed
- 2.9 'the Public Open Space Contribution' means sixteen thousand three hundred and ninety two pounds (£16,392)
- 2.10 Words importing the masculine include the feminine and vice versa
- 2.11 Words importing the singular include the plural and vice versa
- 2.12 Words importing persons include companies and corporations and vice versa
- 2.13 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually
- 2.14 Any reference to a clause or schedule or plan is to one in or attached to this Unilateral Planning Obligation
- 2.15 In the absence of contrary provision any reference to a statute includes any statutory modification or re-enactment of it and every statutory instrument direction specification made or issued under the statute or deriving validity from it
- 2.16 References to any party to this Unilateral Planning Obligation shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council the successors to their respective functions as planning authority and local housing authority

3 Enabling provisions

This Unilateral Planning Obligation is entered into pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and all other enabling powers

4 Commencement and determination

- 4.1 This Unilateral Planning Obligation shall come into effect on the date of the grant of the planning permission granted pursuant to the Application but the obligations in clause 5 shall become effective only on the commencement of a material operation as defined in Section 56 (4) of the Act but for the purposes of this Unilateral Planning Obligation works involving soil investigations, archaeological investigations, demolition, site clearance, site preparation, the diversion and laying of services, the erection of fences and hoardings and the preparation of site access shall not constitute a material operation.
- 4.2 If the planning permission granted pursuant to the Application shall expire before the commencement of a material operation or shall at any time be revoked then this Unilateral Planning Obligation shall be determined and shall have no further effect

5 Applicant's Covenants with the Council

- 5.1 The Applicant covenants with the Council:
- (a) prior to the first occupation of the 12 dwellings to be built on the Application Site in accordance with the Application to pay to the Council the Public Open Space Contribution; and
 - (b) not to occupy or cause or allow to be occupied any dwelling built on the Application Site before the Public Open Space Contribution has been paid
- 5.2 The Applicant covenants with the Council to provide 12 residential units within the Application Site which units shall not be occupied other than in accordance with this clause 5.
- 5.3 The Applicant covenants with the Council that with respect to the first letting of 12 residential units the tenants must be persons over 55 years of age who in the opinion of the Applicant are in need of affordable housing (to be determined by the Applicant acting reasonably) and who fulfil the reasonable requirements of the Applicant's allocations policies.
- 5.4 The Applicant covenants with the Council that the allocation of tenancies for the first letting of the 12 residential units will be determined as follows:
- (a) within the first 6 weeks of advertisement for the letting of the residential units, whether or not the construction of the residential units has been completed, priority will be given to applicants who have lived in the wards of Hareholme or Whitewell for at least 12 months or have strong connections with Hareholme or Whitewell

whether by Employment or Close Family Association; and

- (b) if at the end of the 6 week advertisement period in 5.4 (a) one or more of the 12 residential units remains to be allocated then the Applicant may consider applicants within the entire Borough of Rossendale.

5.5 The Applicant covenants with the Council that the allocation of subsequent relets of each and every one of the 12 residential units will be determined as follows:

- (a) within the first 2 weeks of advertisement for the re-letting of each of the 12 residential units priority will be given to applicants who have lived in the wards of Hareholme or Whitewell for at least 12 months or have strong connections with Hareholme or Whitewell whether by Employment or Close Family Association;
- (b) in respect of each residential unit, if at the end of the 2 week advertisement period in 5.5 (a) the residential unit remains to be allocated then the Applicant may consider applications for tenancies from applicants within the entire Borough of Rossendale;
- (c) within the first 8 weeks of advertisement for the re-letting of each of the 12 residential units, including for the avoidance of doubt the periods of advertisement referred to in clause 5.5 (a) and 5.5 (b) the applicants must be persons over 55 years of age who in the opinion of the Applicant are in need of affordable housing (to be determined by the Applicant acting reasonably) and who fulfil the reasonable requirements of the Applicant's allocations policies; and
- (d) if at the end of the 8 week advertisement period in 5.5 (c) in respect of each residential unit to be re-let the residential unit remains to be allocated then the Applicant may serve notice on the Council requesting that the age requirement for applicants be lowered as suggested by the Applicant, the approval of the Council not to be unreasonably withheld, and the Council must use all best endeavours to respond within 4 weeks of the Applicant's notice.

5.6 Nothing in this clause 5 shall apply upon:

- (a) the exercise by any person of a statutory right to buy or right to acquire; or
- (b) the exercise of its power of sale by a mortgagee of any of the dwellings or the sale by a receiver appointed by such mortgagee pursuant to statutory powers or the provisions of any mortgage or charge as required by a court order; or
- (c) any subsequent disposition of the properties following a disposal falling within paragraph 5.6 (a) or (b) above.

6 General

The Owner and the Applicant acknowledge and declare that:

- 6.1 the obligations contained in this Unilateral Planning Obligation are planning obligations for the purpose of Section 106 of the Act;
- 6.2 this Unilateral Planning Obligation constitutes a deed;
- 6.3 this Unilateral Planning Obligation is enforceable by the Council;
- 6.4 this Unilateral Planning Obligation does not nor is intended to confer a benefit on a third party within the meaning of the Contracts (Rights of Third Parties) Act 1999;
- 6.5 no person shall be liable for any breach of the covenants restrictions or obligations contained in this Unilateral Planning Obligation after that person has parted with its interest in the Application Site or the part of it in respect of which the breach occurs but without prejudice to liability for any breach subsisting prior to parting with such interest
- 6.6 the provisions of this Unilateral Planning Obligation shall not be enforceable against such successors in title to the Owner as own or occupy individual housing units within the Development;
- 6.7 this Unilateral Planning Obligation may be registered as a local land charge in the Register of Local Land Charges maintained by the Council; and
- 6.8 that the Applicant and the Council have the sole proprietary interest in the Application Site and that there are no third party interests which would require any other party to give this Unilateral Planning Obligation.

This document is executed as a deed and is delivered on the date written at the beginning of this deed

Signed as a deed by

Green Vale Homes Limited

Whose common seal is hereunto affixed in the presence of:

Authorised signatory:

Authorised signatory:



