

PLANNING OBLIGATION

between

THE SCOTTISH BORDERS COUNCIL, constituted under the Local Government etc. (Scotland) Act 1994 and having their Council Headquarters at Newtown Saint Boswells, Melrose, the Planning Authority for the Scottish Borders area for the purposes of the Town and Country Planning (Scotland) Act 1997 (hereinafter referred to as the ("Planning Authority"))

and

JOHN FRANCIS SEED residing at [REDACTED] TRUSTEE AND PARTNER OF THE FIRM OF R. M. AND J. F. SEED, having a place of business at Cothill, Duns, TD10 6YW the heritable proprietor of the Land referred to in the agreement (who and whose successors as Heritable Proprietors of the Land hereinafter defined are hereinafter referred to as "the Developers")

and with the consent of

DAVID ARCHIBALD SEED, residing at Saturnia, Greenlaw, Berwickshire TD10 6YR and SANDRA JANE SEED, residing at Saturnia, Greenlaw, aforesaid as the assumed Partners of and Trustees for the said firm of R. M. and J. F. Seed.

1. This Planning Obligation is entered into in terms of Section 75, subject to Sections 75A, 75B and 75C, of the Town and Country Planning (Scotland) Act 1997 ("the Act") for the purpose of permanently restricting and regulating the development and use of ALL and WHOLE that area of land to the South of The Old Manse, Gavinton shown delineated in red on Plan 1 annexed and executed as relative hereto ("the Land"), being part and portion of the subjects more particularly described (Fifth) in, disposed by, delineated in red on the plan marked "C" annexed to the Disposition by Colonel The Honourable Thomas George Breadalbane Morgan Grenville Gavin of Langton with the consent of William Abel Towler in favour of William Robson Turnbull dated Second and Eleventh November and recorded in the Division of the General Register of Sasines for the County of Berwick on Fifth December all Nineteen hundred and twenty four.

REGISTERS OF SCOTLAND  
GENERAL REGISTER OF SASINES  
COUNTY OF BERWICK

YEAR 2016  
YEARLY RUNNING NUMBER  
PRESENTED AND RECORDED ON

238

11 JUL 2016

2. The Developer has lodged with the Planning Authority Planning Application Number 13/00332/FUL (the "Planning Application") seeking planning permission for the development of the Land for residential purposes, comprising the erection of fifty four dwellinghouses and associated infrastructure ("the Development").
  
3. The Developer shall provide as part of the Development thirteen dwellinghouses which shall be for the purposes of affordable housing (the "Affordable Housing Units"). The other dwellinghouses comprising the Development which are not the Affordable Housing Unit shall be known collectively as the "Market Units". The final location of the thirteen Affordable Housing Units shall be agreed as part of the Finalised Affordable Housing Scheme (hereinafter defined), but unless otherwise agreed, and authorised in writing by the Planning Authority, they shall be the:
  - (a) dwellinghouse on plot 7 shown delineated & hatched in red on Plan 2 annexed and executed as relative hereto;
  - (b) dwellinghouse on plot 8 shown delineated in red on the said Plan 2;
  - (c) dwellinghouse on plot 9 shown delineated & cross hatched in red on the said Plan 2;
  - (d) dwellinghouse on plot 15 shown delineated in dark blue on the said Plan 2;
  - (e) dwellinghouse on plot 16 shown delineated & cross hatched in dark blue on the said Plan 2;
  - (f) dwellinghouse on plot 21 shown delineated & cross hatched in light blue on the said Plan 2;
  - (g) dwellinghouse on plot 22 shown delineated & hatched in dark blue on the said Plan 2;
  - (h) dwellinghouse on plot 26 shown delineated in light blue on the said Plan 2;
  - (i) dwellinghouse on plot 27 shown delineated & hatched in light blue on the said Plan 2;
  - (j) dwellinghouse on plot 33 shown delineated & hatched in green on the said Plan 2;
  - (k) dwellinghouse on plot 34 shown delineated in purple on the said Plan 2;
  - (l) dwellinghouse on plot 53 shown delineated in green on the said Plan 2;
  - (m) dwellinghouse on plot 54 shown delineated & cross hatched in green on the said Plan 2;
  
4. The Planning Authority has agreed to grant the planning permission sought under the Planning Application upon certain conditions. These conditions have been agreed between the parties.

NOW THEREFORE THE PARTIES HAVE AGREED AND DO HEREBY AGREE AS FOLLOWS:-

- (a) The Developer has intimated to the Planning Authority that it is their intention to build the Development in a number of phases. At least two of the Affordable Housing Units

shall be delivered by the Developer as part of each phase, unless otherwise agreed in writing with the Planning Authority;

- (b) The Developer shall, prior to the commencement of works on the Development, submit to the Planning Authority their written proposals for the phasing of the building of the Development (the "Phasing Proposal"), with each phase comprising a number of Market Units and, with the exception of one of the proposed Phases, at least two Affordable Housing Units. The Phasing Proposal shall:
- (i) state which of the fifty four dwellinghouses on the Development are proposed to form each phase of the Development;
  - (ii) state for each phase of the Development which of the dwellinghouses are proposed to be Market Units and which are proposed to be Affordable Housing Units;
- (c) The Planning Authority shall, within 20 working days of receipt of the Phasing Proposal, provide written confirmation to the Developer as to whether the Phasing Proposal is acceptable or not acceptable (the "Phasing Proposal Response"). If no Phasing Proposal Response is received by the Developer within said period of 20 working days the Phasing Proposal shall automatically be deemed to comprise acceptable phasing proposals and that Phasing Proposal is agreed by the Planning Authority such that it shall comprise the Finalised Phasing Scheme (as after defined) In the event that the Planning Authority determines that the Phasing Proposal:
- (i) does not comprise acceptable phasing proposals, then the Planning Authority, acting reasonably shall set out in the Phasing Proposal Response why it is not acceptable, how it could be amended to be acceptable and formally requesting the Developer, prior to the commencement of works on the Development, to submit a further Phasing Proposal (the "Revised Phasing Proposal"). The Planning Authority shall, within 20 working days of receipt of the Revised Phasing Proposal from the Developer, issue a further Phasing Proposal Response, intimating whether or not they are now satisfied. If no further Phasing Proposal Response is received by the Developer within said period of 20 working days the Revised Phasing Proposal shall automatically be deemed to comprise acceptable phasing proposals and that Revised Phasing Proposal is agreed by the Planning Authority such that it shall comprise the Finalised Phasing Scheme (as after defined) ; or
  - (ii) does comprise acceptable phasing proposals then the Planning Authority, acting reasonably, shall set out in the Phasing Proposal Response that the Phasing Proposal is now agreed (the "Finalised Phasing Scheme");