

DATED

28th February

2008

(1) MR RICHARD JOHN NUTTAL

UNILATERAL
UNDERTAKING

Pursuant to Section 106 Town and Country Planning Act 1990
relating to land at Pack Horse Garage , Market Street , Edenfield
for an apartment block of 10 dwellings

LF/SS/Z12/000510

Linda Fisher
Executive Director of Regulatory Services
P. O. Box 74,
Kingfisher Business Centre,
Futures Park,
Bacup. OL13 0WU

THIS UNILATERAL UNDERTAKING is given this 28th day of February

2008

BY

RICHARD JOHN NUTTAL of 136B Market Street Edenfield BLO OHJ ("the Landowner")

TO

(1) ROSSENDALE BOROUGH COUNCIL of P. O. Box 74 Kingfisher Business Centre Futures Park Bacup OL13 0WU ("the Council")

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 Unilateral Undertaking
- (B) The Landowner is the freehold owner of the Site registered at H. M. Land Registry under title number LA970923 and described in the First Schedule
- (C) The parties have agreed to enter into this Unilateral Undertaking with the intention that the obligations contained in this Unilateral Undertaking may be enforced by the Council against the Landowner and its successors in title
- (D) The Landowner has applied for by way of Reserved Matters Application APP/2007/737 (" the Planning Application ") 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")

(E) This Unilateral Undertaking is conditional (with the exception of Clause 3.4 below) upon the Council deciding to grant planning permission for the Development in accordance with the Planning Application

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
“the Planning Application”	an application for Reserved Matters Approval for the development of the Site carrying the reference 2007/737
“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 Second Schedule
“the Commuted Sum “	a financial contribution of £10,000 to be used for the purposes outlined in the Third

	Schedule
“Permission”	the planning permission which may be granted in pursuance of the Planning Application
“Plan”	The Plan attached to this Unilateral Undertaking
“Site”	the freehold property known as site of Packhorse Garage , Market Street Edenfield described in Schedule 1 and shown for the purposes of identification only edged red on Plan

- 1.2 The expressions "the Council" and "the Owner" shall include their successors in title and assigns
- 1.3 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. **NOW THIS UNDERTAKING** 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 Landowner and his successors in title and assigns and all persons claiming under or through them

3 IT IS HEREBY AGREED AND DECLARED as follows :-

- 3.1 the covenants in this Unilateral Undertaking are planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council
- 3.2 without prejudice to liability for any subsisting breach of covenant prior to parting with such interest no party shall be liable for breach of a covenant in this Unilateral Undertaking after having parted with its interest in the Site or in the part in respect of which such breach occurs
- 3.3 This Agreement is a local land charge and shall be registered as such
- 3.4 The Landowner agrees to pay the Council's reasonable legal fees in the sum of £100 relating to the preparation of the Unilateral Undertaking
- 3.5 All notices served pursuant to this Unilateral Undertaking shall be in writing and shall be deemed duly served if delivered or sent by the recorded delivery service in the following manner:-
- 3.5.1 in the case of a notice to be served on the Council addressed to its Chief Executive at the above address
- 3.5.2 in the case of a notice to be served on the Landowner to the Landowner at the above address
- 3.6 If the Planning Permission is not granted or if it is revoked or the Planning Permission expires because it is not implemented this Unilateral Undertaking 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 Unilateral Undertaking
- 3.7 Unless expressly stated nothing in this Unilateral Undertaking will create any rights pursuant to the Contracts (Rights of Third Parties) Act 1999 in favour of any person

other than the parties hereto

- 4 Except as to matters of law and subject to the express provisions of this Unilateral Undertaking to the contrary any dispute or difference arising between the parties as to any of the provisions of this Unilateral Undertaking 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 Unilateral Undertaking 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 The Landowner covenants with the Council to comply with the obligations specified in the Third Schedule
- 6 The Landowner Covenants in the event of late payment of the Commuted Sum interest will be paid on any sum outstanding at a rate of 3% per annum above the base rate of the National Westminster Bank Plc and accrue from the date payment should have been made to the Council to the date of payment thereof to the Council
- 7 the Commuted Sum shall be uplifted by the amount which bears the same

proportion to the Commuted Sums as the amount by which the all items Figure of the Index of Retail Prices published by the Department for Employment or any successor Ministry or Department for the month at the date of payment exceeds the Index Figure of the said Index at the date of this Unilateral Undertaking

FIRST SCHEDULE

All that plot of land shown edged red on Plan annexed hereto which is situate at Packhorse Garage , Market Street, Edenfield

SECOND SCHEDULE

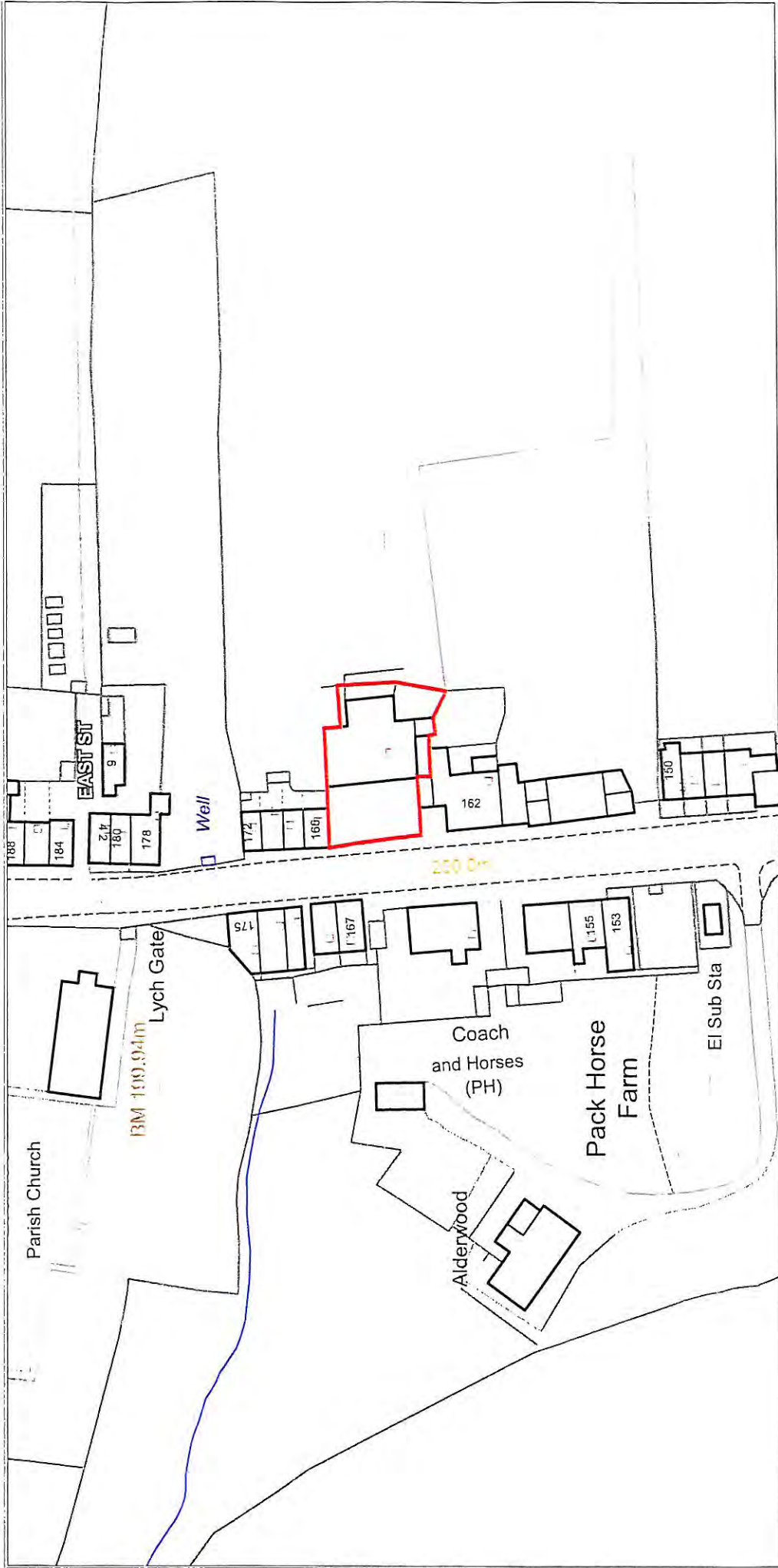
The Development consisting of the erection of an apartment block of 10 dwellings

THIRD SCHEDULE

The Landowner covenants with the Council as follows:

- (1) To give notice in writing to the Council not less than seven days before Commencement of the Planning Permission and upon giving the said notice to pay the Commuted Sum increased with inflation in accordance with Clause 7 of this Unilateral Undertaking the Commuted Sum to be used towards the maintenance of the existing Edenfield Community Centre or such other improvement scheme related to Edenfield Community Centre to be first agreed in writing by the Council

Land At Pack Horse Garage



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Scale 1:1250
Date 19 Feb 2008
Centre

Gwen Marlow

Forward Planning



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

EXECUTED as a Deed by Richard John Nuttal in the presence of:-

