Planning Application Reference:	**Y/37/07/**
Document Title:	**Section 106 Agreement**
Date of Agreement:	**19th August 2008**
Date of Publication:	**18th December 2009**

NB Feedback

19 August

Dated: DO NOT DATE 2008

Between:

[1] Executors of the Estate of David Taylor

[2] Raymond Taylor

[3] Reginald Taylor

[4] Patricia Bidwell

[5] Gladedale (Special Projects) Limited

[6] West Sussex County Council

AGREEMENT

under Section 106 of the Town & Country Planning Act 1990
and other powers
Land at Yapton Industrial Estate Bilsham Road Yapton West Sussex

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This Agreement is dated 19 August DO NOT DATE and is made between:

[1] **The Executors of the Estate of David Taylor** being [redacted] of [redacted] w

[2] **Gladedale (Special Projects) Limited** (Co Reg No 4113703) whose registered office is at Ashley House Ashley Road Epsom Surrey KT18 5AZ ["the Applicant"]

[3] **West Sussex County Council** of County Hall, Chichester, West Sussex, PO19 1RQ ["WSCC"]

1.0 Background

1.1 The Owner is the registered proprietor under title number WSX240949 of the land at Yapton Industrial Estate Bilsham Road Yapton West Sussex shown for identification purposes only edged red on Plan 1 attached hereto [and hereinafter called "the Land"].

1.2 WSCC is the Strategic Planning Authority, the local highway authority and the local education authority and the authority responsible for fire services for the area where the Land is sited.

1.4 The Applicant submitted the Application to Arun District Council on 25 April 2007 for planning permission to develop the Land in accordance with the details specified in the Application.

1.6 Arun District Council has by a decision made on 20 December 2007 refused the Planning Application and the Applicant has lodged the Appeal against that decision.

1.7 The Owner and the Applicant enters into this Agreement with a view to dealing with some of the reasons for refusal contained within that refusal notice.

2. Interpretation

In this Agreement:

2.1 Words importing the masculine include the feminine and vice versa.

2.2 Words importing the singular include the plural and vice versa.

2.3 Words importing persons include companies and corporations and vice versa.

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually.

2.5 Any reference to a clause or schedule or plan is to one in to our attached to this Agreement.

2.6 Any reference to a colour or letter is to be on the plans attached to this Agreement.

2.7 In the absence of contrary provision any reference to a statute includes any statutory modification or re-enactment of it and every statutory instrument, direction, specification made or issued under the statute or deriving validity from it.

2.8 References to any party to this Agreement shall include the successors in title to that party and to any deriving title through or under that party and in the case of the WSCC the successors to their respective functions.

2.9 "the Act" means the Town & Country Planning Act 1990

2.10 "agreed" or "approved" means agreed or approved in writing and given for the purpose of this Agreement.

2.11 "All Requisite Consents" means all requisite consents orders agreements authorisations licences and permissions required to implement the Approved Highway Works Scheme including a Section 278/38/111 Agreement as necessary

2.12 "the Appeal" means the planning appeal made by the Applicant to develop the Application Site to the Planning Inspectorate after refusal of the Application and allocated appeal reference number APP/C3810/A/08/2069053/NWF

2.13 "the Application" means the planning application number Y/37/07 made by the Applicant to Arun District Council to develop the Application Site for the 'Demolition and removal of existing industrial and other on site buildings and construction of 59 residential dwellings and associated roads, garages and landscaping' as is more particular described in the plans specifications and particulars deposited therein

2.14 "the Application Site" means the Land described at paragraph 1.1 above and shown edged red on Plan 1 attached hereto for the purposes of identification only

2.15 "Approved Highway Works Scheme" means that Highway Works Scheme as approved in writing by WSCC in accordance with the provisions of Schedule 3

2.16 "Approved Transport Facilities Scheme" means that Transport Facilities Scheme as approved in writing by WSCC in accordance with the provisions of Schedule 4

2.17 "Approved Travel Plan" means that Travel Plan as approved in writing by WSCC in accordance with the provisions of Schedule 5

2.18 "Commencement of Development" means date on which the Development commences by the carrying out on the Land of any material operation as defined in Section 56 (4) of the Act in connection with the Development and all references to commencing development shall be construed accordingly save that for the purposes of this Agreement the following shall be deemed not to be a material operation namely;

- any archaeological works;
- any works of excavation demolition or site clearance;
- services diversions;
- site or soil investigations;
- ground modelling;
- noise attenuation works; and / or
- the erection of hoardings and fences for the purpose of construction

2.19 "the Development" means the development of the Land permitted by the Planning Permission granted pursuant to the Appeal or carried out substantially in accordance with such planning permission.

2.20 "Education Contribution" is a financial contribution towards the cost of providing additional education infrastructure required to accommodate the extra demands for education services that would be generated by the Development and is the sum of £102,079 (One hundred and two thousand and seventy nine pounds) BUT where the Education Contribution is paid after 31 March 2009 the sum shall be recalculated and increased in accordance with the following formula:

*(+)Number of pupil places for secondary schools (5.26) x Cost Multiplier
And the Cost Multiplier shall be the DfCSF average build cost multiplier for secondary schools where this has been newly published in the financial year in which the Education Contribution is paid but where this has not been newly published in the financial year in which the Education Contribution is paid the Education Contribution shall be increased by an amount equal to the proportionate increase in the All-In Tender Price Index published by the Building Costs Information Service of the Royal Institute of Chartered Surveyors between the quarter preceding the date of this Agreement and the quarter preceding the date of payment of the Education Contribution".

2.21 "Fire Services Contribution" means the sum of £978 (nine hundred and seventy eight pounds) being a financial contribution towards the cost of providing additional fire and rescue infrastructure, required to accommodate the extra demands for fire services that would be generated by the Development

2.22 "the Highway Works" means all necessary works and measures as identified by WSCC to improve junction visibility at the junction of Bilsham Road and the entrance of the Development which include but are not limited to a visibility splay near the junction of Bilsham Road and the road entering the Development and all associated works; associated signs lining, surfacing and gateway features on Bilsham Road; adjustment of the kerb line along Bilsham Road; All in accordance with the illustrative plan attached as Plan 2 to this Agreement and subject to the written approval of WSCC

2.23 "the Highway Works Scheme" means a scheme showing the layout design specification materials and method of construction of the Highway Works submitted to WSCC

2.24 "Occupy" means the use of any of the Residential Units for residential accommodation (C3 use class) but for the avoidance of doubt shall not include

occupation for the purposes of construction, fitting out or marketing and "Occupation" and "Occupied" shall be construed accordingly

2.25 "Plan 1" means the plan attached hereto and marked Plan 1 and which shows the Land edged red for identification purposes only

2.26 "Plan 2" means the plan attached hereto being drawing no. T073014/006 Rev K and marked Plan 2 being the plan showing the Highway Works and Transport Facilities

2.27 "Planning Permission" means any planning permission granted by the First Secretary of State or an Inspector appointed by her for the Application pursuant to the Appeal

2.28 "Residential Units" means individual units within the Development to be used for residential purposes

2.29 "Section 278/38/111 Agreement" means an agreement pursuant to section 278 and/or section 38 of the Highways Act 1980 and/or section 111 of the Local Government Act 1972

2.30 "Specified Date" means the date upon which an obligation arising under this Agreement is due to be performed.

2.31 "the Transport Facilities" means but is not limited to a footway adjacent to the Application Site that connects the Application Site to the existing footway on Bilsham Road and the provision of two new bus shelters including improvements to new and existing hardstanding areas and the inclusion of real time information at the 2 new bus shelters to be located in proximity to the Application Site as is further provided for in Schedule 4 and on Plan 2 attached hereto

2.32 "the Transport Facilities Scheme" means a scheme showing the layout design specification materials and method of construction of the Transport Facilities submitted to WSCC

2.43 "Travel Plan" means a plan to promote sustainable transport modes for the users of and visitors to the Application Site with the aim of achieving a reduction to be agreed with the County Council in the anticipated 12 hour weekday vehicle trip rate for the Application Site

3. Enabling Provisions

3.1 This Agreement is made pursuant to Section 106 of the Act, Sections 111 and 120 of the Local Government Act 1972, and all other enabling powers.

4. Commencement

4.1 This Agreement shall come into effect upon the date of grant of the Planning Permission pursuant to the Appeal save for the provisions of Clause 15 on costs which shall apply regardless of whether the Appeal is granted and save for the obligations in Clause (s) 5 6 7 8 9 and 10 which shall become effective only on the Commencement of Development or as specified in those Clauses

4.2 On Commencement of the Development the Owner will give to WSCC notice in writing of that commencement in the form of The Commencement Notice annexed to this Deed as Schedule 1 addressed to WSCC's County Planning Officer.

UNDERTAKINGS TO BENEFIT WSCC

5. Highway Works

The Owner agrees with WSCC

5.1 to undertake and complete the Highway Works described in Schedule 3 in accordance with the specification set out in Schedule 3 and to the satisfaction of WSCC by no later than the first Occupation of any of the Residential Units forming part of the Development including entering into a s278/38/111 Agreement as necessary

5.2 not to Occupy or cause or allow to be Occupied any of the Residential Units forming part of the Development before the Highway Works shall have been completed in accordance with the specifications set out in Schedule 3 and to the satisfaction of WSCC.

6. Transport Facilities

The Owner agrees with WSCC

6.1 to undertake and complete the Transport Facilities described in Schedule 4 in accordance with the specification set out in Schedule 4 and to the satisfaction of

WSCC by no later than first Occupation of any of the Residential Units forming part of the Development including entering into a s278/38/111 Agreement as necessary

6.2 not to Occupy or cause or allow to be Occupied any of the Residential Units forming part of the Development before the Transport Facilities shall have been completed in accordance with the specification set out in Schedule 4 and to the satisfaction of WSCC

7. Education Contribution

The Owner agrees with WSCC:-

7.1 not to Occupy or cause or allow to be Occupied any of the Residential Units forming part of the Development before the Education Contribution shall have been paid to WSCC

8. Fire Services Provision

The Owner agrees with WSCC:-

8.1 not to Occupy or cause or allow to be Occupied any of the Residential Units part of the Development before the Fire Services Contribution shall have been paid to WSCC

8.2 to comply with the requirements of Schedule 6 in respect of the provision of a fire hydrant to service the Development

9. Travel Plan

The Owner agrees with WSCC:-

9.1 to submit a Travel Plan for approval and to execute the Approved Travel Plan in accordance with the provisions of Schedule 5 of this Agreement

9.2 not to allow Occupation of any of the Residential Units forming part of the Development until the Travel Plan has been approved by WSCC

9.3 to monitor and manage and enforce the provisions of the Approved Travel Plan in accordance with its terms as approved by WSCC in accordance with the TRICS UK Standard Assessment Methodology as is in force from time to time or any successor body PROVIDED ALWAYS that the Owner shall not be obligated to carry out monitoring any more than once per year over a 5 (five) year period

PLAN 1



Planning Potential Planning Regeneration and Development Palace House, 3 Cathedral St, London SE1 9DE Tel: 0207 357 8000 Email: info@planningpotential.co.uk www.planningpotential.co.uk	Title: Land at Bilsham Road, Yapton Scale 1:1250 @ A3	Plan: PP1 Date: 29/12/2006
	Job: 06/237	Author: GB

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ARUN DISTRICT COUNCIL Y/37/07/

PLAN 2

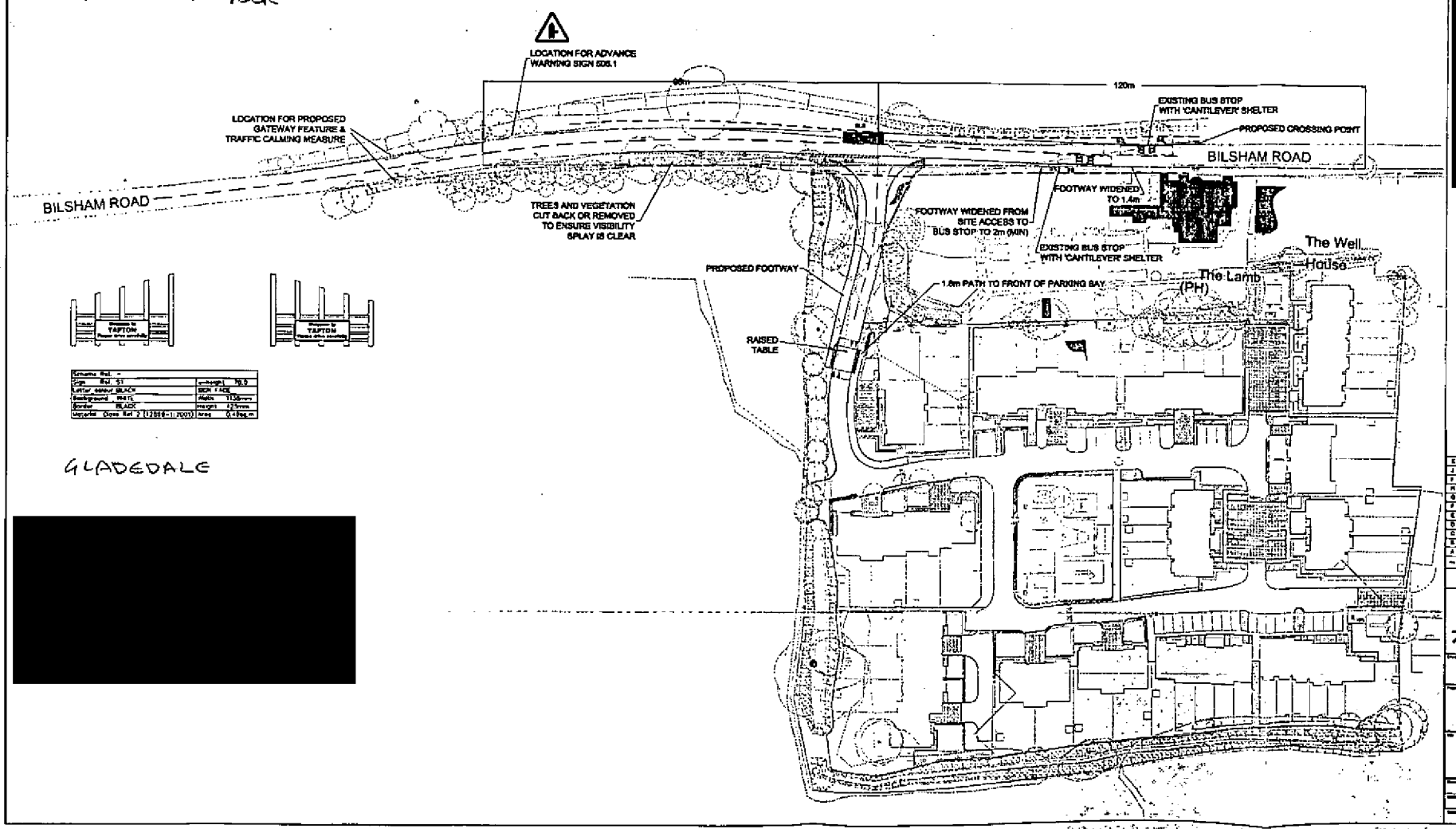
x THERESA TAYLOR

x RAYMOND TAYLOR

x WSCC

x PATRICIA BIDWELL

x REGINALD TAYLOR



10. WSCC Covenants

10.1 WSCC hereby covenants with the Owner and the Applicant to perform the obligations set out in Schedule 7 to this Agreement

11. Certificates

The Owner agrees with WSCC:

11.1 where this Agreement imposes a requirement for the making of a payment or the undertaking of an act or the cessation of an activity on a Specified Date the Owner shall give to WSCC notice of the Specified Date not more than seven days after such Specified Date

11.2 if the Owner fails to give the notice required under this Clause WSCC shall be entitled in its absolute discretion to determine the Specified Date and shall give notice to the Owner of its determination

12. Applicant's undertaking

12.1 The Applicant hereby covenants with WSCC that in the event they take possession of the Land then the Applicant will be bound by the covenants and obligations in this Agreement as if they were the Owner.

12.2 The Applicant hereby covenants with the Owner that in the event that they take possession of the Land then the Applicant will perform the covenants and obligations of the Owner contained in this Agreement and will indemnify the Owner against any losses costs claims actions or demands which may be made against the Owner for any breach of the said covenants and obligations

13 Index Linking

13.1 The Owner agrees with WSCC that the Fire Services Contribution shall be increased by an amount equal to the proportionate increase in the All-In Tender Price Index published by the Building Costs Information Services of the Royal Institute of Chartered Surveyors between the quarter preceding the date of this Agreement and the quarter preceding the date of payment of the Fire Services Contribution

14. Interest

14.1 The Owner agrees with WSCC to pay interest on sums due to WSCC under this Agreement but not paid on the Specified Date from the Specified Date until actual payment. The rate of interest shall be 4% above the Bank of England base rate from time to time.

15. Costs

The Applicant agrees with WSCC:

15.1 on completion of this Deed to pay to WSCC their respective legal costs incurred in preparing and entering into this Agreement

16. Future Mortgage

16.1 In the event that the Land becomes subject to a mortgage at any time following the date of this Agreement then the mortgagee will not be bound by the obligations and covenants herein until such time (if any) as they go into possession of the Land or any part of it pursuant to the mortgage provided that any party who purchases the Land or any part of it from a mortgagee exercising their power of sale pursuant to the mortgage will be bound by the obligations and covenants in this Agreement

17. Payment Notice

17.1 The parties to this Agreement hereby agree that all payments due under this Agreement shall be forwarded to WSCC and shall have attached to them a copy of the Payment Notice contained in Schedule 2 to this Agreement duly completed.

18. General

The parties agree that:

18.1 nothing in this Agreement constitutes or constitutes an obligation to grant planning permission

18.2 nothing in this Agreement grants planning permission or any other approval consent or permission required from WSCC in the exercise of any other statutory function

18.3 nothing in this Agreement fetters or restricts the exercise by the WSCC of any of their powers

18.4 the obligations contained in Clauses 5 6 7 8 and 9 are planning obligations for the purpose of Section 106 of the Act

18.5 this Agreement constitutes a deed

18.6 this Agreement is enforceable by WSCC pursuant to the provisions of the Act

18.7 nothing in this Agreement confers or is intended to confer a benefit on a third party under the Contracts [Rights of Third Parties] Act 1999

18.8 This Agreement shall apply to the Development as authorised by the Planning Permission issued pursuant to the Application or to the Development after variation or renewal of the planning permission from time to time and shall not affect the right of the Owner the Applicant or any other person to develop than Land or any part of it in accordance with a planning permission other than the Planning Permission (whether granted on appeal or not) after the date of this Agreement.

18.9 If the Planning Permission is (1) quashed, (2) revoked or (3) modified by any statutory procedure in any case without the consent of the Owner this Deed shall absolutely determine and become void

18.10 This Agreement is a Local Land Charge and shall be registered as such

18.11 For the avoidance of doubt the provisions of this Agreement shall not have any effect until the Agreement has been dated and properly executed by the parties

18.12 Any notice served under this Agreement shall be deemed to be sufficiently served if it is delivered personally or by recorded post to the appropriate person at the addresses previously stated or quoted on the relevant notice

18.13 It is hereby agreed that where any approval agreement consent or other authorisation which is required to be given by WSCC in respect of any obligations pursuant to this Agreement such approval agreement consent or other authorisation shall not be unreasonably withheld or delayed

SCHEDULE 1

Commencement Notice

Pursuant to Clause 4 in Planning Obligation Described Below

I advise you that the Development described below was commenced on the Start Date stated in this Notice.

Dated this _____ day of _____ 200

Signed _____

On Behalf Of: _____

TO:	County Planning Officer, West Sussex County Council, County Hall, Chichester, West Sussex, PO19 1RQ [DX: 30330] Chichester
FROM:	
DEVELOPMENT AT:	
NATURE OF DEVELOPMENT:	
PLANNING PERMISSION DATE & REFERENCE	
PLANNING OBLIGATION DATE & PARTIES	
START DATE:	

SCHEDULE 2

Payment Notice

Payment of Monies due under a Section 106 Planning Obligation/Agreement

Please answer all the questions.

1. Payment to be made by/on behalf of .....

2. Land at: .....

3. Agreement dated: .....

4. Planning application reference number [where applicable]

5. Obligation in Agreement

[a]	clause no.	
[b]	contribution towards	
[c]	amount of contribution due	
[d]	date upon which contribution is due	
[e]	amount of contribution enclosed	

SCHEDULE 3

Highway Works

1. Prior to occupation of any Residential Unit forming any part of the Development the Owner shall submit to WSCC for approval a draft Highway Works Scheme in accordance with the measures shown on Plan 2 attached hereto PROVIDED THAT where the draft Highways Works Scheme is not approved by WSCC a revised draft Highway Works Scheme shall be submitted to WSCC within 14 working days of receipt of notice in writing by WSCC that the previous draft Highway Works Scheme is not so approved and in accordance with the provisions at Schedule 7 paragraphs 9 and 10

2. Once WSCC has approved the draft Highway Works Scheme ("the Approved Highway Works Scheme") to obtain All Requisite Consents (including where necessary entering into a Section 278/38/111 Agreement with WSCC) and thereafter to carry out in full the Approved Highway Works Scheme and to have the Approved Highway Works Scheme completed to the satisfaction of and approved in writing by WSCC prior to Occupation of any of the Residential Units forming any part of the Development

3. For the avoidance of doubt the Highway Works Scheme shall be comprised of but not limited to the following measures:

    i. A visibility splay near the junction of Bilsham Road and the road entering the Development and all associated works;

    ii)Associated signs lining, surfacing and gateway features on Bilsham Road

    iii) adjustment of the kerb line along Bilsham Road;

SCHEDULE 4

Transport Facilities

Footway and Bus Shelter

1. Prior to Occupation of any Residential Unit forming any part of the Development, the Owner shall submit to WSCC for its approval the Transport Facilities Scheme to consist of but not be limited to the following measures:
   i) a footway linking the Application Site to the existing footway on the Highway along Bilsham Road
   ii) two new bus shelters and associated improvements works and hardstandings, on either side of Bilsham Road with real time passenger information facilities to replace the existing bus shelters

   which are shown on Plan 2 attached hereto PROVIDED THAT where the draft Transport Facilities Scheme is not approved by WSCC a revised draft Transport Facilities Scheme shall by submitted to WSCC within 14 working days of receipt of notice in writing by WSCC that the previous draft Transport Facilities Scheme is not so approved

2. Once WSCC has approved the draft Transport Facilities Scheme ("the Approved Transport Facilities Scheme") to obtain All Requisite Consents (including where necessary entering into a Section 278/38/111 Agreement with WSCC) and thereafter to carry out in full the Approved Transport Facilities Scheme and to have the Approved Transport Facilities Scheme completed to the satisfaction of and approved in writing by WSCC prior to occupation of any of the Residential Units forming any part of the Development

SCHEDULE 5

Travel Plan

1. Prior to Occupation of any of the Residential Units the Owner shall submit to WSCC for its approval in writing a draft Travel Plan PROVIDED THAT where the draft Travel Plan is not approved by WSCC a revised draft Travel Plan shall by submitted to WSCC within 14 working days of receipt of notice in writing by WSCC that the previous draft Travel Plan is not so approved.

2. Once WSCC has approved the draft Travel Plan ("the Approved Travel Plan") to commence the compliance with the terms of the Approved Travel Plan prior to first occupation of any of the Residential Units forming any part of the Development and to monitor and enforce and report to WSCC in accordance with its terms for the duration of the Travel Plan

Schedule 6

Fire Hydrant

FIRE HYDRANT

1. Prior to Occupation of any of the Residential Units the Owner will submit to the WSCC for WSCC's approval a proposal for the location and installation of a fire hydrant in accordance with the West Sussex Fire Brigade Guidance Notes attached at Appendix 1 hereto and prior to the Occupation of any dwelling forming part of the Development that they will at their own expense install the fire hydrant in the approved location and arrange for its connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of fire fighting.

SCHEDULE 7
COVENANTS BY WSCC

WSCC covenants with the Owner and Applicant as follows:

Education Contribution

1. Upon receipt of the Education Contribution WSCC will hold it in a separately identified interest bearing section of WSCC's combined accounts and apply the same together with any interest accruing thereon only for the provision of additional Education services at schools serving the area in which the Development is situated.

2. To issue to the party that paid the Education Contribution after 10 years of the date of receipt of the Education Contribution as provided for in paragraph 1 above an account certified by the County Treasurer for the time being of WSCC detailing how the said Education Contribution has been expended by WSCC

3. That if or to the extent that the Education Contribution shall not have been spent by WSCC at the end of 10 years of the date of receipt WSCC shall on such date refund to the party that paid the Education Contribution any unexpended sum together with compound interest thereon from the date of receipt of the Education Contribution by WSCC to the date of repayment at the base lending rate of HSBC Bank PLC applicable at the date of repayment calculated on a day to day basis.

4. That if at the date of the account referred to in paragraph 2 above WSCC shall have entered into a contract or other legally binding obligation to expend the Education Contribution or part thereof for the purposes specified in paragraph 1 above then WSCC shall not be required to refund any part of the Education Contribution required for that purpose but shall as soon as possible following the completion of the said contract or other legally binding commitment account to the party that paid such contribution in the manner set out in paragraph 2 hereof and refund any unexpended part of the said contribution in the manner set out in paragraph 3 hereof

Fire Services Contribution

5. Upon receipt of the Fire Service Contribution WSCC will hold it in a separately identified interest bearing section of WSCC's combined accounts and apply the same together with any interest accruing thereon only for the provision of additional Fire Service infrastructure at fire stations serving the area in which the Development is situated.

6. To issue to the party that paid the Fire Service Contribution after 10 years of the date of receipt of the Fire Service Contribution as provided for in paragraph 5 above an account certified by the County Treasurer for the time being of WSCC detailing how the said Fire Service Contribution has been expended by WSCC

7. That if or to the extent that the Fire Service Contribution shall not have been spent by WSCC at the end of 10 years of the date of receipt WSCC shall on such date refund to the party that paid the Fire Service Contribution any unexpended sum together with compound interest thereon from the date of receipt of the Fire Service Contribution by WSCC to the date of repayment at the base lending rate of HSBC Bank PLC applicable at the date of repayment calculated on a day to day basis.

8. That if at the date of the account referred to in paragraph 2 above WSCC shall have entered into a contract or other legally binding obligation to expend the Fire Service Contribution or part thereof for the purposes specified in paragraph 5 above then WSCC shall not be required to refund any part of the Fire Service Contribution required for that purpose but shall as soon as possible following the completion of the said contract or other legally binding commitment account to the party that paid such contribution in the manner set out in paragraph 6 hereof and refund any unexpended part of the said contribution in the manner set out in paragraph 7 hereof

Highway Works Scheme

9. Prior to WSCC approving the draft Highway Works Scheme, WSCC covenants to undertake consultation on the draft Highway Works Scheme with both the Local County Council Member for the area in which the Application Site is situated and the Yapton Parish Council. For the avoidance of doubt, any relevant comments received from this consultation process may require further amendments/alterations/additions to the draft Highway Works Scheme before approval can be given by WSCC

10. WSCC covenants to inform the Owner as soon as is practicable of any required amendments to the draft Highway Works Scheme

SIGNED and DELIVERED
by The Executors of
the Estate of David Taylor
as a Deed in the
presence of:

SIGNED and DELIVERED
by Raymond Taylor
as a Deed in the
presence of:

SIGNED and DELIVERED
by Reginald Taylor
as a Deed in the
presence of:

SIGNED and DELIVERED
by Patricia Bidwell
as a Deed in the
presence of:

SIGNED and DELIVERED
by GLADEDALE (SPECIAL PROJECTS) LIMITED
as a Deed in the
presence of:

Director

Secretary

SEALED with the COMMON SEAL
of WEST SUSSEX COUNTY COUNCIL
in the presence of:

APPENDIX 1

Fire and Rescue Service

Adequate access for fire fighting vehicles and equipment from the public highway must be available and may require additional works on or off site, particularly in very large developments. (BS5588 Part B 5)

Works may be needed to fulfill the Fire Authority's duty to ensure the provision of an adequate supply of water for fire fighting (Fire Services Act 2004) Requirements for the provision of fire hydrants affixed to water mains and to carry out other works necessary to ensure adequate supplies of water, in terms of both volume and pressure, may be sought either as planning conditions or possibly through a legal agreement.

The following guidelines are intended to assist landowners and developers.

- The costs of providing a fire hydrant, as at 2007, ranges from £600 to £850 (excluding VAT).
- Hydrants are to be fitted to water mains at least 100mm in diameter in residential areas and 150mm diameter in commercial/industrial areas. Where water undertakers are not proposing to lay mains of those sizes, the cost of a supply from the nearest main of adequate size would be in the range £550-£700 (excluding VAT) per linear metre.
- In residential areas fire hydrants should be positioned no more than 185 metres from a standard two floor residence.
- Where multi-floor or multiple dwelling properties are constructed it may be necessary to install sprinkler systems or dry risers to ensure every part of every dwelling is no more than 45 metres from a fire fighting appliance.
- Where dry risers are installed access to the inlet should be no more than 18 metres visible sight from an fire appliance and the distance to a hydrant should be no more than 90 metres.
- In industrial areas fire hydrants should be positioned no more than 90 metres from a building. Fire hydrants covering large public buildings and areas such as hospitals, hotels, schools, and town centre developments should comply with the relevant codes of practice.
- In planning the provision of fire hydrants in rural areas, particular attention should be paid to specific risks and therefore no definitive distances can be provided.
- Where development is considered to be a 'major risk', it will be considered individually to ensure that the overall provision for fire fighting comprising, as appropriate, internal water based protection systems, private fire hydrants, statutory fire hydrants and other 'open water' supplies, is adequate.

Fire hydrants should be sited in positions to be agreed by the Fire Authority and, where possible, such locations will be at main roads, feeder roads or road junctions where they are readily visible.

In addition, contributions may be sought towards the provision of a new fire station or the extension of an existing station so as to enable the fire authority to meet the nationally prescribed standards of fire cover for the area.

Full details of the Fire Brigade standards for access roads (including weight requirements) and for water supplies are available on request.

FIRE & RESCUE SERVICES ACT 2004 – ACCESS AND WATER SUPPLIES PLANNING APPLICATIONS

Satisfactory access **to the site** for fire brigade appliances will be provided if the following guidance is followed:

CLEARANCE AND WEIGHT FACTORS FOR ACCESS ROAD, GATEWAYS AND HARDSTANDING

Access routes may be public highways, private roads, or specially strengthened and defined routes through the surrounding landscape to the building.

The access requirements for the various types of appliances are as follows:

Table 1

Type of appliance	Min width of access road	Min clearance height	Turning circle between kerbs	Turning circle between walls	Min width of gateways	Laden weight
Pump	3.7m	3.7m	17m	19.2m	3.1m	17 tonnes
High Reach Appliance	3.7m	4m	29m	29m	3.1m	27 tonnes

Note: Because the weight of high reach appliances is distributed over a number of axles, it is considered that their infrequent use of a carriageway or route designed to 17 tonnes should not cause damage. It would, therefore, be reasonable to design the road base to 17 tonnes although structures such as bridges should have the full 27 tonnes capacity.

Cul-de-Sacs

Turning facilities should be provided on cul-de-sacs roads exceeding 20m in length. This can be a hammerhead or turning circle designed on the basis of Table 1. This turning facility should be provided within 20m from the end of the access road so that fire service vehicles do not have to reverse more than 20m.

Access Roads – High Reach Appliances

The nearer edge of the road should normally be not less than 2m and its further edge not more than 8m from the face of the building. The high reach appliance must, however, have a road or hardstanding not less than 6m in width to allow for the jacks.

There should also be at least 3m of unobstructed space beyond the further edge of the hardstanding to allow for the sweep of the boom.

Note: Roads, including any manhole covers and public utility service pits should be capable of carrying the weights set out above. Any road hump provided should conform in design and marking to the Highways (Road Humps) Regulations 1996.

WATER SUPPLIES

Arrangements should also be made for the provision of adequate water supplies for firefighting purposes. Guidance on water supplies and other firefighting facilities are contained within BS 5588-5:2007. Any specific queries, please contact West Sussex Fire & Rescue Service, Technical Support Centre, Terminus Road, Chichester, West Sussex PO19 8TX (Telephone 01243 813667).

ARUN DISTRICT COUNCIL 7/7/7

BUILDING REGULATIONS 2000 – PART B5

Building Regulations 2000 Part B5 requires that provision shall be made **within the site** of the building to enable appliances to gain access to the building. The following information is extracted from Document B5. Compliance with this does not indicate approval by the Fire Service as your local authority Building Control Department are responsible for enforcing the Building Regulations, including B5.

To meet the requirements of B5:

(1) The building shall be designed and constructed so as to provide reasonable facilities to assist firefighters in the protection of life.

(2) Reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building.

ACCESS REQUIREMENTS

Table 1

VEHICLE ACCESS TO DWELLING HOUSES, FLATS AND MAISONETTES		
Dwelling Houses	To within 45 metres of all parts of the dwelling house	Pump
Flats and Maisonettes	To within 45 metres of all parts within each dwelling	Pump

The West Sussex Fire and Rescue Service does recommend the installation of domestic sprinklers especially where the requirements given above cannot be fully met.

Table 2

VEHICLE ACCESS TO BUILDINGS NOT FITTED WITH FIRE MAINS OTHER THAN DWELLING HOUSES, FLATS OR MAISONETTES			
Total floor area of building (aggregate of all floors excluding basement)	**Height of floor of top storey above ground**	**Provide vehicle access to: See NOTE**	**Type of appliance**
Up to 2000m²	Up to 11m	15% of the perimeter or within 45m of any point on the projected plan area or footprint of the building whichever is the least onerous	Pump
Up to 2000m²	Over 11m	15% of perimeter	High Reach Appliance
2000 – 8000m²	Up to 11m	15% of perimeter	Pump
2000 – 8000m²	Over 11m	50% of perimeter	High Reach Appliance
8000 – 16000m²	Up to 11m	50% of perimeter	Pump
8000 – 16000m²	Over 11m	50% of perimeter	High Reach Appliance
16000 – 24000m²	Up to 11m	75% of perimeter	Pump
16000 – 24000m²	Over 11m	75% of perimeter	High Reach Appliance
Over 24000m²	Up to 11m	100% of perimeter	Pump
Over 24000m²	Over 11m	100% of perimeter	High Reach Appliance

Note: Every elevation to which vehicle access is provided in accordance with this table should have a suitable door not less than 750mm wide, giving access to the interior of the building.

JULY 2007

19 August

Dated: DO NOT DATE **2008**

Between:

[1] **Executors of the Estate of David Taylor**

[2] **Raymond Taylor**

[3] **Reginald Taylor**

[4] **Patricia Bidwell**

[5] **Gladedale (Special Projects) Limited**

[6] **Arun District Council**

AGREEMENT

under Section 106 of the Town & Country Planning Act 1990
and other powers
Land at Yapton Industrial Estate Bilsham Road Yapton West Sussex

---

This Agreement is dated 19 August DO NOT DATE 2008 and is made between:

[1] **The Executors of the Estate of David Taylor** being [redacted]

[2] **Gladedale (Special Projects) Limited** (Co Reg No 4113703) whose registered office is at Ashley House Ashley Road Epsom Surrey KT18 5AZ ["the Applicant"]

[3] **Arun District Council** of Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex, BN17 5LF ["ADC"]

1.0 **Background**

1.1 The Owner is the registered proprietor under title number WSX240949 of the land at Yapton Industrial Estate Bilsham Road Yapton West Sussex shown for identification purposes only edged red on Plan 1 attached hereto [and hereinafter called "the Land"].

1.2 ADC is the local planning authority and the Local Housing Authority.

1.3 The Applicant submitted the Application to ADC on 25 April 2007 for planning permission to develop the Land in accordance with the details specified in the Application.

1.4 ADC has by a decision made on 20 December 2007 refused the Planning Application and the Applicant has lodged the Appeal against that decision.

1.5 The Owner and the Applicant submits this Agreement with a view to dealing with some of the reasons for refusal contained within that refusal notice.

2. **Interpretation**

In this Agreement:

2.1 Words importing the masculine include the feminine and vice versa.

2.2 Words importing the singular include the plural and vice versa.

2.3 Words importing persons include companies and corporations and vice versa.

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually.

2.5 Any reference to a clause or schedule or plan is to one in to our attached to this Agreement.

2.6 Any reference to a colour or letter is to be on the plans attached to this Agreement.

2.7 In the absence of contrary provision any reference to a statute includes any statutory modification or re-enactment of it and every statutory instrument, direction, specification made or issued under the statute or deriving validity from it.

2.8 References to any party to this Agreement shall include the successors in title to that party and to any deriving title through or under that party and in the case of ADC the successors to their respective functions.

2.9 "the Act" means the Town & Country Planning Act 1990

2.10 "Affordable Housing" means affordable housing as defined in policy DEV 17 and DEV 18 of the Arun District Council Local Plan 2003 and being housing to accommodate persons who cannot buy or acquire accommodation in the open market without assistance.

2.11 "Affordable Housing Units" means 40 per cent of the Residential Units within the Development [which equates to twenty four (24) dwellings forming part of the Development] which are to be identified for use for the purposes of Affordable Housing as 100% social rented housing in accordance with the terms of this

Agreement and the siting and types of which Affordable Housing Units are as identified on Plan 3 attached hereto (and hereinafter called "Affordable Housing Plan") [and which shall include gardens]

2.12 "agreed" or "approved" means agreed or approved in writing and given for the purpose of this Agreement.

2.13 "the Appeal" means the planning appeal made by the Applicant to develop the Application Site to the Planning Inspectorate after refusal of the Application and allocated appeal reference number APP/C3810/A/08/2069053/NWF

2.14 "the Application" means the planning application number Y/37/07 made by the Applicant to ADC to develop the Application Site for the 'Demolition and removal of existing industrial and other on site buildings and construction of 59 residential dwellings and associated roads, garages and landscaping' as is more particular described in the plans specifications and particulars deposited therein

2.15 "the Application Site" means the Land described at paragraph 1.1 above and shown edged red on Plan 1 attached hereto for the purposes of identification only

2.16 "Commencement of Development" means date on which the Development commences by the carrying out on the Land of any material operation as defined in Section 56 (4) of the Act in connection with the Development and all references to commencing development shall be construed accordingly save that for the purposes of this Agreement the following shall be deemed not to be a material operation namely;

- any archaeological works;
- any works of excavation demolition or site clearance;
- services diversions;
- site or soil investigations;
- ground modelling;
- noise attenuation works; and / or
- the erection of hoardings and fences for the purpose of construction

2.17 "the Development" means the development of the Land permitted by the Planning Permission granted pursuant to the Appeal or carried out substantially in accordance with such planning permission.

2.18 "a LAP" means a local area of play as defined on page 4 of Arun District Council's Supplementary Planning Guidance 2nd Review October 2000

2.19 "a LEAP" means a locally equipped area of play as defined on page 4 of Arun District Council's Supplementary Planning Guidance 2nd Review October 2000

2.20 "the Management Company" shall mean the management company set up by the Owner and to be funded in part by a contribution from the Applicant of £20,000 (Twenty Thousand Pounds) and in part by the occupiers of the Market Housing Units through service charge contributions and which shall be responsible for certain aspects of the Development as set out in this Agreement

2.21 "Market Housing Units" means Residential Units within the Development which are not Affordable Housing Units

2.22 "Occupy" means the use of any of the Residential Units for residential accommodation (C3 use class) but for the avoidance of doubt shall not include occupation for the purposes of construction, fitting out or marketing and "Occupation" and "Occupied" shall be construed accordingly

2.23 "the Open Space and Play Equipment" means those parts of the Land to be provided as open space and children's play area and comprising (i) arrival space (ii) the LEAP and two LAPs in the 'Central Green' (iii) two further LAPs all in accordance with Plan 2 attached hereto and referred to in Clause 6

2.24 "Plan 1" means the plan attached hereto and marked Plan 1 and which shows the Land edged red for identification purposes only

2.25 "Plan 2" means the plan attached hereto being drawing no. D1529.L.201 Rev D and marked Plan 2 being the plan showing the Open Space and Play Equipment

2.26 "Plan 3" means the plan attached hereto being drawing Ref 896/SK03 dated February 2007 and marked Plan 3 being the plan showing the Affordable Housing Units

2.27 "Planning Permission" means any planning permission granted by the First Secretary of State or an Inspector appointed by her for the Application pursuant to the Appeal

2.28 "The Public Open Space Contribution" means the sum of £59,000 (Fifty Nine Thousand pounds) to mitigate the shortfall between the amount of public open space

being provided on the Land and that required by ADC and to be used towards enhancing King George's Field or The Queens Jubilee Play Area or any other public open space agreed between ADC and the Owner

2.29 "Qualifying Occupiers" means persons who can satisfy the definition of those qualifying for Affordable Housing at clause 2.10 above and including residents of the Arun District who are unable to resolve their housing needs in the local private sector market because of the relationship between housing costs and income

2.30 "Registered Social Landlord" means a registered social landlord within the meaning of the Housing Act 1996 and who has either been agreed between the Applicant and ADC for the purposes of this Agreement (such agreement not to be unreasonably withheld or delayed) or alternatively who is included on the List of Preferred RSL Partners kept by ADC which appears at Schedule 3

2.31. "Residential Units" means individual units within the Development to be used for residential purposes (and for the avoidance of doubt this definition shall include houses and flats as appropriate and Open Market Dwellings and Affordable Housing Units)

2.32 "Specified Date" means the date upon which an obligation arising under this Agreement is due to be performed.

3. Enabling Provisions

3.1 This Agreement is made pursuant to Section 106 of the Act, Sections 111 and 120 of the Local Government Act 1972, and all other enabling powers.

4. Commencement

4.1 This Agreement shall come into effect upon the date of grant of the Planning Permission pursuant to the Appeal save for the provisions of Clause 12 on costs which shall apply regardless of whether the Appeal is granted and save for the obligations in Clause (s) 5 6 and 7 which shall become effective only on the Commencement of Development or as specified in those Clauses

4.2 On Commencement of the Development the Owner will give to ADC notice in writing of that commencement in the form of The Commencement Notice annexed to this Deed as Schedule 1 addressed to ADC's Head of Planning Services.

PLAN 1



Planning Potential Planning Regeneration and Development Palace House, 3 Cathedral St, London SE1 9DE Tel: 0207 357 8000 Email: info@planningpotential.co.uk www.planningpotential.co.uk	Title: Land at Bilsham Road, Yapton Scale 1:1250 @ A3	Plan: PP1 Date: 29/12/2006
	Job: 06/237	Author: GB

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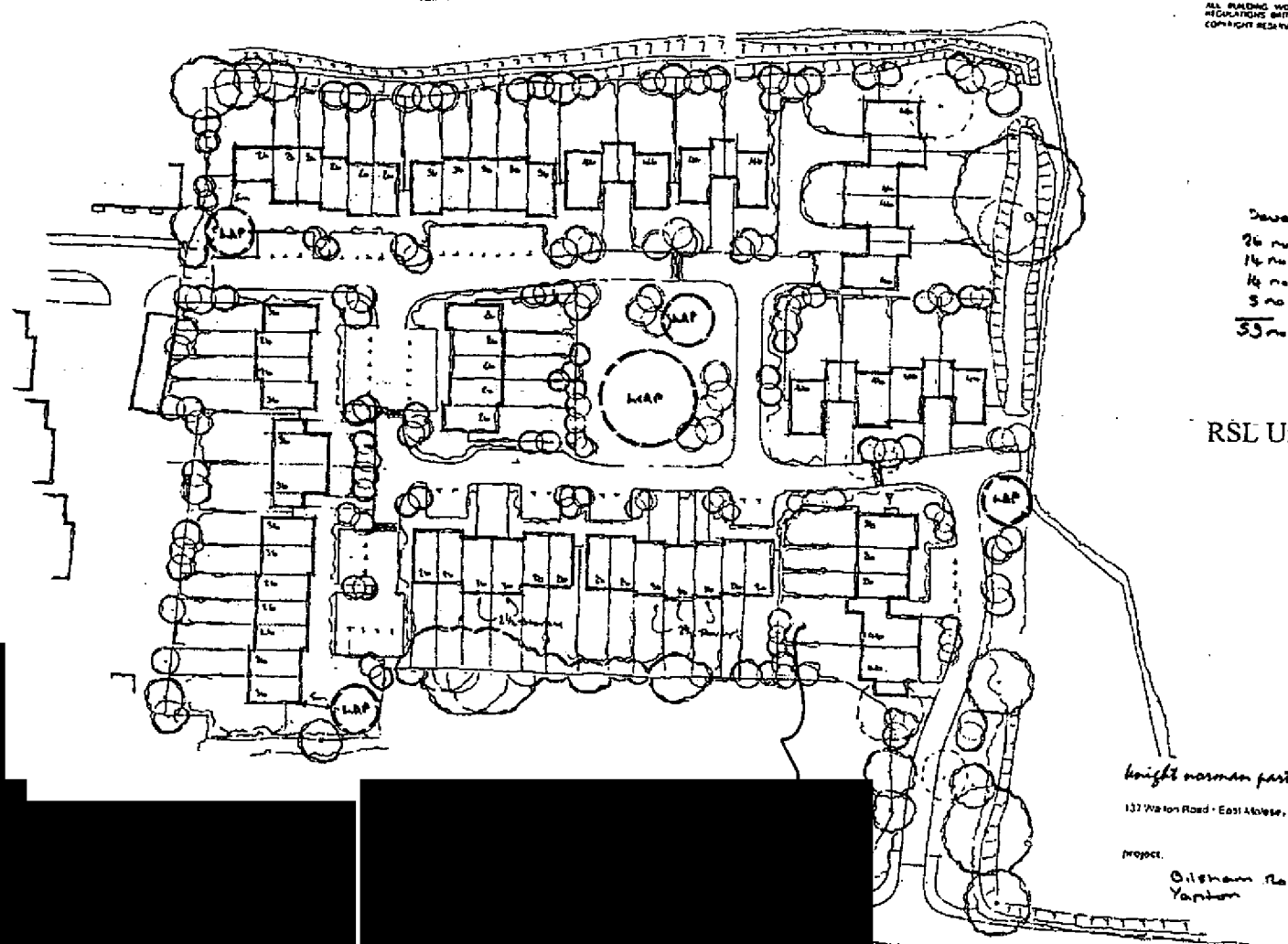
ARUN DISTRICT COUNCIL Y/37/07/

ARUN DISTRICT COUNCIL Y/37/07/

PLAN 3



FIGURED DIMENSIONS SHOULD BE USED IN ALL CASES
ALL DEVIATIONS FROM THIS DRAWING INCLUDING THOSE DICTATED BY SITE CONDITIONS SHOULD BE NOTIFIED TO K. N. PARTNERSHIP PRIOR TO CONSTRUCTION
ALL BUILDING WORKS TO BE CARRIED OUT IN ACCORDANCE WITH CURRENT BUILDING REGULATIONS BRITISH STANDARDS AND CURRENT GOOD PRACTICE
COPYRIGHT RESERVED

Development Schedule:

26 no 2bed houses
14 no 3bed houses
14 no 4bed houses
5 no 3bed town houses (integ garage).
59 no total.

RSL Units

knight norman partnership architecture & town planning
137 Walton Road · East Molesey · Surrey · KT8 0DU · Tel 020 8941 6671 · Fax 020-8941 3476
E mail knp137@aol.com

project: Bilsham Road Yapton

client: Gladedale Homes.

drawing title: Sketch proposals

scale: 1:500
date: Feb 2007
drawn:
drawing no: 896/SK03
rev:

[redacted]

[redacted]

X ADC

UNDERTAKINGS TO BENEFIT ADC

5 Affordable Housing

The Owner agrees with ADC that :-

Obligation to Provide Affordable Housing

5. 1 the location of the Affordable Housing Units within the Development shall be as shown on the Affordable Housing Plan;

5.2 to procure that the Affordable Housing Units are completed no later than the date on which the last of the Market Housing Units is completed;

5.3 (unless otherwise agreed in writing with the ADC) not to occupy more than 50% of the Market Housing Units without first having procured the disposal of the Affordable Housing Units (either freehold or leasehold for a period of not less than 165 years) to a Registered Social Landlord on terms which ensure that the Affordable Housing Units are and remain bound by the obligations in this paragraph;

5.4 With effect from the date on which they are completed the Affordable Housing Units shall not be Occupied other than by Qualifying Occupiers and for the avoidance of doubt this restriction shall apply not just to the first occupier of any of the Affordable Housing Units but to all subsequent occupiers of them.

Mechanics and Terms of Transfer

5.5 The Owner shall make an offer to an RSL which offer shall include (a) Sale of Land Contract (b) A Draft Transfer (c) A price of 60% of market value as at time of the Offer(d) HIP Package

5.6 Such offer shall remain open for acceptance for no less than 3 months ("the first offer period") from the date of the offer being made ("the offer date ")

5.7 In the event that the first offer made in accordance with the above is not accepted within 3 months of the offer date then the Owner shall make a second offer to another RSL to enter into an Affordable Housing Land Sale Contract not later than one month after the expiry of the first offer period ("the second offer") and such offer

shall consist of the same as the first offer subject to revisions necessitated by lapse of time and shall remain open for acceptance for no less than 3 months ("the second offer period") from the date of the offer being made ("the second offer date")

5.8 In the event of the second offer not being accepted within the second offer period then the Owner will pay to ADC a sum equivalent to the cost at that time of providing the Affordable Housing Units within the District of Arun on the date that the second offer period expires and at that point the Affordable Housing Units shall cease to be considered as Affordable Housing Units for the purpose of this Agreement and shall be deemed to be Open Market Dwellings and can be sold on the open market as such free of the restrictions in this Clause 5

5.9 To procure that the RSL grants nomination rights to ADC in relation to the first Occupation of the Affordable Housing Units [provided that if ADC do not accept such offer then the RSL shall in seeking to allocate the Affordable Housing Units have regard as far as possible to the following criteria:

5.9.1 any family association in the said administrative area in accordance with relevant housing allocation policies;

5.9.2 any period of ordinary residence in the said administrative area not immediately before the date on which any unit of accommodation becomes vacant;

5.9.3 any employment opportunity in the locality;

5.9.4 any other connection with the locality

but so that for the avoidance of doubt the satisfaction of such criteria hereof shall be determined by the body responsible for the allocation of the Affordable Housing Units from time to time]

Further Provisions

5.10 It is agreed and declared that:

5.10.1 nothing in this Agreement shall be construed as imposing or otherwise implying any obligation on the ADC to grant or make available any public subsidy or other financial support (or to assist the Applicant in obtaining such public subsidy or other financial support) in respect of the Affordable Housing Units;

5.10.2 the provisions of paragraph 5.4 above shall cease to bind any of the Affordable Housing Units if in relation to that Affordable Housing Unit:

5.10.2.1 a statutory right to acquire pursuant to the Housing Act 1985 or Housing Act 1996 (or any statutory re-enactment amendment or replacement thereof) has been exercised; and

5.10.2.2 in the event of any dispute as to whether any proposed occupier of any Affordable Housing Unit is a Qualifying Occupier the matter shall be determined by the Council (acting reasonably)

5.11 In the event that any Affordable Housing Unit is the subject of a legal charge or mortgage and there is a default under any legal charge or mortgage of the Affordable Housing Units then any chargee or mortgagee ("the Chargee") shall be entitled to exercise its power of sale free from the restrictions set out in this clause provided that the Chargee shall first have followed the procedure set out below:

5.11 .1 The Chargee shall give written notice ("the Sale Notice") to the Council of its intention to exercise its power of sale.

5.11.2 At the same time as giving the Sale Notice the Chargee shall make an offer "the Offer") to sell the Affordable Housing Units to the Council for an amount equivalent to 60% market value at that time

5.11.3 The Council may notify the Chargee in writing within one month of the date of the Offer whether or not it wishes to accept the Offer (in the case of an acceptance such acceptance to be conditional upon the Purchase Price being acceptable to the Council)

5.11.4 If the Council shall notify the Chargee within one month that it does not wish to accept the Offer the Council shall then have one month from the date upon which it notifies in writing its refusal of the Offer within which to arrange for the transfer of the Affordable Housing Units in consideration of the Purchase Price to a Registered Social Landlord.

5.11.5 If either the Council shall notify the Chargee that it wishes to accept the offer or transfer the Affordable Housing Unit to a Registered Social Landlord pursuant to paragraph 5.11.4 then:

5.11.5.1 the Chargee shall co-operate with the Council to secure the transfer; and

5.11.5.2 the Council and the Chargee shall endeavour to agree the Purchase Price which shall represent 60% of the open market value of the Affordable Housing Units but subject to all or any tenancies of the Affordable Housing Units as may be subsisting at the date of the Sale Notice and disregarding the provisions of paragraph 5.4 of this paragraph AND in default of such agreement the Purchase Price shall be determined on the same basis of valuation by an independent surveyor ("the Surveyor") experienced in valuing residential land and property who shall act as an expert and whose costs shall be borne by the Council and the Chargee in equal shares and the Surveyor shall be appointed in default of agreement between the parties on the application of either party by or on behalf of the President for the time being of the Royal Institute of Chartered Surveyors (or successor organisation) and the Surveyor's determination shall be binding on both parties.

5. 11.6 Subject to the provisions of sub-paragraph 5.11.7. the transfer to the Council or to a Registered Social Landlord shall be completed within two months of the date the Purchase Price is agreed (or such longer period as may be agreed between the Chargee and the Council) or determined in accordance with sub-paragraph 5.11.5.2. ("the Completion Period).

5.11.7 If the Chargee does not wish to exercise its power of sale at any time after giving the Sale Notice or the Council does not wish to continue with the exercise of its power under the provisions of paragraph 5.6 that party shall give to the other not less than seven days' written notice of its intention to discontinue.

5.11.8 If either:

5.11.8.1 the Council fails to give notification to the Chargee within the time specified in sub-paragraph 5.11.3; or

5.11.8.2 having given notification of refusal of the Offer in accordance with sub-paragraph 5.11.3. the Council fails to give notification to the Chargee within the time specified in sub-paragraph 5.11.4; or

5.11.8.3 the Council having complied with the time periods specified in sub-paragraph 5.11.3. and (in the case of a refusal of the Offer) sub-paragraph 5.11.4. the transfer to either the Council or to a Registered Social Landlord shall not be completed within the Completion Period; or

5.11.8.4 the Council shall serve notice of its intention to discontinue under sub-paragraph 5.11.7.

then the Chargee shall be under no obligation to sell the Affordable Housing Units either to the Council or to a Registered Social Landlord and shall be entitled to exercise its powers of sale without any of the provisions of paragraph 5.4 of this Schedule being binding on the purchaser or purchasers of the Affordable Housing Units or any part thereof or any successor in title hereto.

5.11.9 The Council shall in formulating or promoting any arrangements referred to in sub-paragraph 5.11.4. give consideration to protecting the interests of the Chargee in respect of monies outstanding under the charge or mortgage.

6. Provision of Open Space and Play Equipment

The Owner agrees with ADC

6.1 to provide layout and thereafter maintain the Open Space and Play Equipment in accordance with a specification submitted to and approved by ADC prior to Occupation of any of the Residential Units and to ADC's satisfaction.

6.2 to ensure that there is easy public access to the Open Space and Play Equipment

6 .3 to complete the works of provision and laying out in accordance with Clause 6.1 and to make the Open Space and Play Equipment for use by the public no later than the first Occupation of the 30th Residential Unit forming part of the Development on the Land

6.4 within two months of the completion of the works referred to in Clause 6.3 to transfer the Open Space and Play Equipment to the Management Company although the Open Space and Play Equipment may by agreement between the Owner and ADC be handed over to the Management Company for public use and for maintenance purposes in advance of the transfer

6.5 Prior to the transfer of the Open Space and Play Equipment to submit a maintenance specification ("the Maintenance Specification") to ADC for approval for the future management and maintenance of the Open Space and Play Equipment and to include also the maintenance and management of the retained rifes and bankside vegetation which are shown on Plan 2 attached hereto (and for the avoidance of doubt the Applicant and Owner agree with ADC that the retained rifes and bankside vegetation do not form part of the Open Space and Play Equipment and are only included in this clause at the request of the Applicant)

6.6 Following the transfer of the Open Space and Play Equipment to ensure that the Management Company maintains the Open Space and Play Equipment for at least 16 years after completion

6.7 to pay the Public Open Space Contribution to ADC prior to the Occupation of the 30th Residential Unit forming part of the Development on the Land

7. ADC Covenants

7.1 ADC hereby covenants with the Owner and the Applicant to perform the obligations set out in Schedule 4 to this Agreement

8 Certificates

The Owner agrees with ADC:

8.1 where this Agreement imposes a requirement for the making of a payment or the undertaking of an act or the cessation of an activity on a Specified Date the Owner shall give to the ADC notice of the Specified Date not more than seven days after such Specified Date

8.2 if the Owner fails to give the notice required under this Clause ADC shall be entitled in its absolute discretion to determine the Specified Date and shall give notice to the Owner of its determination

9. Applicant's undertaking

9.1 The Applicant hereby covenants with ADC that in the event they take possession of the Land then the Applicant will be bound by the covenants and obligations in this Agreement as if they were the Owner.

9.2 The Applicant hereby covenants with the Owner that in the event that they take possession of the Land then the Applicant will perform the covenants and obligations of the Owner contained in this Agreement and will indemnify the Owner against any losses costs claims actions or demands which may be made against the Owner for any breach of the said covenants and obligations

10 Index Linking

10.1 The Owner agrees with ADC that any sums payable by the Owner under this Agreement shall be increased by the application of the following formula:

$$A = B \times \frac{C}{D}$$

where: A is the sum actually payable on the Specified Date

B is the original sum mentioned in this Agreement

C is the General Index of Retail Prices [all items] for the month two months before the Specified Date

D is the General Index of Retail Prices [all items] for the month two months before the date of this Agreement

$\frac{C}{D}$ is equal to or greater than 1

11. Interest

The Owner agree with ADC to pay interest on sums due to ADC under this Agreement but not paid on the Specified Date from the Specified Date until actual payment. The rate of interest shall be 4% above the Bank of England base rate from time to time.

12. Costs

The Applicant agrees with ADC:

12.1 on completion of this Deed to pay to ADC their respective legal costs incurred in preparing and entering into this Agreement

12.2 on completion of the appropriate Deed to pay to ADC their legal costs incurred in connection with the transfers of land referred to in this Agreement

13. Future Mortgage

13.1 In the event that the Land becomes subject to a mortgage at any time following the date of this Agreement then the mortgagee will not be bound by the obligations and covenants herein until such time (if any) as they go into possession of the Land or any part of it pursuant to the mortgage provided that any party who purchases the Land or any part of it from a mortgagee exercising their power of sale pursuant to the mortgage will be bound by the obligations and covenants in this Agreement

14. Payment Notice

14.1 The parties to this Agreement hereby agree that all payments due under this Agreement shall be forwarded to the ADC and shall have attached to them a copy of the Payment Notice contained in Schedule 2 to this Agreement duly completed.

15. General

The parties agree that:

15.1 nothing in this Agreement constitutes or constitutes an obligation to grant planning permission

15.2 nothing in this Agreement grants planning permission or any other approval consent or permission required from ADC in the exercise of any other statutory function

15.3 nothing in this Agreement fetters or restricts the exercise by ADC of any of their powers

15.4 the obligations contained in Clauses 5 6 and 7 are planning obligations for the purpose of Section 106 of the Act

15.5 this Agreement constitutes a deed

15.6 this Agreement is enforceable by ADC pursuant to the provisions of the Act

15.7 nothing in this Agreement confers or is intended to confer a benefit on a third party under the Contracts [Rights of Third Parties] Act 1999

15.8 This Agreement shall apply to the Development as authorised by the Planning Permission issued pursuant to the Application or to the Development after variation or renewal of the planning permission from time to time and shall not affect the right of the Owner the Applicant or any other person to develop than Land or any part of it in accordance with a planning permission other than the Planning Permission (whether granted on appeal or not) after the date of this Agreement.

15.9 If the Planning Permission is (1) quashed, (2) revoked or (3) modified by any statutory procedure in any case without the consent of the Owner this Deed shall absolutely determine and become void

15.10 This Agreement is a Local Land Charge and shall be registered as such

15.11 For the avoidance of doubt the provisions of this Agreement shall not have any effect until the Agreement has been dated and properly executed by the parties

15.12 Any notice served under this Agreement shall be deemed to be sufficiently served if it is delivered personally or by recorded post to the appropriate person at the addresses previously stated or quoted on the relevant notice

15.13 It is hereby agreed that where any approval agreement consent or other authorisation which is required to be given by ADC in respect of any obligations pursuant to this Agreement such approval agreement consent or other authorisation shall not be unreasonably withheld or delayed

SCHEDULE 1

Commencement Notice
Pursuant to Clause 4 in Planning Obligation Described Below

I advise you that the Development described below was commenced on the Start Date stated in this Notice.

Dated this _____ day of _____ 200

Signed _____

On Behalf Of: _____

TO:	Head of Planning Services, Arun District Council, Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex, BN17 5LF [DX: 57406] Littlehampton
FROM:	
DEVELOPMENT AT:	
NATURE OF DEVELOPMENT:	
PLANNING PERMISSION DATE & REFERENCE	
PLANNING OBLIGATION DATE & PARTIES	
START DATE:	

SCHEDULE 2

Payment Notice

Payment of Monies due under a Section 106 Planning Obligation/Agreement

Please answer all the questions.

1. Payment to be made by/on behalf of .....

2. Land at: .....

3. Agreement dated: .....

4. Planning application reference number [where applicable]

5. Obligation in Agreement

[a]	clause no.	
[b]	contribution towards	
[c]	amount of contribution due	
[d]	date upon which contribution is due	
[e]	amount of contribution enclosed	

SCHEDULE 3

ADC s Panel of Preferred Partners

PREFERRED PARTNERS - Associations within the Arun area

Affinity (formerly Downland Housing Group)
51 Fishbourne Road (Paul Castle)
Chichester (Sarah Sheppard)
West Sussex
PO19 3HZ
[redacted]

Guinness Trust
SOUTH AREA OFFICE (Michael Gray)
3rd Floor
Beulah Court
Albert Road
Horley
Surrey
RH6 7HP
[redacted]

Kelsey Housing Association Ltd
Kelsey House (Tim Giddy)
2 Perry Hall Road
Orpington, Kent
BR6 OJJ
Tim.Giddy@khal.org.uk
Tel: 01689 791254
[redacted]

Raglan Housing Association Ltd
Ground Floor (John Walker)
Imperial Buildings
68 Victoria Road
Horley
Surrey
RH6 7PZ
[redacted]

Servite Houses
Toddington Lane (Ben Wood)
Littlehampton (Gareth Davies)
West Sussex
BN17 7PP
[redacted]
.uk
.org.uk

Hyde Housing Association/CDHA
113-119 Davigdor Road (Jackie Strube)
Hove (Colin Chambers)
E. Sussex
BN3 1RE
[redacted]

Southern Housing Group
South West Region (Liz Hills)
Fiveash House (Keith MacDonald)
9 Denne Parade
Horsham
West Sussex
RH12 1JD
[redacted]

Worthing Homes
1 Chapel Road (Chris Pelling-Fulford)
Worthing (Mary Evans)
West Sussex
[redacted]

SCHEDULE 4

COVENANTS BY ADC

ADC covenants with the Owner and Applicant as follows:

Public Open Space Contribution

1. Upon receipt of the Public Open Space Contribution ADC will hold it in a separately identified interest bearing section of ADC's combined accounts and apply the same together with any interest accruing thereon only for the purposes identified.

2. To issue to the party that paid the Public Open Space Contribution after 10 years of the date of receipt of the Public Open Space Contribution as provided for in paragraph 1 above an account certified by ADC detailing how the said Education Contribution has been expended by ADC

3. That if or to the extent that the Public Open Space Contribution shall not have been spent by ADC at the end of 10 years of the date of receipt ADC shall on such date refund to the party that paid the Public Open Space Contribution any unexpended sum together with compound interest thereon from the date of receipt of the Public Open Space Contribution by ADC to the date of repayment at the base lending rate of HSBC Bank PLC applicable at the date of repayment calculated on a day to day basis.

4. That if at the date of the account referred to in paragraph 2 above ADC shall have entered into a contract or other legally binding obligation to expend the Public Open Space Contribution or part thereof for the purposes specified in paragraph 1 above then ADC shall not be required to refund any part of the Public Open Space Contribution required for that purpose but shall as soon as possible following the completion of the said contract or other legally binding commitment account to the party that paid such contribution in the manner set out in paragraph 2 hereof and refund any unexpended part of the said contribution in the manner set out in paragraph 3 hereof

SIGNED and DELIVERED
by The Executors of
the Estate of David Taylor
as a Deed in the
presence of:

[redacted]

SIGNED and DELIVERED
by Raymond Taylor
as a Deed in the
presence of:

[redacted]

SIGNED and DELIVERED
by Reginald Taylor
as a Deed in the
presence of:

[redacted]

SIGNED and DELIVERED
by Patricia Bidwell
as a Deed in the
presence of:

[redacted]

SIGNED and DELIVERED
by GLADEDALE (SPECIAL PROJECTS) LIMITED
as a Deed in the
presence of:

[redacted]

Director

Secretary

SEALED with the COMMON SEAL
of ARUN DISTRICT COUNCIL
in the presence of:

[redacted]

Seal Book No:

Authorised Signatory