

DATED

4th November

2009

- (1) ROSSENDALE BOROUGH COUNCIL
- (2) PARK ROYAL DEVELOPMENTS (NW) LIMITED

-----  
**A G R E E M E N T**  
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under Section 106 Town and Country Planning Act 1990  
relating to land at Carr Farm, Lomas Lane, Rawtenstall

SS/NS/Z12/000982

Stuart Sugarman  
Executive Director – Business (Monitoring Officer)  
P. O. Box 74,  
Kingfisher Business Centre,  
Futures Park,  
Bacup. OL13 0WU

THIS AGREEMENT is made on the

4<sup>th</sup>

day of November 2009

**BETWEEN:**

(1) **ROSSENDALE BOROUGH COUNCIL** of P.O. Box 74 Kingfisher Business Centre Futures Park Bacup OL13 0BB ("the Council") (2) **PARK ROYAL DEVELOPMENTS (NW) LIMITED** (Company Registration Number: 6275960) of Hollins Vale Works Borden Way, Croft Lane, Hollins Vale, Bury, BL9 8QQ ("the Owner")

(Together: the "Parties")

**BACKGROUND**

- (A) For the purposes of the 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) The Owner is the freehold owner of the Site registered at H. M. Land Registry under title numbers LA771744 and LA711542
- (C) 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
- (D) The Owner has submitted to the Council an application for planning permission referenced 2009/0126 (the "Application") which seeks 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 Application for the Development

(E) The Council has resolved to grant Permission for the Development in accordance with the Application subject to the making of this Agreement and the covenants contained herein without which the Permission for the Development would not be granted.

1. **INTERPRETATION**

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

- |                                   |  |
|-----------------------------------|--|
| <p><b>“Act”</b></p>               | <p>the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004</p>   |
| <p><b>“Application”</b></p>       | <p>an application for full planning permission for the development of the Site carrying the reference 2009/0126 for the erection of 2 detached dwellings, restoration and re-profiling of land, and works to Lomas Lane in accordance with the plans specifications and particulars deposited with the Council and forming part of the application 2009/0126</p> |
| <p><b>“Commencement Date”</b></p> | <p>the date on which the Development on the Site commences by the carrying out of a material operation as defined in section 56(4) of the 1990 Act</p>   |

**“Current Consent”**

That part of a planning permission granted by the Council under reference 2006/487 concerning 2 detached houses which have not yet been constructed and the area for which is more particularly shown for the purposes of identification only edged in blue on the Plan.

**“Development”**

the development of the Site in accordance with the Permission

**“Landscaping Scheme”**

A scheme of landscaping for that part of the land concerning the Current Consent to be implemented in accordance with Conditions 7 and 8 of the Permission

**“Permission”**

the planning permission to be granted by the Council pursuant to the Application and the completion of this Agreement

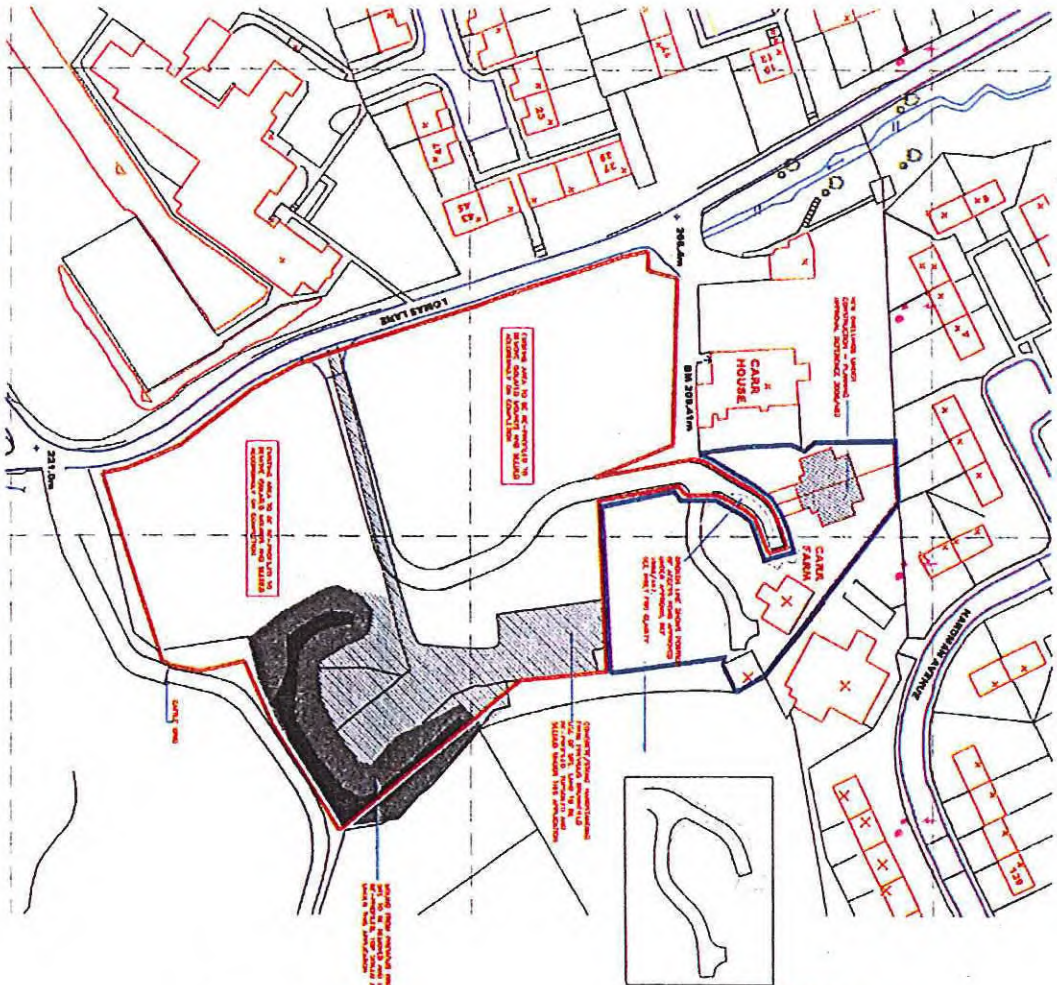
**“Plan”**

The Plan attached to this Agreement

**“Site”**

the freehold part of the land at Carr Farm, Lomas Lane, Rawtenstall shown for the purposes of identification only edged red on the Plan

# PLAN



**LOCATION PLAN - 1:500**  
 (All information relating to the location and block plan details are taken from OS recorded information. PWP can accept no responsibility for any inaccuracy)  
 © Crown copyright 2007  
 All rights reserved



Director

Secretary

This drawing is the copyright of the PLATT WHITE PARTNERSHIP  
 All dimensions shall be indicated on this plan by a dimensioning symbol  
 DO NOT SCALE FROM THIS DRAWING

NOTES  
 1. The site plan is based on the OS map of 1998  
 2. The site plan is based on the OS map of 1998  
 3. The site plan is based on the OS map of 1998

MAYOR

Reference	Description
1	Development of the site
2	Site plan
3	Site plan
4	Site plan
5	Site plan
6	Site plan
7	Site plan
8	Site plan
9	Site plan
10	Site plan
11	Site plan
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49	Site plan
50	Site plan

**PLATT WHITE**  
 Partnership  
 1st Floor, 111, 113, 115, 117, 119, 121, 123, 125, 127, 129, 131, 133, 135, 137, 139, 141, 143, 145, 147, 149, 151, 153, 155, 157, 159, 161, 163, 165, 167, 169, 171, 173, 175, 177, 179, 181, 183, 185, 187, 189, 191, 193, 195, 197, 199, 201, 203, 205, 207, 209, 211, 213, 215, 217, 219, 221, 223, 225, 227, 229, 231, 233, 235, 237, 239, 241, 243, 245, 247, 249, 251, 253, 255, 257, 259, 261, 263, 265, 267, 269, 271, 273, 275, 277, 279, 281, 283, 285, 287, 289, 291, 293, 295, 297, 299, 301, 303, 305, 307, 309, 311, 313, 315, 317, 319, 321, 323, 325, 327, 329, 331, 333, 335, 337, 339, 341, 343, 345, 347, 349, 351, 353, 355, 357, 359, 361, 363, 365, 367, 369, 371, 373, 375, 377, 379, 381, 383, 385, 387, 389, 391, 393, 395, 397, 399, 401, 403, 405, 407, 409, 411, 413, 415, 417, 419, 421, 423, 425, 427, 429, 431, 433, 435, 437, 439, 441, 443, 445, 447, 449, 451, 453, 455, 457, 459, 461, 463, 465, 467, 469, 471, 473, 475, 477, 479, 481, 483, 485, 487, 489, 491, 493, 495, 497, 499, 501, 503, 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3577, 3579, 3581, 3583, 3585, 3587, 3589, 3591, 3593, 3595, 3597, 3599, 3601, 3603, 3605, 3607, 3609, 3611, 3613, 3615, 3617, 3619, 3621, 3623, 3625, 3627, 3629, 3631, 3633, 3635, 3637, 3639, 3641, 3643, 3645, 3647, 3649, 3651, 3653, 3655, 3657, 3659, 3661, 3663, 3665, 3667, 3669, 3671, 3673, 3675, 3677, 3679, 3681, 3683, 3685, 3687, 3689, 3691, 3693, 3695, 3697, 3699, 3701, 3703, 3705, 3707, 3709, 3711, 3713, 3715, 3717, 3719, 3721, 3723, 3725, 3727, 3729, 3731, 3733, 3735, 3737, 3739, 3741, 3743, 3745, 3747, 3749, 3751, 3753, 3755, 3757, 3759, 3761, 3763, 37

## OPERATIVE PROVISIONS

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 The Owner covenants with the Council to comply with the obligations specified in the Schedule
  - 2.2 It is agreed and declared as follows:-
  - 2.3 The expressions "the Council" and "the Owner" shall include their respective successors in title and assigns
  - 2.4 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
  - 2.5 This Agreement is a local land charge and shall be registered as such
  - 2.6 The Owner shall be considered to be liable for the obligations and covenants contained herein until such time as the Owner disposes of his legal interest in the Site or any part thereof in respect of which such a breach occurs to any person persons or organisation (but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest)
  - 2.7 No person persons or organisation 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 any part thereof in respect of which such a breach occurs ((but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest)

- 2.8 The Owner agrees to pay the Council's reasonable legal fees in the sum of £200 relating to the preparation of the Agreement
- 2.9 This Agreement shall cease to have effect if:
- 2.9.1 the Permission shall be quashed revoked or otherwise withdrawn;
- 2.9.2 the Permission shall expire prior to Commencement of the Development;
- 2.9.3 the Council or any other competent authority shall at any time after the date hereof grant a new planning permission under which development of the Site is initiated for the purposes of section 56 of the Act
- 2.10 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:-
- 2.8.1 in the case of a notice to be served on the Council addressed to the Executive Director - Business at the above address
- 2.8.2 in the case of a notice to be served on the Owner to the Owner at the above address
- 2.11 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
- 2.12 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
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

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

#### **SCHEDULE**

The Owner covenants with the Council as follows:

1. That the Current Consent and the Permission shall not and can not be implemented at the same time and shall be mutually exclusive
2. If the Current Consent is implemented before the Permission then the Permission shall be incapable of being implemented and shall be treated as if it had lapsed and was no longer capable of having any legal effect
3. If the Permission is implemented before the Current Consent then without prejudice to paragraph 4 of this Schedule the Current Consent shall be

incapable of being implemented and treated as if it had lapsed and was no longer capable of having any legal effect

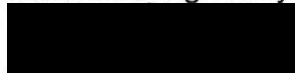
4. In the event that the circumstances of paragraph 3 to this Schedule occurs or the Owner intends that such circumstances shall occur then the Owner shall upon implementation of the Permission implement the Landscaping Scheme and shall manage and maintain the said area in accordance with good horticultural and silvicultural practice thereafter.
6. No claim for compensation shall at any time be made against the Council in respect of the application of any of the provisions of this Agreement

**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

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

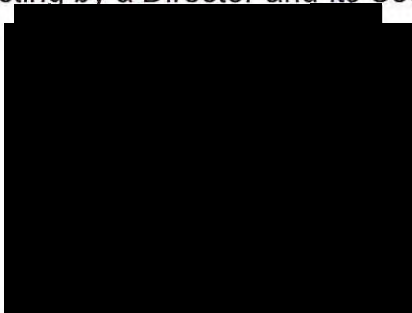


Authorised Signatory



MAYOR

**SIGNED AS A DEED by PARK** )  
**ROYAL DEVELOPMENTS (NW) LIMITED** )  
acting by a Director and its Secretary )



Director

X Secretary