

DATED

7th December

2015

- (1) ROSSENDALE BOROUGH COUNCIL
- (2) BROTHER DEVELOPMENTS LIMITED
- (3) SVENSKA HANDELSBANKEN AB (PUBL)

PLANNING AGREEMENT

under Section 106 Town and Country Planning Act 1990
relating to land on the north side of
Greensnook Lane, Bacup

Stuart Sugarman
Chief Executive
The Business Centre,
Futures Park,
Bacup.
OL13 0BB

THIS AGREEMENT is made on the

7th

day of December 2015

BETWEEN:

(1) **ROSSENDALE BOROUGH COUNCIL** of The Business Centre Futures Park Bacup
OL13 0BB ("the Council")

(2) **BROTHER DEVELOPMENTS LIMITED** Company Registration Number 02849693
of Todd Carr Road Waterfoot Rossendale Lancashire BB4 9SJ ("the Owner")

(3) **SVENSKA HANDELSBANKEN AB (PUBL)** Company Registration Number FC014392
of 3 Kestrel Court, Bridgewater Close, Network 65 Business Park, Burnley, BB11 5NA.
("the Mortgagee")

BACKGROUND

- (A) For the purposes of the 1990 Act, the Council is the local planning authority for the area within which the Site is located and considers it expedient in the interests of proper planning of its area that the development of the Site should be restricted or regulated in accordance with this Agreement.
- (B) Lancashire County Council ("the County Council") is the Highway Authority and Transport Authority for the area in which the Site is located.
- (C) The Owner is the freehold owner of the whole of the Site registered at H. M. Land Registry under title number LA895031 free from encumbrances which would prevent the Owner entering into this Agreement.
- (D) The parties have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the Council against the Owner and its successors in title.

- (E) The Owner has by application reference 2015/0358 ("the Planning Application") applied to the Council for permission to develop the Site in the manner and for the uses set out in the Planning Application and in the plans specifications and particulars deposited with the Council and forming part of the Planning Application more particularly set out in the Second Schedule ("the Development").
- (F) The Council has decided to grant planning permission for the Development in accordance with the Application subject to the making of this Agreement without which planning permission for the Development would not have been granted.
- (G) The parties agree that the planning obligations contained in this Agreement are necessary to comply with the requirements of regulation 122 of the Community Infrastructure Regulations 2010 (as amended).
- (H) The Owner agrees to pay the TRO Contribution, and Bus Shelter Contribution to the Council as agents for the County Council.

OPERATIVE PROVISIONS

1. INTERPRETATION

- 1.1 In this Agreement, the following words and expressions have the following meanings:

"1990 Act"	the Town and Country Planning Act 1990 as amended by Section 12 of the Planning and Compensation Act 1991
"Application"	an application for full permission for the

<p>“ Bin Contribution”</p>	<p>development of the Site made by B and E Boys carrying the reference 2015/0358 means the sum of £100 per individual Dwelling built on the Site (totalling £3300) for provision of waste bins to be paid as outlined in clause 7 of the Second Schedule</p>
<p>“Bus Shelter Contribution”</p>	<p>means the sum of £5,000.00 (five thousand pounds) to allow the Transport Authority to provide a bus shelter in the vicinity of the Site at Todmorden Road to be paid as outlined in clause 8 of the Second Schedule</p>
<p>“Commencement Date”</p>	<p>the date on which the Development commences by the carrying out on the Site pursuant to the Permission of a material operation as specified in section 56(4) of the 1990 Act</p>
<p>“Commutated Sum”</p>	<p>The sum of £69,622.00 (sixty nine thousand and six hundred and twenty two pounds) by way of a commuted sum for the provision of Affordable Housing within the borough of Rossendale to be paid as</p>

	outlined in clause 4 of the Second Schedule
“Disposal”	a disposition within the meaning of section 205 of the Law of Property Act 1925 including (but not limited to): (a) a sale (b) an exchange in return for other property; (c) a grant of a lease for a term of more than 7 years;
“Development”	The development of the Site in accordance with the Permission
“Dwelling”	means any one of the 33 (thirty three) residential dwellings units to be constructed on the Site pursuant to the Permission and “Dwellings” shall be construed accordingly
“Index”	All Items Index of Retail Prices issued by Office for National Statistics
“Interest Rate”	means the base lending rate for the time being of the Bank of England compounded annually
“the Open Space and Play Equipment Contribution”	means the total sum of £45,078.00 (forty five thousand and seventy eight pounds) by way of a contribution towards open space and play equipment in the local area to be paid in accordance with clause

5 of the Second Schedule

“Church Parking spaces”

means nine car parking spaces identified by blue colouring on Plan 2

“Permission”

the planning permission which may be granted in pursuance of the Application

“Plan 1, 2 and 3”

The plans attached to this Agreement

“Site”

the freehold property known as land on the north side of Greensnook Lane, Bacup and which is registered at H. M. Land Registry with title absolute under title number LA895031 and shown for the purposes of identification only edged red on Plan 1

“Statutory Undertaker”

means any company corporation or board or authority at the date of this Agreement authorised by statute to carry on an undertaking for the supply of telephone and television communications electricity gas water or drainage and any authorised successor to any such undertaking

“the TRO Contribution”

means a non-refundable sum of £ 2,000

(Two thousand pounds) to fund a Traffic Regulation Order to be made by the Highway Authority to restrict parking and waiting of vehicles at Greensnook Lane to ensure adequate sightlines are maintained at the junctions of the estate roads to be paid as outlined in clause 2.11 hereof

"Visitor Parking spaces"

means four car parking spaces identified by red colouring on Plan 3

2. **NOW THIS DEED** is made in pursuance of Section 106 of the Town and Country Planning Act 1990 and is a planning obligation for the purposes of that section to the intent that it shall bind all interests in the Site into whosoever hands the same may come and the Owner and his successors in title and assigns and all persons claiming under or through them.
- 2.1 References in this Agreement to any statutes or statutory instruments shall include and refer to any statute or statutory instrument amending, consolidating

or replacing them respectively from time to time for the time being in force

- 2.2 The provisions of this Agreement shall come into effect on the date hereof with the exception of the covenants undertakings and obligations contained within the Second and Third Schedule hereof which shall become binding on the Owner and the Council on the Commencement Date
- 2.3 No person shall be liable for any breach of the covenants conditions or restrictions contained in this Agreement after he shall have parted with his interest in the Site or the relevant part of the Site in respect of which such breach occurs (but without prejudice to liability for any subsisting breach of covenant prior to the parting with such interest)
- 2.4 The covenants on the part of the Owner contained in this Agreement shall not be enforceable against:-
- 2.4.1 purchasers lessees or mortgagees of individual Dwellings or
 - 2.4.2 a Statutory Undertaker which has an interest in any part of the Site for the purposes of its lawful undertaking
- 2.5 The Owner covenants with the Council to comply with the obligations specified in the Second Schedule
- 2.6 The Council hereby covenants with the Owner to perform the obligations specified in the Third Schedule
- 2.7 It is agreed and declared as follows:-
- 2.8 The expressions "the Council" "the Owner" "County Council" and "Mortgagee" shall include their successors in title and assigns
- 2.9 Words importing the singular number only shall include the plural number and

vice versa and words importing any particular gender shall include masculine feminine and neuter genders

- 2.10 This Agreement is a local land charge and shall be registered as such
- 2.11 The Owner agrees to pay the TRO Contribution within 28 days of the date hereof
- 2.12 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Permission) granted after the date of this Agreement
- 2.13 All notices served pursuant to this Agreement shall be in writing and shall be deemed duly served if delivered or sent by the recorded delivery service in the following manner:-
- 2.13.1 in the case of a notice to be served on the Council addressed to its Chief Executive at the above address
- 2.13.2 in the case of a notice to be served on the Owner to the Owner at the above address
- 2.14 If the Permission is not granted or if it is revoked or the Permission expires because it is not implemented this Agreement shall be annulled and of no effect and the Council shall immediately remove from its local register of local land charges any entry relating to this Agreement
- 2.15 Unless expressly stated nothing in this Agreement will create any rights pursuant to the Contracts (Rights of Third Parties) Act 1999 in favour of any person other than the parties hereto
- 2.16 Whenever in this Agreement there is reference to the Council giving its approval to any matter or scheme that reference is on the basis that such approval shall not be

unreasonably withheld or delayed

3. Except as to matters of law and subject to the express provisions of this Agreement to the contrary any dispute or difference arising between the parties as to any of the provisions of this Agreement and/or their respective rights duties or obligations or as to any other matter or thing in any way arising out of or in connection with the subject matter of this Agreement shall forthwith be referred by the parties or any of them for determination by an independent person ("the Expert") to be agreed upon between the parties and failing such agreement within ten (10) Working Days of any party calling upon the others to agree to be appointed on the application of the parties or any of them by the President for the time being of The Royal Institution of Chartered Surveyors or any successor Institute ("the President")

The Expert shall act as an expert and make his determination within twenty (20) Working Days from the date of his appointment such determination to be made in writing giving full reasons therefore and shall be binding upon the parties

If the Expert shall die delay or become unwilling or incapable of acting or if for any reason the President shall in his absolute discretion think fit he may in writing discharge the Expert and appoint another in his place

It is hereby agreed and declared that:-

- (a) the Expert shall afford to the parties the opportunity to make representations in writing and consider any written representations made by or on behalf of the parties hereto which are received by him within ten (10) Working Days after the parties have been afforded such an

opportunity and each party shall be entitled to receive a copy of any such written representations made by or on behalf of the other parties and within five (5) Working Days of such receipt to make written counter-representations

- (b) the Expert shall be entitled to call for such independent expert advice on such matters as he shall think fit
 - (c) the Expert shall have an unfettered discretion to determine the reference to him
 - (d) the fees and expenses of the Expert including the cost of his appointment shall be borne equally between the parties (and if any party shall pay the Expert's fees and expenses it shall be entitled to recover one half from the other) unless the Expert shall direct otherwise and he shall have power so to direct if he considers it reasonable to do so having had regard to the conduct of the parties during the course of the dispute in question
3. Any sum referred to in the Second Schedule shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is paid
 4. If any payment due under this Agreement is paid late interest will be applied at the Interest Rate and payable from the date payment is due to the date of actual payment
 5. The Mortgagee hereby consents to the Owner entering into this Agreement and confirms that the Site shall be subject to the provisions of this Agreement
PROVIDED THAT the Mortgagee shall otherwise have no liability under this

Agreement until such time as it/they have taken possession of the Site and the Development has commenced in which case it/they too will be bound by the obligations as if it were a person deriving title from the Owner

6. Nothing contained or implied in this Agreement shall prejudice or affect the rights powers and duties of the Council in the exercise of their functions as Local Planning Authority and their rights powers and duties under all public and private statutes byelaws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement PROVIDED ALWAYS for avoidance of doubt the Council shall comply with the obligations on its part contained in this Agreement
7. This Agreement is governed by and interpreted in accordance with the law of England and Wales

IN WITNESS whereof these presents have been duly executed as a DEED by the parties hereto the date and year first before written

FIRST SCHEDULE

All that plot of land shown edged red on Plan 1 annexed hereto which is situate on the
north side of Greensnook Lane, Bacup, OL13 9DQ

SECOND SCHEDULE

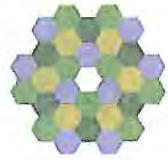
The Owner covenants with the Council as follows:

1. To notify the Council in writing of the Commencement Date
2. To notify the Council of the date of the Disposal of the first Dwelling
3. To notify the Council of the date upon which the Disposal of the tenth Dwelling on the Site has been achieved
4. To pay the Commuted Sum to the Council as follows:
 - a. 50% of the Commuted Sum (£34,811.00) shall be paid to the Council within 7 days of the date of a Disposal of the seventh Dwelling on the Site; and
 - b. The remaining 50% of the Commuted Sum (£34,811.00) shall be paid to the Council within 7 days of the date upon which the Disposal of twenty Units on the Site has been achieved
5. To pay the Open Space and Play Equipment Contribution to the Council as follows:
 - a. 50% of the Open Space and Play Equipment Contribution (£22,539,00) shall be paid to the Council within 7 days of the date of a Disposal of the seventh Dwelling on the Site; and
 - b. The remaining 50% of the Open Space and Play Equipment Contribution (£22,539.00) shall be paid to the Council within 7 days of the date upon which the Disposal of 20 Dwellings on the Site has been achieved

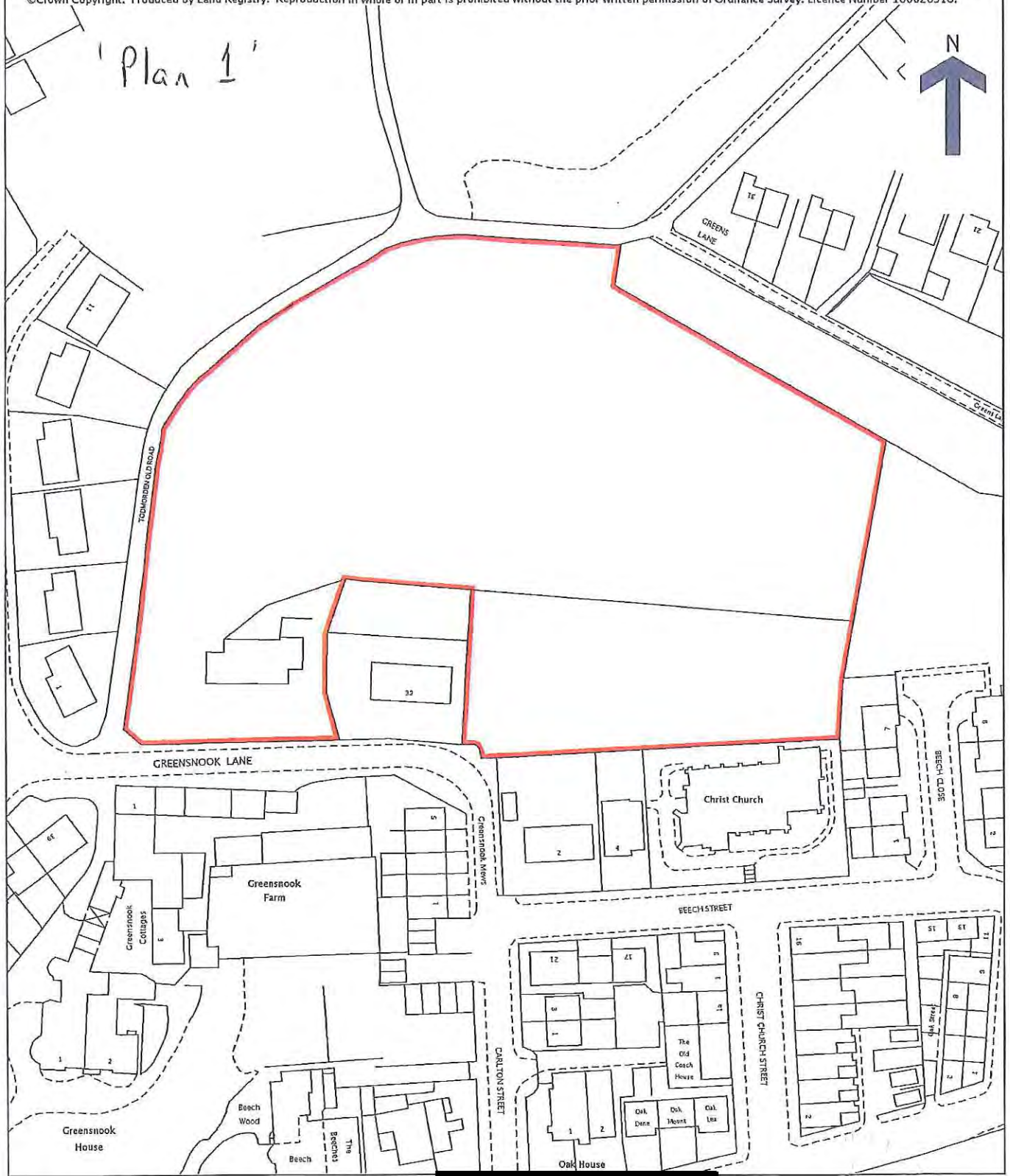
6. Prior to occupation of the seventh Dwelling to construct and complete the Church Parking spaces and the Visitor Parking spaces to the reasonable satisfaction of the Council and transfer ownership of the land on which the Church Parking spaces are located to the then owners of Christ Church, Beech Street, off Todmorden Road, Bacup
7. To pay the Bin Contribution prior to occupation of the first Dwelling on the Site
8. To pay the Bus Shelter Contribution on the Commencement Date

Land Registry Official copy of title plan

Title number **LA895031**
Ordnance Survey map reference **SD8723SW**
Scale **1:1250**
Administrative area **Lancashire : Rossendale**



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Proposed residential development at Greensnook Bacup



site layout scale 1:500

schedule of accommodation

ref	accommodation	int floor area		no
		sqm	sqft	
A	3 bedroom house	90	968	4
B	3 bedroom house	92	988	2
C	3 bedroom house	92	988	4
D	3 bedroom house	108	1162	9
E	4 bedroom house	108	1162	7
F	4 bedroom house	114	1225	5
G	4 bedroom house	130	1400	2

total no dwellings 33

car parking: 200% minimum
Christ Church: 9no spaces

Plan 21



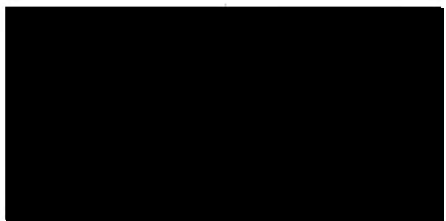
nicol thomas

Revision	Date	Details
a	oct 2013	Layout revisions to suit Planning comments GRF
b	oct 2013	Plot levels added GRF
c	oct 2015	Layout amended to requirements of LCC Highways.

nicol thomas
 architects project managers consultation and consultants CDM co-ordinators
 Registered in England and Wales, Reg No. 2145533
 Quality Assured to BS EN ISO 9001:1994 Certificate Number 08 4723
 Heyside House Blackshaw Lane Heyside Ripon Othens CL2 6RS
 01776 200004 01708 200000 e:uk@nct.co.uk w:www.nct.co.uk
 Also at Birmingham (Registered office)
 Do not scale from this drawing. All dimensions must be checked and verified before preparing production drawings or commencing works. This drawing and its design is the copyright of Nicol Thomas Ltd and may not be reproduced in any form whatsoever without their prior express written consent.

Client: B & E Boys			
Job: Greensnook Lane, Bacup			
Drawing title: Proposed site layout			
Drawing Number: (Job number)	M33330	PL 03	Revision: c
Scale: 1:500 at A1			
Date: June 2013			
Drawn by/ checked by: GRF			

'Plan 3'



THIRD SCHEDULE

The Council covenants with the Owner as follows:

1. To issue receipts on request for the Commuted Sum, the TRO Contribution, the Bin Contribution the Bus Shelter Contribution and the Open Space and lay Equipment Contribution which is paid to the Council in accordance with the terms of this Agreement.

2. That, in the event that any part of the relevant Contributions referred to the Second Schedule are not expended (or not allocated or not committed for expenditure) within a period of 5 (five) years from the date on which it was paid, to repay such remaining sum to the Owner (and not for the avoidance of doubt their successors in title) or their nominee.

3. To issue the Permission within three Working Days of the date of this Agreement.

REG. IN SEAL REGISTER
115720



THE COMMON SEAL of ROSSENDALE
BOROUGH COUNCIL was hereunto
affixed in the presence of:-

)
)
)



Authorised Signatory

EXECUTED as a Deed by BROTHER
DEVELOPMENTS LIMITED acting by a

)
)

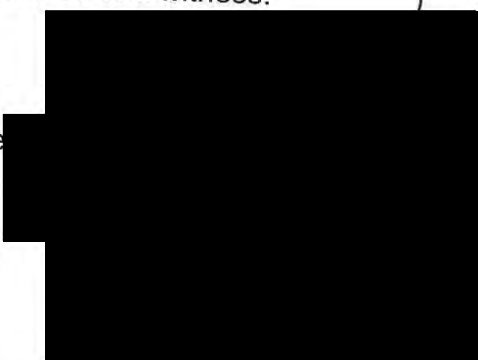


Director in the presence of a witness:

)

Director

Witness Name:



Witness Signature

Address:

Occupation:

Signed and Delivered as a deed by
SVENSKA HANDELSBANKEN AB (PUBL),
a company incorporated in Sweden
by [redacted]
being persons who in accordance with the
laws of Sweden are acting under the
authority of that company

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