

Dated 12th January 2020 CB-

PLANNING OBLIGATION BY WAY OF AGREEMENT UNDER
SECTION 106 OF THE TOWN & COUNTRY PLANNING ACT 1990
RELATING TO LAND AT SLACKGATE FARM, TONG LANE, BACUP

BETWEEN

RAYMOND WILLIAM MARSHALL AND ANN HELEN MARSHALL

AND

ROSSENDALE BOROUGH COUNCIL

THIS DEED is dated 12th January 2020

- (1) RAYMOND WILLIAM MARSHALL AND ANN HELEN MARSHALL of Slackgate Farm, Tong Lane, Bacup, Lancashire OL13 9JQ ('the Developer').
- (2) ROSSENDALE BOROUGH COUNCIL of The Business Centre, Futures Park, Bacup, OL13 0BB ('the Council').

RECITALS

- (A) The Council is the local planning authority for the purposes of the 1990 Act for the area within which the Property is situated.
- (B) The Developer is the freehold owner of the Property which is registered with the Land Registry under Title Number LA548623.
- (C) The Developer has submitted the Planning Application to the Council for Planning Permission to develop the Property which was validated by the Council on 6 August 2019.
- (D) The Council having regard to the provisions of the Local Plan and to all other material considerations resolved at its meeting on 29 July 2020 that Planning Permission should be granted for the Development subject to the prior completion of this deed.

AGREED TERMS

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in this deed:

The 1990 Act: means the Town & Country Planning Act 1990 (as amended)

Affordable Housing Overage Contribution: the sums to be calculated in respect of each Dwelling in accordance with the following formula:-

For each Dwelling:-

$$X = (A - B) \times 25\%$$

Where:-

X is the Affordable Housing Overage Contribution in pounds sterling for each Dwelling which, if less than zero, shall be treated as zero, unless the Sales Revenue is less than a sum equal to 90% of the Appraisal Selling Price for that Dwelling. When this is the case, the difference between the Sales Revenue for that Dwelling and the sum equal to 90% of the Appraisal Selling Price should be treated as a rebate in accordance with the provisions of the Fourth Schedule and Appendix 2.

A is the Sales Revenue for that Dwelling; and

B is the amount which is equal to the Sale Rate Hurdle for that Dwelling

and such sum for each Dwelling shall then be utilised in order to calculate the Total Affordable Housing Overage Contribution which may be payable pursuant to paragraph 2 of the Fourth Schedule to this Deed.

Appraisal Selling Price: means the selling price expected to be achieved for each of the Dwellings within the Development such sums having been agreed in respect of each Dwelling by the Council and the Developer and as are listed in the schedule attached to this deed at Appendix 1.

Base Rate: the base lending rate from time to time of the Bank of England.

Commencement of Development: the carrying out in relation to the Development of any material operation as defined by section 56(4) of the TCPA 1990 but disregarding for the purposes of this deed and for no other purpose the following operations: demolition works; site clearance; ground investigations; site survey works; temporary access construction works; earthworks; remedial action in respect of site contamination; the diversion and laying of services; archaeological investigation; interim landscape works and erection of any fences and hoardings around the Property and or compounds or site offices or temporary buildings or structures and **Commenced** and **Commences** shall be construed accordingly.

Commencement Date: the date of Commencement of Development.

Default Interest Rate: 4% per annum above the Base Rate.

Development: the development of the Property described in the Planning Application.

Dwellings: means the residential units together with their curtilage that may be built on the Property as part of the Development pursuant to the Planning Permission and reference to “**Dwelling**” shall be construed accordingly.

Maximum Contribution: means the sum of £200,000 (two hundred thousand pounds) being the capped maximum amount of the Total Affordable Housing Overage Contribution payable pursuant to this Agreement.

Occupation and Occupied: means occupation for the purposes permitted by the Planning Permission from which the Development benefits but not including occupation by personnel engaged in construction fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and “**Occupy**” shall be construed accordingly.

Off Site Affordable Housing Contribution means the sum of £25,000 (twenty five thousand pounds) to be used for the provision of affordable housing in the administrative district of Rossendale Borough Council such monies to be used within a period of 10 years of receipt from the Developer.

Plan: the plan marked “Plan” attached.

Planning Application: the application for outline planning permission in respect of the Planning Application validated by the Council on 6 August 2019 under reference number 2019/0318.

Planning Permission: the planning permission to be granted by the Council in respect of the Planning Application.

Property: the land at Slackgate Farm, Tong Lane, Bacup as shown for identification purposes only edged red on the Plan being part of the property which is registered at HM Land Registry with freehold title absolute under Title Number LA548623.

RPIX means the Retail Prices Index excluding Mortgage Interest Payments (RPIX) published by the Office for National Statistics each month.

Sale Rate Hurdle means the amount calculated in respect of each Dwelling in accordance with the following formula:-

$$Y = Z \times 110\%$$

Where:

Y is the amount of the Sale Rate Hurdle in pounds sterling; and

Z is the Appraisal Selling Price for the relevant Dwelling as detailed on the schedule attached to this deed at Appendix 1.

Sales Revenue means the aggregate amount of sales proceeds, not to include incentives, arising out of the transfer, lease or other assurance of a Dwelling following completion of construction of such Dwelling and as evidenced by the price set out in each transfer, lease or other assurance of the relevant Dwelling to be recorded at the Land Registry, being the consideration stated in such document as having been paid for the relevant Dwelling.

Total Affordable Housing Overage Contribution means the aggregate of the sums (if any) calculated and agreed being the Affordable Housing Overage Contributions in respect of the Dwellings and which may be payable in accordance with paragraph 2 of the Fourth Schedule being a sum calculated in accordance with the provisions of the Fourth Schedule and Appendix 2 and which if less than zero shall be deemed to be zero and which shall not exceed the Maximum Contribution; and

if any Total Affordable Housing Overage Contribution shall be payable it may be pooled to a specific project or scheme as reasonably identified by the Council at the time of payment (if any) in accordance with Regulation 123(3) of the Community Infrastructure Levy Regulations 2010 and to be used within a period of 10 years of receipt by the Council from the Developer. **TCPA 1990**: Town and Country Planning Act 1990.

Working Day: a day (other than a Saturday, Sunday or public holiday) in England when banks in London are open for business.

- 1.2 Clause headings shall not affect the interpretation of this deed.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

- 1.7 A reference to any party shall include that party's personal representatives, successors or permitted assigns and in the case of the Council and the successors to its respective statutory functions.
- 1.8 A reference to a statute or statutory provision is a reference to it as it is in force at the date of this deed.
- 1.9 A reference to a statute or statutory provision shall include any subordinate legislation made as at the date of this deed under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** does not include e-mail.
- 1.11 A reference to "this deed" or to any other agreement or document referred to in this deed is a reference to this deed or such other document or deed as varied or novated (in each case, other than in breach of the provisions of this deed) from time to time.
- 1.12 References to clauses, schedules, appendices and plans are to the clauses, schedules, appendices and plans of this deed.
- 1.13 An obligation in this deed on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.14 Any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.15 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2. STATUTORY PROVISIONS

- 2.1 This deed constitutes a planning obligation for the purposes of section 106 of the TCPA 1990.
- 2.2 The obligations contained in this deed are planning obligations for the purposes of section 106 of the TCPA 1990 and are entered into by the Developer with the intention that they bind the interests held by those persons in the Property and their respective successors and assigns.
- 2.3 Other than clause 15, which shall take effect on the date hereof, this deed shall come into effect on the date of grant of the Planning Permission.
- 2.4 The obligations contained in this deed are enforceable by the Council in accordance with section 106 of the TCPA 1990.

2.5 Insofar as any of the covenants contained in this deed are not planning obligations within the meaning of the Act they are entered into pursuant to the powers contained in Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers with the intention that the obligations contained herein are planning obligations for the purposes of the provisions in respect of the Site which may be enforced by the Council against the Developer.

2.6 The parties agree that the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) relating to planning obligations and all other relevant regulations thereunder are satisfied.

3. COVENANTS WITH THE COUNCIL

The Developer covenants with the Council to observe and perform the obligations as set out in the Fourth Schedule.

4. GENERAL

4.1 The obligations on the part of the Developer contained in this deed are not intended to be and shall not be binding on:-

4.1.1 Owner/occupiers of individual completed Dwellings on the Property from time to time or their lenders and successors in title; and

4.1.2 Statutory service providers that own service sites such as but not limited to pumping stations and substations on the Property

5. RELEASE

No person shall be liable for any breach of an obligation, restriction or covenant contained in this deed after parting with all of its interest in the Property, except in respect of any breach subsisting prior to parting with such interest.

6. DETERMINATION OF DEED

This deed shall be determined and have no further effect if the Planning Permission:

- (a) expires before the Commencement of Development (as defined by section 56 of the TCPA 1990);
- (b) is varied or revoked other than at the request of the Developer or by non-material amendment.
- (c) is quashed following a successful legal challenge.

7. LOCAL LAND CHARGE

This deed is a local land charge and shall be registered as such by the Council.

INTEREST

- 7.1 If either of the Off Site Affordable Housing Contribution or the Affordable Housing Contribution or any instalment (as applicable) has not been paid to the Council on the relevant due dates specified in the Fourth Schedule, the Developer shall pay interest on the part of the Off Site Affordable Housing Contribution or the Affordable Housing Contribution or any instalment (as applicable) that has not been paid for the period from the due date to and including the date of payment at the Default Interest Rate and in the event that there is a delay in the submission of the information referred to in the Fourth Schedule the due date shall be deemed to be 28 days after the date such information should have been submitted.

8. OWNERSHIP

- 8.1 The Developer warrants that no person other than the Developer has any legal or equitable interest in the Property.

9. NOTICES

- 9.1 Any notice or other communication required to be given under this deed shall be in writing and shall be delivered personally, or sent by pre-paid first class post or recorded delivery or by commercial courier, to any person required to receive the notice or communication at its address as set out below:

- (a) Council: Rossendale Borough Council, The Business Centre, Futures Park, Bacup, OL13 0BB
- (b) Developer: RAYMOND WILLIAM MARSHALL AND ANN HELEN MARSHALL of Slackgate Farm, Tong Lane, Bacup, Lancashire OL13 9JQ with a copy to Land Law LLP, 10-14 Market Street, Altrincham, Cheshire WA14 1QB (Reference LMB/101691/001)

or as otherwise specified by the relevant person by notice in writing to each other person.

- 9.2 Any notice or other communication shall be deemed to have been duly received:
- (a) if delivered personally, when left at the address and for the contact referred to in this clause;
 - (b) if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Working Day after posting; or
 - (c) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

10. THIRD PARTY RIGHTS

No person other than a party to this deed, and their respective successors and permitted assigns, and the Council and the successors to its respective statutory functions shall have any rights to enforce any term of this deed.

11. SEVERANCE

11.1 If any court or competent authority finds that any provision of this deed (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this deed shall not be affected.

11.2 If any invalid, unenforceable or illegal provision of this deed would be valid, enforceable and legal if some part of it were deleted, the parties shall amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

12. GOVERNING LAW

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.

13. LEGAL COSTS

13.1 The Developer agrees to pay to the Council on the date hereof the sum of £1,500 (one thousand five hundred pounds) as a contribution towards the reasonable legal costs incurred by the Council in the negotiation preparation and execution of this deed.

14. NOTICE OF CHANGE IN OWNERSHIP

The Developer agrees with the Council that until all obligations under this deed have been discharged to give the Council notice of any change in ownership of any of their legal interests in the Property and the creation of any new legal interests by them on the Property within 14 calendar days of the occurrence of such change or creation and such notice shall give details of the transferee's full name and registered office (if a company) or usual address together with the area of the Property or relevant unit of occupation by reference to a plan PROVIDED THAT such obligation shall not relate to the disposition of a Dwelling or a disposition to a statutory service provider.

15. INDEXATION

Any sum referred to in the Fourth Schedule shall be increased by the percentage by which the RPIX increased from the date upon which this agreement becomes unconditional to the date on which such sum is payable.

16. DISPUTES

- 16.1 Unless and to the extent not specified otherwise in this deed any dispute (save for any disputes as to matters of law) shall be referred at any appropriate time by any party hereto to a person having appropriate professional qualifications and experience in such matters ("the Expert") appointed jointly by the parties or in default of agreement within 10 Working Days after either party has given to the other a written request requiring the appointment of the expert by the President for the time being of the Royal Institution of Chartered Surveyors or the President of such other professional body as shall be relevant for the nature of the dispute in question (as appropriate) (or on his behalf) on the application of either party and such reference shall be deemed to be submission to arbitration within the meaning of the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force.
- 16.2 The Expert shall have at least 10 years post qualification experience in the area of the dispute in question.
- 16.3 The Expert shall act as an expert and not as an arbitrator and the decision of the Expert shall be final and binding upon the parties (except where there is a manifest error and/or on a matter of law) and the following provisions shall apply to the Expert.
- 16.4 The charges and expenses of the Expert shall be borne between the parties in such proportions as the Expert may direct.
- 16.5 The Expert shall give each of the parties an opportunity to make representations to him before making his decision which he shall make available to the other parties on request.
- 16.6 The Expert shall be entitled to obtain opinions from others if he so wishes.
- 16.7 The Expert shall make his decision on valuation matters within the range of any representations made by the parties.
- 16.8 The Expert shall comply with any time limits or other directions agreed by the parties on or before his appointment.
- 16.9 If the Expert is unable or unwilling to accept his appointment or to carry out his functions then either party may apply for a replacement to be appointed in his place and this procedure may be repeated as often as necessary.
- 16.10 The decision of the Expert must be given in writing setting out the reasons behind such decision.
- 16.11 If the parties fail to agree as to the nature of the difference or question then a decision as to the nature of such difference or question shall be referred to a solicitor of at least ten (10) years post qualification experience in the same manner and the same terms

as set out in clauses 18.1 to 18.1 inclusive who shall determine which type of professional should be appointed in relation to such matter.

17. COUNTERPARTS

17.1 This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

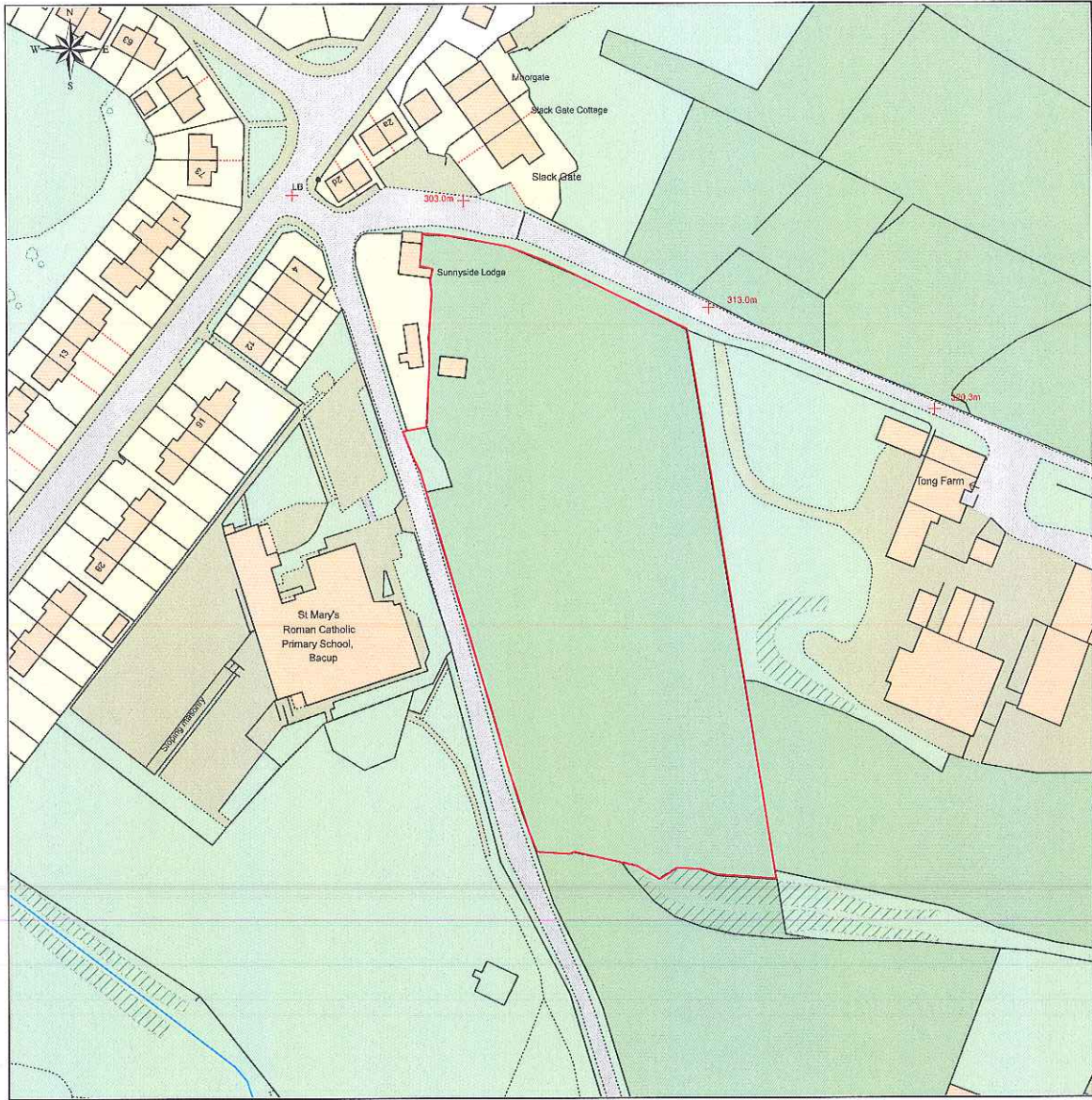
17.2 No counterpart shall be effective until each party has executed and delivered at least one counterpart.

THE FIRST SCHEDULE

THE SITE

The registered freehold land at Slackgate Farm, Tong Lane, Bacup being part of the land registered at the Land Registry under Title Number LA548623 and for the purposes of identification only shown edged red on the attached Plan

Land adjacent to Slack Gate Farm, Tong Lane, Bacup



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0m 25m 50m 75m 100m 125m

Scale: 1:1250, paper size: A3

Location Plan



plans ahead by **emapsite™**

Prepared by: Claire Bradley, 22-03-2018



ST MARYS RC
PRIMARY SCHOOL

CRC DESIGN
ARCHITECTURAL SERVICES

5 WALLMERT CLOSE WORTHINGTONS BARLEY BEDFORD

PROJECT
RESIDENTIAL DEVELOPMENT
SLACKGATE FARM
TONG LANE
BEDFORD

DATE
MAR 2019

INDICATIVE SITE LAYOUT

DATE
JUNE 2019

SCALE
1:200 @ A3

PROJECT NO.
1397-1

NO.	DESCRIPTION	DATE	BY	CHECKED
1	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
2	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
3	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
4	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
5	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
6	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
7	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
8	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
9	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
10	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
11	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
12	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
13	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
14	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
15	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
16	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
17	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
18	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
19	ISSUED FOR PERMIT	15/06/2019	AMR	AMR
20	ISSUED FOR PERMIT	15/06/2019	AMR	AMR



**THE SECOND SCHEDULE
DESCRIPTION OF THE DEVELOPMENT**

Outline application (including access only) for residential development of up to 33 No. dwellings.

Application No: 2019/0318

**THE THIRD SCHEDULE
DRAFT PLANNING PERMISSION**

Rossendale Borough Council

APPLICATION FOR OUTLINE PLANNING PERMISSION with all matters reserved.

Town and Country Planning Act 1990

Applicant Name: Mr R Marshall
Notice Recipient: Mrs Claire Bradley
Suite 2
Lancs Digital Tech Centre
Bancroft Road
Burnley
BB10 2TP

Part 1 – Particulars of Application:

Date Received: 6th August 2019

Application Number: 2019/0318

Proposed Works: Outline application (including access only) for residential development of up to 33 No. dwellings.

Location: Land Adjacent Slackgate Farm Tong Lane

Following consideration of the application in respect of the proposal outlined above, it was resolved to **GRANT PLANNING PERMISSION** for the following reasons:-

SUMMARY REASON FOR APPROVAL

The proposed development is appropriate in principle and it is considered that the development would not unacceptably detract from visual amenity and neighbour amenity or highway safety. It is considered that the development is in accordance with the National Planning Policy Framework and Policies AVP2, 1, 2, 3, 8, 9, 18, 23 and 24 of the adopted Core Strategy DPD.

CONDITIONS

1. An application for approval of the reserved matters (namely the layout, scale, appearance and landscaping of the development) 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 thirty-three residential units which shall be carried out in accordance with the following plans and documents unless otherwise required by the conditions below:

- Application form.
- Site Location Plan.
- Access Arrangements (drawing number J910 Access Fig 1).
- Indicative Site Layout (drawing number 1397-1) – only in so far as the drawing relates to the point of access into the site and the position of the proposed estate road.
- Flood Risk Assessment (ref: 2017s6942)
- Transport Statement (ref: J910/TS)

Reason: To ensure the development complies with the approved plans and submitted details.

3. Either prior to the commencement of the development or as part of the first reserved matters application full details of the alignment, height and appearance of all fences and walls and gates to be erected (notwithstanding any such detail shown on the submitted plans) shall be submitted to and approved in writing by the Local Planning Authority. Notwithstanding the above there shall be 1.8m boundary treatments between the rear gardens of each individual dwelling, and natural stone walling shall be used around the perimeter of the site. No dwelling shall be occupied until all fences and walls shown in the approved details to bound its plot have been erected in conformity with the approved details. Other fences and walls shown in the approved details shall have been erected in conformity with the approved details prior to substantial completion of the development.

Reason: The required details are not provided as part of this outline application and are required at an early stage in order to ensure a visually satisfactory form of development and to provide reasonable standards of privacy to residents.

4. Either prior to the commencement of the development or as part of the first reserved matters application full details of the following details shall be submitted to and approved by the Local Planning Authority in writing:

- a) Details of the colour, form and texture of all external facing materials to the proposed dwellings
- b) Details of the colour, form and texture of all hard ground surfacing materials.

The development thereafter shall be constructed utilising the approved materials.

Reason: The application is in outline only and is not accompanied by detailed plans, and to ensure that the development is appropriate in terms of visual amenity and to ensure that it responds to the local context of the site.

5. Notwithstanding the details shown on the submitted plans the new dwellings shall be no greater than two storeys in height.

Reason: To ensure that the development is appropriate in terms of visual amenity and to protect neighbour amenity.

6. No development shall take place until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. It shall provide for:

- i) The parking of vehicles of site operatives and visitors
- ii) The loading and unloading of plant and materials
- iii) The storage of plant and materials used in constructing the development
- iv) The erection and maintenance of security hoarding
- v) Wheel washing facilities
- vi) Measures to control the emission of dust and dirt during construction
- vii) A scheme for recycling/disposing of waste resulting from demolition and construction works
- viii) Details of working hours
- ix) Routing of delivery vehicles to/from site – to avoid the low bridge on Tong Lane.

Reason: In the interests of highway safety.

7. For the duration of the construction period no HGV traffic movements to and from the site shall take place between 8-9am and 3-4pm Mon-Fri during school term time.

Reason: To avoid conflict with start and finish times at St. Mary's Primary School, in the interests of highway and pedestrian safety.

8. No development shall take place until a scheme for the construction of the site access and the off-site highway works has been submitted to and approved in writing by the Local Planning Authority and the necessary agreement entered into with the Highway Authority.

No part of the development shall be occupied until all of the works have been carried out in accordance with the approved details.

Reason: In the interests of highway safety.

9. No development shall take place until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved 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 order to ensure proper management and maintenance of the streets within the development.

10. No development shall take place until full engineering, drainage, street lighting and constructional details to adoptable standards (Lancashire County Council specification) of the internal estate roads have been submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details.

Prior to first occupation of any of the dwellings hereby approved the estate roads shall be completed to at least base course level and in accordance with the agreed details.

Reason: In the interests of highway safety.

11. As part of the first reserved matters application, full details of any proposed garages, driveways, communal parking areas, cycle storage and electric vehicle charging points shall be submitted to the Local Planning Authority for its approval.

Reason: In the interests of highway safety, to ensure adequate parking provision for the development and in the interests of promoting sustainable modes of transportation.

12. Notwithstanding any information submitted with the application, no development shall take place until an investigation and risk assessment report has been submitted to and approved in writing by the Local Planning Authority. The assessment shall investigate the nature and extent of any contamination on the site (whether or not it originates on the site). The assessment shall be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority before any development takes place. The submitted report shall comprise:

i) where potential risks are identified by the Preliminary Risk Assessment, a site investigation survey of the extent, scale and nature of contamination and;

ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland, and service lines and pipes,
- adjoining land,
- ground waters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

iii) where unacceptable risks are identified, an appraisal of remedial options and proposal of the preferred option(s) to form a remediation strategy for the site.

The development shall thereafter be carried out in full accordance with the duly approved remediation strategy.

Reason: In the interests of mitigating hazards associated with land contamination and to prevent pollution.

13. Pursuant to condition 12 and prior to first occupation of any of the dwellings hereby approved, a verification report, which validates that all remedial works undertaken on site were completed in accordance with those agreed with the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of mitigating hazards associated with land contamination and to prevent pollution.

14. No development shall take place until a scheme of intrusive site investigation and ground gas monitoring has been undertaken by suitably qualified persons, to assess the risk from coal mining legacy issues on site, and the results of the investigation in the form of a report have been submitted to and approved in writing by the Local Planning Authority.

In the event that the site investigation / gas monitoring confirms the need for remedial works / mitigation to treat areas of shallow mine workings or abate mine gas to ensure the safety and stability of the proposed development, a scheme of proposed remedial works / mitigation shall be submitted to and approved in writing by the Local Planning Authority prior to any development taking place.

The development shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of mitigating hazards associated with coal mining legacy issues and ground gas.

15. Foul and surface water shall be drained on separate systems.

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

16. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards, and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly.

The development shall be completed in accordance with the approved details.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

17. As part of the first reserved matters application, a detailed landscape plan shall be submitted, based on the results of a further botanical survey of the site carried out by a suitably qualified ecologist.

The Landscape Plan shall include detailed measures to prevent or mitigate any loss of biodiversity on the site as part of the development, and any tree planting shall be of native species.

Reason: The application is in outline only and is not accompanied by detailed plans, and to ensure that the development is appropriate in terms of visual amenity, to ensure that it responds to the local context of the site, and in the interests of protecting and enhancing biodiversity.

18. No vegetation clearance required to facilitate development shall be undertaken during the optimum period for bird nesting (March to July inclusive).

Reason: In the interests of protecting nesting birds.

19. No development shall take place until an Environment Construction Method Statement (which shall include proposals for avoidance of harm to amphibians as set out in the submitted Ecological Appraisal report (ref: BOW17.880) has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in strict accordance with the approved details.

Reason: In the interests of protecting biodiversity.

20. A tree survey to BS 5837 (2012) shall be undertaken by a suitably qualified person / organisation and shall be submitted to the Local Planning Authority as part of the first reserved matters application. The tree survey shall cover any existing trees within the site boundary and if appropriate shall set out any mitigation measures necessary for the protection of those trees during construction works.

Reason: In the interests of visual amenity and protecting biodiversity.

21. If no development commences within one year of the date of the submitted badger survey (that is, before October 2020) a further precautionary survey for badgers shall be undertaken and the results submitted to and approved in writing by the Local Planning Authority prior to any development taking place.

Reason: In the interests of protecting any badgers on site.

12. INFORMATIVES

1. The Local Planning Authority has a Core Strategy (adopted in November 2011) and a series of Supplementary Planning Documents, which can be viewed at:

http://www.rossendale.gov.uk/downloads/download/331/core_strategy_local_plan_part_1_adopted

The Council operates a pre-application planning advice service. All applicants are encouraged to engage with the Local Planning Authority at the pre-application stage. In this case the applicant did not engage in pre-application discussions.

The Local Planning Authority has considered the application and where necessary considered either the imposition of planning conditions and/or sought reasonable amendments to the application in order to deliver a sustainable form of development in accordance with the National Planning Policy Framework and the local planning policy context.

2. The grant of planning permission will require the applicant to enter into a Section 278 Agreement, with the County Council as Highway Authority. The applicant should be advised to contact Lancashire County Council, Highway Development Control email – developeras@lancashire.gov.uk in the first instance to ascertain the details of such an agreement and the information to be provided.
3. If, during any works on site, contamination is suspected or found, or contamination is caused, the Local Planning Authority shall be notified immediately. Where required, a suitable risk assessment shall be carried out and/or any remedial action shall be carried out in accordance with an agreed process and within agreed timescales in agreement with the Local Planning Authority.

The applicant is advised that they have a duty to adhere to Part 2A of the Environmental Protection Act 1990, the National Planning Policy Framework 2012 and the current Building Control Regulations with regards to contaminated land. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.

Date:
Development Control
First Floor
The Business Centre
Futures Park
Bacup
OL13 0BB

Signed:

James Dalglish
Senior Planning Officer

DRAFT

Please note that this notice does not relieve the applicant from the need to ensure compliance with the appropriate provisions of the Building Act 1984 and the Building Regulations 2000.

IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES ACCOMPANYING THIS NOTICE

**GUIDANCE NOTES FOR APPLICANTS
WHERE AN APPLICATION HAS BEEN APPROVED**

1. APPLICATIONS FOR PLANNING PERMISSION, APPROVAL OF RESERVED MATTERS, LISTED BUILDING CONSENT OR CONSERVATION AREA CONSENT.

If you object to the Local Planning Authority's decision to grant permission, approval or consent subject to conditions, you may appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990 within 12 weeks of the date of this notice. With regard to granted applications concerning listed buildings in a conservation area, you may appeal under Section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulation 8 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990.

Please make your appeal using a form from The Planning Inspectorate, Customer Support Unit, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel. 0117 372 6372) www.planning-inspectorate.gov.uk. The Secretary of State may allow a longer period for you to give notice of appeal, but will normally only do so if there are special circumstances that excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it appears that the Local Planning Authority could have granted permission for the proposed development only subject to the conditions it imposed, bearing in mind the statutory requirements, the development order, and any directions given under the order. In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority made its decision on the grounds of a direction that he or she had given.

It may be that planning permission, conservation area consent or listed building consent is granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State for the Environment; but you, as the landowner, claim that the land is no longer fit for reasonably beneficial use in its existing state and you cannot make it fit for such use by carrying out the permitted development. If so, you may serve a purchase notice on Rossendale Borough Council requiring the Council to buy your interest in the land. You can do this under the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulation 9 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 in respect of listed buildings and buildings in conservation areas.

You may claim compensation against the Local Planning Authority if the Secretary of State has refused or granted permission subject to conditions, either on appeal or when the application was referred to her or him.

Compensation is payable in the circumstances set out in:

(a) Section 114 and Part II of Schedule 3 of the Town and Country Planning Act 1990; or (b) Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulation 9 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 in respect of listed buildings.

2. ADDITIONAL NOTES ON LISTED BUILDING CONSENT

1 If you wish to modify the development referred to in your application or to vary it in any way, you must make another application.

2 This notice refers only to the grant of listed building consent and does not entitle you to assume that the City Council has granted its consent for all purposes:

- (a) If you have applied for planning permission under Section 57(1) of the Town and Country Planning Act 1990, we will send you a separate notice of decision;
 - (b) We will send you a separate notice about plans you have submitted under the Building Regulations 2000;
 - (c) If the development for which listed building consent has been granted includes putting up a building for which you have to submit plans under the Building Regulations 2000, you should not do any work connected with erecting that building until you have satisfied yourself that you have complied with Section 219 of the Highways Act 1980 or that they do not apply to this building.
- 3 Even if you have gained listed building consent, you must comply with any restrictive covenants that affect the land referred to in the application.

3. APPLICATION FOR CONSENT TO DISPLAY ADVERTISEMENTS

If the applicant is aggrieved by the decision of the Local Planning Authority to grant consent, subject to conditions, he or she may appeal to the Secretary of State for the Environment in accordance with Regulation 17 and Part 3 of Schedule 4 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 within eight weeks of the receipt of this notice. (Appeals must be made on a form which obtainable from The Planning Inspectorate, Customer Support Unit, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel. 0117 372 6372) www.planning-inspectorate.gov.uk).

IMPORTANT

Compliance with Planning Conditions

The Council's Planning Enforcement Team is responsible for monitoring the implementation of planning permissions. This includes ensuring that all relevant conditions have been complied with. Effective enforcement is important to:

- tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area;
- maintain the integrity of the decision-making process;
- help ensure that public acceptance of the decision-making process is maintained.

Whilst the majority of developers/homeowners do comply with the requirements of planning permissions, there are a number who do not. Where any planning conditions are breached, the Council can take formal enforcement action without further notice. Enforcement action could include such measures as requiring remedial works, cessation of use, or complete demolition and can cause the developer/homeowner unnecessary expense, delay and frustration.

It is important that you read and understand the eight points below to avoid any potential breaches of planning control:

- 1) Please take some time to read through the conditions attached to the planning permission and their particular requirements.
- 2) All planning conditions and timeframes for their submission/implementation must be complied with in full, unless a subsequent application or appeal is made to vary or remove those conditions and is subsequently approved.
- 3) Applications to vary conditions attached to a planning permission can take up to 8 weeks to determine (13 weeks if relating to a major planning application). Appeals normally take much longer.

- 4) Applications for approval of details reserved by planning condition (more commonly referred to as condition discharge applications) can take approximately 8 weeks to determine.
- 5) Applicants should ensure that they submit any applications or appeals in good time, well in advance of any anticipated or scheduled start date for commencement of the development.
- 6) If any amendments are sought to the permission, either prior to commencement of development or during the development, the developer should contact the Planning Department at their earliest opportunity to establish what form of application will be required. Work should not continue until any amendments are approved in writing by the Local Planning Authority.
- 7) Fees are normally payable for applications for approval of details reserved by planning condition (condition discharge applications). The relevant application forms, associated fees and details of how to apply can be found on the Planning Portal: www.planningportal.gov.uk
- 8) Should you have any queries relating to any part of the Planning Process the Council's Duty Planning Officer is available Mondays, Wednesdays and Fridays between the hours of 0900-1200 and can be contacted during those times on [REDACTED] (Option 4).

Mike Atherton
Planning Manager

THE FOURTH SCHEDULE

The Developer covenants with the Council to observe and perform the following obligations:-

Part 1

Payment of the Contributions

1 Off Site Affordable Housing Contribution

- 1.1 The Developer will pay to the Council the Off Site Affordable Housing Contribution upon signing of this Agreement.

2 Total Affordable Housing Overage Contribution

- 2.1 Subject to paragraph 2.6 below, on or before the date which is 14 days after the date of Actual Completion of the sale of the last Dwelling of all of the Dwellings upon the Development the Developer shall submit to the Council confirmation of the Sales Revenue for each Dwelling sold, such information to be provided by the Developer in a schedule in the form set out at Appendix 2 and at the same time the Developer shall provide the Council with its calculation of the Total Affordable Housing Overage Contribution (if any) subject at all times to the Maximum Contribution and taking into account all calculations of the Affordable Housing Overage Contribution amounts for each Dwelling as detailed in the schedule to be provided in the form of Appendix 2 to this Deed including any minus figures where a Dwelling has been sold for less than a sum equal to 90% of the Appraisal Selling Price for that Dwelling which shall be off-set against any Affordable Housing Overage Contribution sums in respect of other Dwellings which are greater than zero.

- 2.2 Within 14 Working Days of receipt of the information provided by the Developer to the Council in accordance with paragraph 2.1 of this Schedule the Council shall calculate the Total Affordable Housing Overage Contribution (if any) and serve written notice on the Developer confirming its calculation of the amount of the Total Affordable Housing Overage Contribution payable by the Developer (if any) which shall at all times be subject to the Maximum Contribution.

- 2.3 The Developer shall submit with the information set out at paragraph 2.1 a certified copy of the relevant transfer/lease or assurance for the sale of each Dwelling sold.

- 2.4 The Total Affordable Housing Overage Contribution shall be paid by the Developer to the Council on or before the date which is 28 days after the later of:-
- 2.4.1 the date upon which the Council serves the notice in accordance with paragraph 2.2 of this Schedule confirming its calculation of the amount of the Total Affordable Housing Overage Contribution (if the Developer and the Council agree as to such amount); and
 - 2.4.2 the date upon which any dispute between the parties as to the amount of the Total Affordable Housing Overage Contribution due is resolved by agreement between the parties or as determined by an Expert in accordance with clause 16 of this Agreement.
- 2.5 The Developer shall on demand following receipt of an invoice from the Council pay the Council a monitoring fee of £20 per hour in respect of its reasonable and proper costs in reviewing, monitoring and calculating the Total Affordable Housing Overage Contribution (if any) which may be due such invoice to be submitted once the Total Affordable Housing Overage Contribution has been agreed or determined in accordance with this Agreement.
- 2.6 In the event that, the Council considers in its reasonable opinion (at all times acting reasonably), that a Dwelling or any Dwellings has or have been sold or leased by the Developer for the purposes of or with the effect of avoiding or reducing the payment of the Total Affordable Housing Overage Contribution or a Dwelling is first Occupied without a sale, lease or other assurance having been completed it shall serve notice upon the Developer confirming the Dwelling or Dwellings which in the Council's opinion acting reasonably have been disposed of on such basis requesting further information and the following shall apply:-
- 2.6.1 the Developer shall provide appropriate information in relation to the sale of such Dwelling or Dwellings and shall be provided with the opportunity to explain the reasons for the consideration actually paid for such Dwelling or Dwellings;
 - 2.6.2 the Council consider such explanation and information and shall discuss the same with the Developer and if appropriate may request additional information, at all times acting reasonably and the Developer shall provide such information if available and respond to any such request; and

2.6.3 the Council and the Developer shall use reasonable endeavours to agree the Total Affordable Housing Overage Contribution and where a Dwelling or Dwellings may have been first Occupied without a sale, lease or other assurance having been completed the Sales Revenue of the relevant Dwelling or Dwellings shall be deemed to be the price at which each relevant Dwelling, following completion of its construction and on initial Occupation would have achieved if the freehold title to the same was sold on the open market by a willing seller to a willing buyer on equivalent terms as the other Dwellings within the Development have been sold on open market terms, as agreed between the parties acting reasonably or, failing agreement, as determined by an Expert in accordance with clause 16 of this Agreement.

Appendix 1

Anticipated Final Development Sales Values

Re: Appraisal Selling Prices

33 Houses

18 Semis	£167,650 each	£170 psf
10 End Terrace	£162,860 each	£165 psf
5 Mid Terrace	£158,070 each	£160 psf

Appendix 2

Schedule of Sales Revenue and Affordable Housing Overage Contribution Information

Dwellings (Plot no./ address)	Appraisal Selling Price for Dwelling	Sales Rate Hurdle (Appraisal figure + 10%) for Dwelling	Actual Sales Revenue achieved for Dwelling	Revenue generated above or below the Sales Rate Hurdle figure for Dwelling	Contribution amount for Dwelling being either 25% of revenue above Sales Rate Hurdle; or deduction amount where Sales Revenue was more than 10% below Appraisal Selling Price to be shown as a deduction; or zero (as applicable)

Total Affordable Housing Overage Contribution is the sum of the figures in the end column of the above table in this Appendix 2 calculated as follows:-

$$A - B = C$$

Where:

A - is the aggregate sum of all Affordable Housing Overage Contributions calculated in respect of Dwellings sold where the Sales

Revenue was equal to or in excess of the Sale Rate Hurdle for that Dwelling;

B – is the aggregate sum of all Affordable Housing Overage Contributions which are deductions as calculated where the Sales Revenue for a Dwelling was below 90% of the Appraisal Selling Price for that Dwelling; and

C – is the Total Affordable Housing Overage Contribution

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

EXECUTED as a DEED by
RAYMOND WILLIAM MARSHALL
in the presence of-

Name: X

Address: X

EXECUTED as a DEED by
ANN HELEN MARSHALL
in the presence of-

Name: X

Address: X

The common seal of **ROSSENDALE**)
BOROUGH COUNCIL)
was affixed to this deed in the presence of)

.....
Authorized Officer



No. IN SEAL
REGISTER
115534

