

DATED 28th March 2017

(1) ROSSENDALE BOROUGH COUNCIL

(2) TURNBULL & STOCKDALE LIMITED

(3) ECCLESTON HOMES LIMITED

PLANNING AGREEMENT

under Section 106 Town and Country Planning Act 1990
relating to land at Croft End Mill, Bolton Road North, Ramsbottom, Bury BL0 0NA
Rossendale

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

THIS AGREEMENT is made on the *28th* day of *March* 2017

BETWEEN:

(1) **ROSSENDALE BOROUGH COUNCIL** of The Business Centre Futures Park Bacup OL13 0BB ("the Council") (2) **TURNBULL & STOCKDALE LIMITED** (incorporated in the Isle of Man) (CRN 02002017) whose registered office is at Druin Veg School Lane, Santon, Douglas, Isle of Man IM5 1EG ("the Owner") and **ECCLESTON HOMES LIMITED** (CRN 07612652) whose registered office is at Cinnamon House, Cinnamon Park, Crab Lane, Fearnhead, Warrington, Cheshire WA2 0XP ("Developer").

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 the person who is entitled to enforce the obligations contained in this Agreement
- (B) Lancashire County Council ("the County Council") is the Highway Authority and also the Education 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 the Land Registry under title number GM193003 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 Developer has by application reference 2016/0228 ("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 Planning Application subject to the making of this Agreement without which planning permission for the Development would not have been granted
- (G) The Owner agrees to pay the Education Contribution to the Council as agents for the County Council in accordance with Second Schedule
- (H) 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)

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 detailed planning permission for the development of the Site made by the Developer carrying the

	reference 2016/0228
“Commencement Date”	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
“Development”	the development of the Site in accordance with the Permission and described in the First Schedule
“Education Contribution”	means the sum of £94,505.30 towards the provision of additional primary and secondary school capacity at Stubbins Primary School and Haslingden High School to be paid as outlined in the Second Schedule
“Index”	means the All Items Retail Price Index published by the Office for National Statistics or such other index as may from time to time be published in substitution for it

“Index Linked”

means an increase to each of the sums payable to the Council (under this Agreement) on an annual basis or pro rata per diem from the date of this Agreement until such time that payment of any sum in this Agreement is made such index linking to be equivalent to any inflationary increase taking as the measure of inflation the Index

“Interest”

interest at base lending rate for the time being of the Bank of England

“the Public Open Space Contribution”

Means the sum of £1,366 per individual dwelling built on the Site to be expended towards the provision, modernisation or maintenance of Chatterton Play Area, Chatterton Road or Edenfield Play Area, Exchange Street to be paid as outlined in the Second Schedule

“Permission”

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

“Plan”

Plan attached to this Agreement

“Refuse Bin Contribution”

means the sum of £100 per individual

“Site”

dwelling built on the Site to be paid as outlined in the Second Schedule the freehold property known as land at Croft End Works, Bolton Road North, Ramsbottom, Bury BL0 0NA described in the First Schedule and shown for the purposes of identification only edged red on the Plan

“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

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:-
 - 2.2 Save for the provisions of Clause 2.11 the provisions of this Agreement shall only come into effect 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 units 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" and "County Council" 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 Developer agrees to pay the Council's reasonable legal fees in the sum of £151.50 relating to the preparation of the Agreement upon execution of the Agreement.

2.12 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:-

2.12.1 in the case of a notice to be served on the Council addressed to its Chief Executive at the above address

2.12.2 in the case of a notice to be served on the Owner to the Owner at the above address

2.12.3 in the case of a notice to be served on the Developer to the Developer at the above address

2.13 If the Planning Permission is not granted or if it is revoked or the Planning 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

2.14 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

2.15 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

5 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 payable.

6 If any payment due under this Agreement is paid late, Interest will be payable from the date payment is due to the date of payment.

7 Nothing contained or implied in this Agreement shall prejudice or affect the rights power and duties of the Council in 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 the avoidance of doubt the Council shall comply with the obligations on its part contained in this Agreement

8 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 annexed hereto which is situate at the Croft End Works, Bolton Road North, Ramsbottom, Bury BL0 0NA and registered with title number GM193003 and for the development of 11 residential dwellinghouses

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 in writing of the occupation of the 1st and 8th dwelling 7 days prior to the occupation thereof
3. To pay the Index Linked Education Contribution in relation to primary school places (£53,898) within 30 days of commencement of development (excluding demolition) and to pay £40,607 in relation to secondary school places prior to occupation of the 8th dwelling on the Development.
4. To pay the Index Linked Public Open Space Contribution prior to occupation of the 1st dwelling on the Development.

5. To pay the Index Linked Refuse Bin Contribution prior to occupation of the 1st dwelling on the Development.

THIRD SCHEDULE

The Council covenants with the Owner as follows:

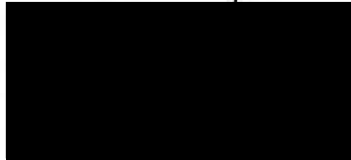
1. To pay the Education Contribution to the County Council
2. To use all sums received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid or for such other purposes for the benefit of the Development as the Owner and the Council shall agree.
3. That it will pay to the Owner any such amount of any payment made by the Owner to the Council under this Deed which has not been expended in accordance with the provisions of this Deed (and money shall be deemed to be expended if the Council has properly 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) within five years of the date of receipt by the Council of such payment together with interest at the Barclays Bank plc base rate from time to time for the period from the date of payment to the date of refund.
4. To provide to the Owner such evidence, as the Owner shall reasonably require in order to confirm the expenditure of the sums paid by the Owner under this Deed.

5. At the written request of the Owner the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed and shall cancel all entries made in the local land charges register in respect of this Deed.

IN WITNESS whereof this document has been executed as a DEED by the respective parties hereto in the appropriate manner with the intention of such document being Delivered on the part of each of them a DEED on (but not before) the day and year first before written

No. IN SEAL REGISTER
115331

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



Authorised Signatory



Executed as a Deed by **ECCLESTON HOMES**

LIMITED acting by a director in the presence of:-

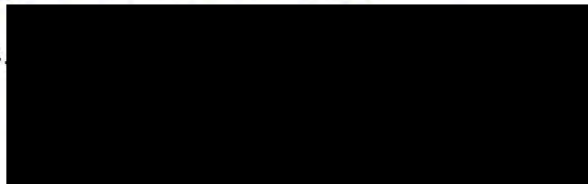
Director..

Signature of Witness



Name of Witness... John Matthews ..

Address of Witness



Signed as a Deed

on behalf of

TURNBULL & STOCKDALE

LIMITED a company incorporated

In the Isle of Man by [_____]

and **PAUL TURNBALL**] being persons who,

in accordance with the laws of

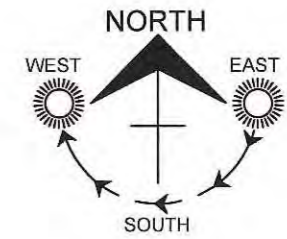
that territory are acting under


the authority of the Company

Signature of [REDACTED] – Authorised Signatory

.....
Signature of [_____] – Authorised Signatory

NOTE:
 • DO NOT SCALE FROM THIS DRAWING.
 • ALL DIMENSIONS TO BE CHECKED ON SITE PRIOR TO THE EXECUTION OF ANY WORK.
 • ANY DISCREPANCY TO BE FOUND TO EXIST BETWEEN DRAWINGS AND/OR DOCUMENTS IT SHOULD BE REPORTED TO THE TECHNICAL DEPARTMENT IMMEDIATELY.



REV.	DESCRIPTION	BY.	DATE
			
PROJECT CROFT END MILL, BOLTON ROAD NORTH, STUBBINS			
DRAWING TITLE LOCATION PLAN			
JOB NUMBER	012	REV	
DRAWING NUMBER	101		
DRAWN	JSM	01.12.15	SCALE
CHECKED	-	-	1:1250
			A3