

DATED Third day of May. 2005

ROSSENDALE BOROUGH COUNCIL (1)

MCDERMOTT DEVELOPMENTS LIMITED (2)

UNILATERAL UNDERTAKING

Section 106 Town & Country Planning Act 1990

LAND AT DOUGLAS ROAD / TONG LANE BACUP

THIS UNILATERAL UNDERTAKING is given this *third* day of *May*.
Two thousand and five

TO ROSSENDALE BOROUGH COUNCIL of The Town Hall, Rawtenstall,
Rossendale BB4 7LZ ("the Council") of the first part

BY MCDERMOTT DEVELOPMENTS LIMITED of The Portal, Bridgewater Close,
Network 65 Business Park, Burnley, BB11 5TT ("the Developer") of the second part

DEFINITIONS

- (i) "the Act" means the Town & Country Planning Act 1990 as amended.
- (ii) "the Dwellings" shall mean the individual residential units comprised within the Development
- (iii) "the Application" means the application given the reference number 2004/401 submitted 04 June 2004 for the approval of matters reserved on the grant of Outline Planning Permission on 08 September 1966 and given the reference number 13/1/2423
- (iv) "the Development" means the proposed residential development of the Property in the manner and for the uses set out in the plans specifications and particulars submitted to the Council as the Application

- (v) "the Permission" means the Planning Permission granted pursuant to the Application
- (vi) "the Plan" means the plan annexed hereto
- (vii) "the Property" means the Property described in the First Schedule to this Agreement

WHEREAS:

- (i) The Council is the Local Planning Authority (LPA) for the purposes of the Act for the district within which the property is situated.
- (ii) The Developer is registered at H M Land Registrar as the Freehold Proprietor of the property under Titles numbered LA478630 and LA633102
- (iii) The Developer has applied to the Council for Planning Permission to carry out the Development.
- (iv) The planning purpose of this Unilateral Undertaking is to provide open space and secure the maintenance thereof which will provide for the needs of the prospective residents of the Development, and the neighbourhood in general.

NOW THIS UNILATERAL UNDERTAKING WITNESSETH:-

1. THIS Unilateral Undertaking is made pursuant to Section 106 of the Act as substituted by the Planning and Compensation Act 1991 and to all other enabling powers statutory or otherwise.

2. THIS Unilateral Undertaking is conditional upon:-

- (a) the Permission being granted by the Council for the Development and
- (b) the implementation of the Permission by the commencement of the Development and in the event of the Development not being commenced in accordance with the provisions of Section 56 and Sections 91 to 93 of the Act so that the Permission shall lapse this Unilateral Undertaking shall absolutely determine and be of no effect.

3. THE Developer hereby covenants with the Council that the Developer shall:

- (a) Provide and landscape in accordance with a scheme to be submitted and approved by the Council the public open spaces and incidental open spaces shown upon the approved application drawing numbered 26/GA/01 Rev. A.
- (b) Pay to the Council a sum representing a contribution to the maintenance of such public and incidental open spaces amounting to £1159 per dwelling and totalling £224,846 (two hundred and twenty four thousand eight hundred and forty six pounds).
- (c) Pay to the Council the sum of £10,000 (ten thousand pounds to provide tools and equipment required to maintain the public and incidental open spaces.
- (d) Erect a landscape maintenance store in accordance with drawing numbered MS.01 the building to be located in the position shown on drawing numbered 26/GA/01A.

(e) Make payments to the Council in respect of items b) and c) above as follows:-

Upon first occupation of any of the Dwellings pay to the Council the sum of £34,846 (thirty four thousand eight hundred and forty six pounds) and thereafter pay to the Council the sum of £50,000 (fifty thousand pounds) upon occupation of the fiftieth, one hundredth, one hundred and fiftieth and one hundred and ninety fourth Dwelling. The total of all payments will be £234,846 (two hundred and thirty four thousand eight hundred and forty six pounds).

4. THE expressions “the Council” and “the Developer” shall include their respective successors in title and assigns.

5. IN this Unilateral Undertaking the words imparting the masculine gender shall be deemed to include the feminine and the singular to include the plural and vice versa unless the contrary as to gender or number is expressly provided or unless the same is inconsistent within the context.

6. THE obligations hereby entered into by the Developer are planning obligations for the purposes of Section 106 of the Act and the LPA by whom they are enforceable is the Council

7. NO party shall be liable for any breach of this Unilateral Undertaking unless it holds an interest in the Property in respect of which such breach occurs or held such interest at the date of the breach

8. THE Developer shall reimburse to the Council any fees paid to HM Land Registry and other disbursements including company search fees in connection herewith.

FIRST SCHEDULE

The Property

The land to the south-west of Tong Lane and north east of Douglas Road Bacup Rossendale Lancashire registered at HM Land Registry under title numbers LA478630 and LA633102 and shown for the purposes of identification only edged red on the Plan.

SECOND SCHEDULE

The Development

The erection of one hundred and ninety four dwellings including the installation of roads and sewers and the provision of landscaping as shown on drawing numbered 26/GA/01 Rev A.

SIGNED on behalf of the said McDermott Developments Limited

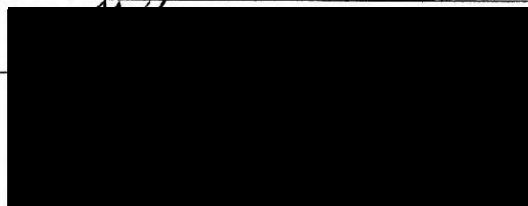
Seamus McDermott (signature)

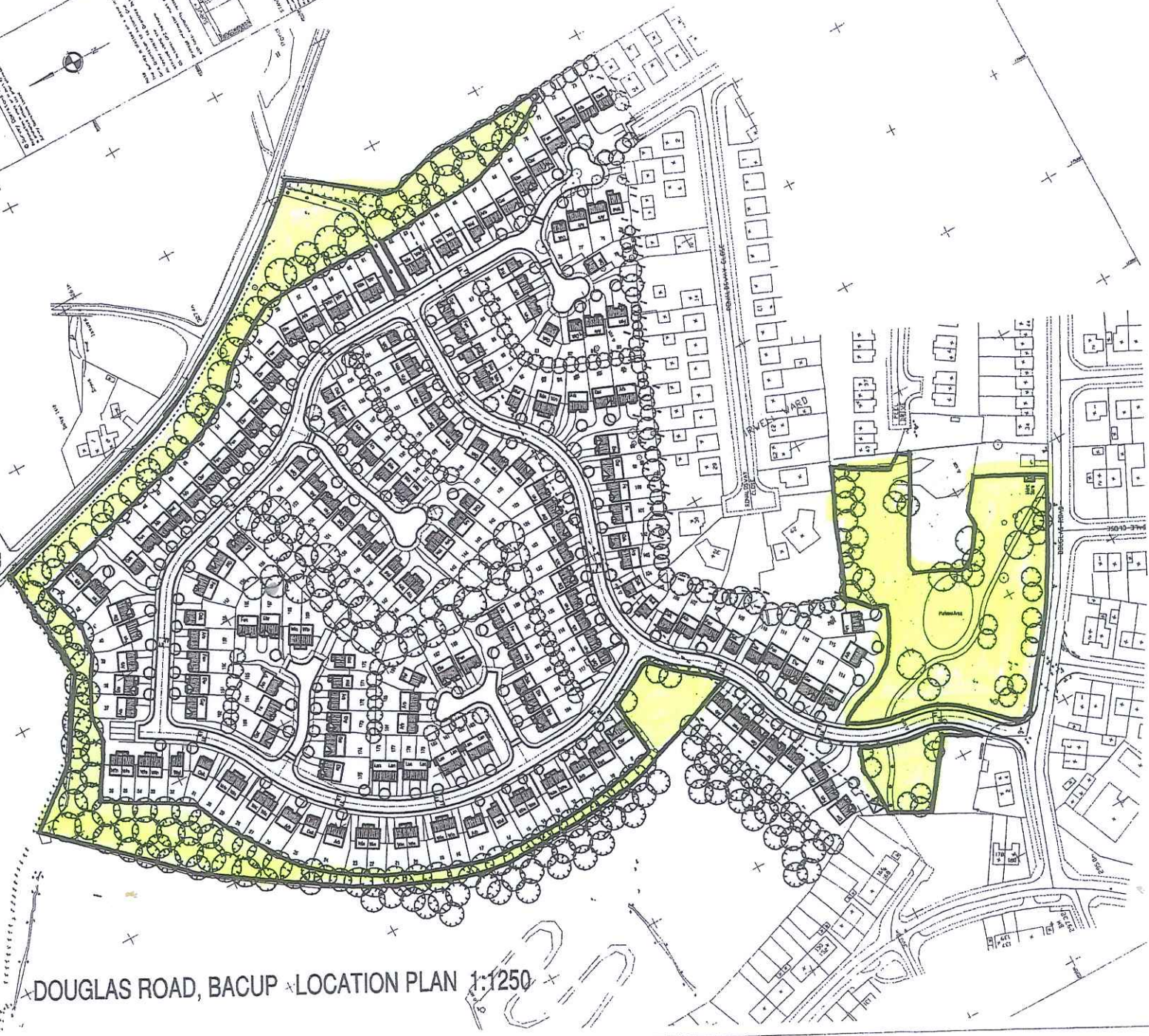
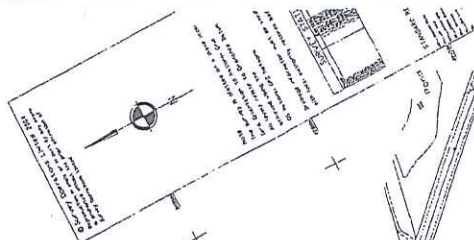


In the presence of (print name)

BRIAN BENNETT

(signature)





DOUGLAS ROAD, BACUP LOCATION PLAN 1:1250

A. Updated to not exceed site layout 22.05

McDermott DEVELOPMENTS
The Rural Background Class, Rural 60 Standard Part
Rural 60 Land Use: 03/11/07
Tel: 01282 441 02 Fax: 01282 43400

Client:
**DOUGLAS ROAD
BACUP**

Doc:
LOCATION PLAN

Scale: 1:1250 Date: JUNE 04

Drawn: 26/GA/02 Rev: A