

DATED 21st July 2017

THE COUNCIL OF THE BOROUGH OF SOUTH TYNESIDE

AND

SOUTH TYNESIDE HOUSING VENTURES TRUST LIMITED

AGREEMENT

Under section 106 of the Town and Country Planning Act 1990

Land at Eskdale Drive, Jarrow

Mike Harding
Head of Legal Services
South Tyneside Council
Town Hall and Civic Offices
Westoe Road
South Shields
Tyne and Wear
Ref: BB/L/15021

THIS AGREEMENT is made on

21st July

2017

BETWEEN:

- (1) **THE COUNCIL OF THE BOROUGH OF SOUTH TYNESIDE** of Town Hall & Civic Offices, Westoe Road, South Shields, Tyne & Wear, NE33 2RL ("the Council"); and
- (2) **SOUTH TYNESIDE HOUSING VENTURES TRUST LIMITED** (Registered Company Number 08626890) of Strathmore, 11 Rolling Mill Road, Jarrow, Tyne and Wear NE32 3DP ("the Developer").

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 Agreement.
- B. The Developer has by way of contract dated 21st July 2017 between the Council and the Developer agreed to acquire the Site free from encumbrances that would prevent the Developer entering into the Agreement.
- C. The Developer has submitted the Planning Application to the Council and the parties have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement will run with the land and bind successors in title.
- D. The Council having regard to all material considerations resolved at its meeting on 19 June 2017 that Planning Permission should be granted for the Development subject to completion of this Agreement.
- E. 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 Developer and its successors in title to the Site.

OPERATIVE PROVISIONS

1. **INTERPRETATION**

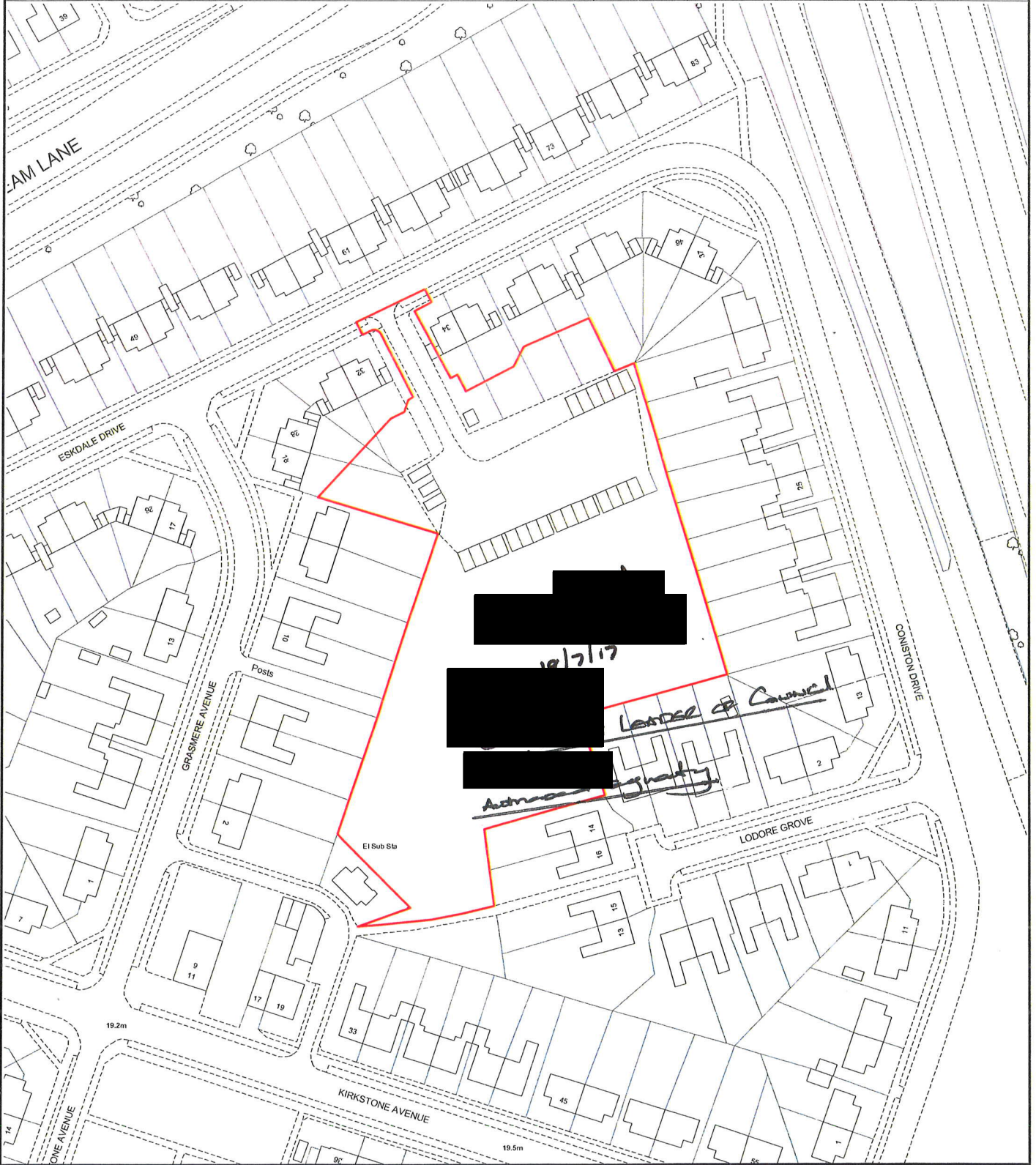


South Tyneside Council

Business and Resources

John Hewitt - Corporate Director
 Town Hall & Civic Offices, Westoe Road, South Shields, NE33 2RL
 Telephone: (0191) 427 1717

Project Transfer of Land		Drawing Title Land at Eskdale Drive Jarrow	
Project Code	Dwg.No.	Drawn By DH	Date 22/06/17
		Checked By	Date
Rev	Date	Scale 1: 1250	Size A4
		OS Ref	Chkd



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

“1990 Act” The Town and Country Planning Act 1990

“Affordable Housing” subsidised housing that will be available to persons who cannot afford to buy or rent housing generally available on the open market within the definition of affordable housing contained in Annex 2 of the National Planning Policy Framework (March 2012) or any subsequent replacement or modification thereof (including any successor policy or legislation in respect of affordable housing)

“Affordable Housing Provider” a body whose functions or aims include the provision or management of Affordable Housing (including affordable housing of the type and amount proposed within the Development) including a Housing Association, Housing Company or Trust registered as a Registered Provider (pursuant to the Housing Act 1996, the Housing and Regeneration Act 2008 or any relevant successor legislation)

“Affordable Housing Units” 9 of the Dwellings comprised within the Development to be designated by the Developer and that are to be used thereafter only as Affordable Housing in perpetuity subject to the terms of this Agreement

Chargee a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including

	a housing administrator (each a Receiver))
“Commencement Date”	the date specified in clause 3.1
“Commencement of Development”	the commencement of the Development by the carrying out on the Site pursuant to the Planning Permission of a material operation as specified in section 56(4) of the 1990 Act other than operations specified in clause 3.2 and the words “Commence the Development” or “Commenced” shall be construed in the same way
“Development”	the construction on the Site of 35 dwellings (comprising a mix of 1-3 bedroom: flats, bungalows, semi-detached and terraced properties), new boundary treatments, landscaping, parking and associated access
“Dwelling”	each of the residential dwellings to be constructed on the Site pursuant to the Planning Permission and ‘Dwellings’ shall be construed accordingly
“Nomination Agreement”	the agreement between the Parties for nominating occupiers of the Affordable Housing as set out in Schedule 3
“Occupation”	occupation of any Dwelling comprised within the Development for the purpose authorised by the Planning Permission and for the avoidance of doubt shall not include occupation for the purpose of constructing, fitting out or marketing of the Development or occupation in relation to security operations and occupiers shall be construed accordingly

“the Plan”	the plan attached to this agreement
“Planning Application”	the application for full planning permission for the carrying out of the Development and carrying the reference ST/0114/17/FUL
“Planning Permission”	the planning permission that may be granted for the Development set out substantially in the form of that contained in Schedule 1
“Protected Tenant”	a former tenant of an Affordable Housing Unit who purchases that Affordable Housing Unit under the provisions of the Right to Acquire created by s.16 of the Housing Act 1996 or the Preserved Right to Buy created by Part V of the Housing Act 1985 or any other statutory right in force from time to time
“Site”	The freehold land known as land off Eskdale Drive, Jarrow and shown edged red on the Plan

1.2. In this Agreement:

- 1.2.1. the clauses do not affect its interpretation;
- 1.2.2. unless otherwise indicated, references to clauses and Schedules are to clauses of and Schedules to this Agreement and references in a Schedule to a Part or paragraph are to a Part or paragraph of that Schedule;
- 1.2.3. references to any statute or statutory provision include references to:
 - 1.2.3.1. all Acts of Parliament and all other legislation having legal effect in the United Kingdom as directly or indirectly amended, consolidated, extended, replaced or re-enacted by any subsequent legislation; and

- 1.2.3.2. any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision;
 - 1.2.4. references to the Site include any part of it;
 - 1.2.5. references to any party in this Agreement include the successors in title of that party and references to the Council include any successor local planning authority exercising planning powers under the 1990 Act;
 - 1.2.6. "including" means "including, without limitation";
 - 1.2.7. any covenant by the Developer not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing;
 - 1.2.8. where two or more people form a party to this Agreement, the obligations they undertake may be enforced against them all jointly or against each of them individually; and
 - 1.2.9. if any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of the Agreement is to be unaffected.
 - 1.2.10 Any covenant on the part of the Developer shall not be enforceable against the Developer until the date of the transfer to it of the freehold interest in the Site.
- 1.3. The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

2. EFFECT OF THIS AGREEMENT

- 2.1. This Agreement is made pursuant to section 106 of the 1990 Act. To the extent that they fall within the terms of section 106 of the 1990 Act, the obligations contained in this Agreement are planning obligations for the purposes of section 106 of the 1990 Act and are enforceable by the Council.
- 2.2. To the extent that any of the obligations contained in this Agreement are not planning obligations within the meaning of the 1990 Act, they are entered into

pursuant to the powers contained in section 111 Local Government Act 1972, section 1 Localism Act 2011 and all other enabling powers.

- 2.3. Nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers, functions or discretions in relation to the Site or otherwise.
- 2.4. This Agreement will be registered as a local land charge by the Council.
- 2.5. Nothing in this Agreement prohibits or limits the right to develop any part of the Site in accordance with a planning permission, other than one relating to the Development as specified in the Planning Application, granted after the date of this Agreement, whether or not pursuant to an appeal.

3. **COMMENCEMENT DATE**

- 3.1. Subject to clause 3.2, following the grant of the Planning Permission the obligations contained in this Agreement will come into effect on the date the development commences by the carrying out on the Site pursuant to the Planning Permission of a material operation as specified in section 56(4) of the 1990 Act.
- 3.2. The Commencement Date will not be triggered by any of the following operations:
 - 3.2.1 site clearance and demolition work;
 - 3.2.2 site investigations or surveys;
 - 3.2.3 site decontamination;
 - 3.2.4 the re-grading of the Site;
 - 3.2.5 works connected with infilling;
 - 3.2.6 works for the provision of drainage or mains services to prepare the Site for development including service diversions;
 - 3.2.7 works for construction of boundary fencing or hoarding or for the temporary display of site notices or advertisements; or
 - 3.2.8 Archaeological investigations.

4. **OBLIGATIONS OF THE DEVELOPER**

4.1. The Developer covenants with the Council to comply with the obligations set out in Schedule 2 in relation to the Development.

4.2. No person will be liable for any breach of the terms of this Agreement occurring after the date on which they part with their interest in the Site or the part of the Site in respect of which such breach occurs, but they will remain liable for any breaches of this Agreement occurring before that date. Neither the reservation of any rights nor the inclusion of any covenants or restrictions over the Site in any transfer of the Site will constitute an interest for the purposes of this clause 4.2.

5. **TERMINATION OF THIS AGREEMENT**

5.1 This Agreement will come to an end if:

5.1.1 subject to clause 5.2, the Planning Permission is quashed, revoked or otherwise withdrawn before the Commencement Date so as to render this Agreement or any part of it irrelevant, impractical or unviable; or

5.1.3 the Planning Permission expires before the Commencement Date without having been implemented.

5.2 Clause 5.1 will not apply in respect of any non-material change(s) to the Planning Permission approved by the Council pursuant to an application submitted by the Developer under section 96A of the 1990 Act.

5.3 Where the Agreement comes to an end under clause 5.1 the Council at its own costs is, on the written request of the Developer, to vacate or cancel the entry made in the Local Land Charges register in relation to this Agreement or otherwise to record the fact that it has come to an end and no longer affects the Site.

6. **NOTICES**

6.1. Any notice, demand or any other communication served under this Agreement will be effective only if delivered by hand or sent by first class post, pre-paid or recorded delivery.

- 6.2. Any notice, demand or any other communication served is to be sent to the address of the relevant party set out at the beginning of this Agreement or to such other address as one party may notify in writing to the others at any time as its address for service.
- 6.3. Unless the time of actual receipt is proved, a notice, demand or communication sent by the following means is to be treated as having been served:
- 6.3.1. if delivered by hand, at the time of delivery;
 - 6.3.2. if sent by post, on the second working day after posting; or
 - 6.3.3. if sent by recorded delivery, at the time delivery was signed for.
- 6.4. If a notice, demand or any other communication is served after 4.00 pm on a working day, or on a day that is not a working day, it is to be treated as having been served on the next working day.
- 6.5. For the avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connections with those proceedings.

7. COSTS OF THIS AGREEMENT

- 7.1. Upon completion of this Agreement the Developer is to pay to the Council £800 in connection with the preparation, negotiation and completion of this Agreement.

8. DETERMINATION OF DISPUTES

- 8.1. Subject to clause 8.7, if any dispute arises relating to or arising out of the terms of this Agreement, either party may give to the other written notice requiring the dispute to be determined under this clause 8. The notice is to propose an appropriate Specialist and specify the nature and substance of the dispute and the relief sought in relation to the dispute.
- 8.2. For the purposes of this clause 8 a "Specialist" is a person qualified to act as an expert in relation to the dispute having not less than ten years' professional experience in relation to developments in the nature of the Development and property in the same locality as the Site.

- 8.3. Any dispute over the type of Specialist appropriate to resolve the dispute may be referred at the request of either party to the President or next most senior available officer of the Law Society who will have the power, with the right to take such further advice as he may require, to determine the appropriate type of Specialist and to arrange his nomination under clause 8.4.
- 8.4. Any dispute over the identity of the Specialist is to be referred at the request of either party to the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist who will have the power, with the right to take such further advice as he may require, to determine and nominate the appropriate Specialist or to arrange his nomination. If no such organisation exists, or the parties cannot agree the identity of the organisation, then the Specialist is to be nominated by the President or the next most senior available officer of the Law Society.
- 8.5. The Specialist is to act as an independent expert and:
- 8.5.1. each party may make written representations within ten working days of his appointment and will copy the written representations to the other party;
 - 8.5.2. each party is to have a further ten working days to make written comments on the other's representations and will copy the written comments to the other party;
 - 8.5.3. the Specialist is to be at liberty to call for such written evidence from the parties and to seek such legal or other expert assistance as he or she may reasonably require;
 - 8.5.4. the Specialist is not to take oral representations from the parties without giving both parties the opportunity to be present and to give evidence and to cross-examine each other;
 - 8.5.5. the Specialist is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision; and
 - 8.5.6. the Specialist is to use all reasonable endeavours to publish his decision within 30 working days of his appointment.

8.6. Responsibility for the costs of referring a dispute to a Specialist under this clause 8, including costs connected with the appointment of the Specialist and the Specialist's own costs, but not the legal and other professional costs of any party in relation to a dispute, will be decided by the Specialist.

8.7. This clause 8 does not apply to disputes in relation to matters of law or the construction or interpretation of this Agreement which will be subject to the jurisdiction of the courts.

9. **JURISDICTION**

9.1. This Agreement is to be governed by and interpreted in accordance with the law of England and Wales.

9.2. The courts of England and Wales are to have jurisdiction in relation to any disputes between the parties arising out of or related to this Agreement. This clause operates for the benefit of the Council who retain the right to sue the Landowner and the Developer and enforce any judgment against the Landowner and the Developer in the courts of any competent jurisdiction.

10. **EXECUTION**

10.1. The parties have executed this Agreement as a deed and it is delivered on the date set out above.

SCHEDULE 1
Planning Permission



South Tyneside Council

NOTICE OF GRANT OF PLANNING PERMISSION Town and Country Planning Act 1990 Town and Country Planning (Development Management Procedure) (England) Order 2015

Contact Name and Address:

ID Partnership Northern
FAO Mr S. Savin
St Jude's
Barker Street
Shieldfield
Newcastle upon Tyne
NE2 1AS

Application No: ST/0114/17/FUL

Date of Issue: xx/xx/xxxx

In pursuance of their powers under the above mentioned Acts, South Tyneside Council as Local Planning Authority hereby **GRANT** planning permission for the following:

- PROPOSAL:** Construction of 35no. dwellings (comprising a mix of 1-3 bedroom: flats, bungalows, semi-detached and terraced properties), new boundary treatments, landscaping, parking and associated access.
- LOCATION:** Land bounded by Eskdale Drive, Coniston Drive, Lodore Grove, Kirkstone Avenue and Grasmere Avenue, Jarrow

In accordance with your application dated 01 February 2017

SUBJECT TO THE FOLLOWING CONDITION(S) AND REASON(S):

- 1 The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

As required by Section 91 of the Town and Country Planning Act 1990 and to ensure that the development is carried out within a reasonable time.

- 2 The development shall be carried out in accordance with the approved plans as detailed below

SL-01 Rev. H received 06/06/2017
1B2P_03 Rev. B received 25/05/2017
1B2P_04 Rev. B received 25/05/2017
2B3P_01 Rev. B received 25/05/2017
2B3P_02 Rev. B received 25/05/2017
2B4P_02 Rev. C received 25/05/2017
2B4P_03 Rev. B received 25/05/2017
3B5P_01 Rev. C received 25/05/2017
3B5P_02 Rev. C received 25/05/2017

Any minor material changes to the approved plans will require a formal planning application under S73 of the Town and Country Planning Act 1990 to vary this condition and substitute alternative plans.

In order to provide a procedure to seek approval of proposed minor material change

which is not substantially different from that which has been approved.

3 Archaeological Excavation and Recording

No groundworks or development shall commence until a programme of archaeological fieldwork (to include evaluation and where appropriate mitigation excavation) has been completed. This shall be carried out in accordance with a specification provided by the Local Planning Authority.

The site is located within an area identified as being of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, in accordance with paragraph 141 of the NPPF and Policy DM6 of the South Tyneside Local Development Framework.

4 Archaeological Post Excavation Report Condition

The dwellings hereby permitted shall not be occupied/brought into use until the final report of the results of the archaeological fieldwork undertaken in pursuance of condition (3) has been submitted to and approved in writing by the Local Planning Authority.

The site is located within an area identified as being of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, in accordance with paragraph 141 of the NPPF and Policy DM6 of the South Tyneside Local Development Framework.

5 Archaeological Publication Report Condition

The dwellings hereby permitted shall not be occupied/brought into use until a report detailing the results of the archaeological fieldwork undertaken has been produced in a format suitable for publication in a journal publication. The report and details of the proposed journal that shall publish it shall be submitted to and approved in writing by the Local Planning Authority. The report shall thereafter be published in accordance with the agreed details.

The site is located within an area identified as being of potential archaeological interest and the publication of the results will enhance understanding of and will allow public access to the work undertaken in accordance with paragraph 141 of the NPPF and Policy DM6 of the South Tyneside Local Development Framework.

6 Contamination - Investigation and Risk Assessment

Prior to the commencement of any construction works, an investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include (i) a survey of the extent, scale and nature of contamination (including groundwater, ground gas and asbestos); (ii) an assessment of the potential risks to human health, property (existing or proposed) and (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

To ensure that risks from land contamination or ground gas to the future users of the development site and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors, in accordance with Policies DM1 and EA5 of the South Tyneside Local Development Framework.

7 Contamination - Remediation Strategy

A Detailed Remediation Strategy for the proposed remedial works shall be submitted to, and approved in writing by the Local Planning Authority prior to commencing remedial works. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Where remediation of gas has been identified as necessary by the site investigation a gas verification plan shall be submitted for the proposed gas protection measures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Development shall be carried out in accordance with the approved details.

To ensure that risks from land contamination to the future users of the development site and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors, in accordance with Policies DM1 and EA5 of the South Tyneside Local Development Framework.

8 Contamination - Verification Report

Following completion of measures identified in the approved remediation strategy, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority prior to the site being occupied.

To ensure that risks from land contamination to the future users of the development site and neighbouring have been addressed in accordance with Policies DM1 and EA5 of the South Tyneside Local Development Framework.

9 Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. Sufficient detail should be provided identifying how the unexpected contamination will be dealt with.

To ensure that risks from land contamination to the future users of the development site and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors, in accordance with Policies DM1 and EA5 of the South Tyneside Local Development Framework.

10 Drainage Details

Prior to the commencement of the drainage proposals (and notwithstanding the Flood Risk Assessment/Drainage Strategy document received 01/02/2017 and proposed drainage plan 112153/2003 Rev. A received 23/05/2017), a detailed drainage scheme shall be submitted to and approved in writing by the Local Planning Authority in

consultation with Northumbrian Water and the Lead Local Flood Authority and it shall include the following:-

- That foul and surface water flows discharge to the combined sewer at manhole 6401 and that the surface water discharge rate shall not exceed the available capacity of 5 litres per second that has been identified in this sewer.
- Drawings and calculations detailing exceedance amounts from the drainage for extreme storms including 1 in 30 year event and 1 in 100 year event plus 40% climate change; where drainage design is created in micro-drainage the mdx model shall be provided
- Identify that there will be no flooding from a 1 in 30 year event from the drainage on-site, and no internal flooding of any on-site buildings, and no off-site flooding for a 1 in 100 year event plus 40% climate change; where exceedances are indicated overland flow plans shall be submitted;
- Include a timetable for its implementation; and
- A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Development shall be carried out in accordance with the approved details (unless any amendments have previously been submitted to and approved in writing by the Local Planning Authority [in consultation with Northumbrian Water and the Lead Local Flood Authority] and development is then carried in accordance with them).

To ensure the discharge of surface/foul water from the site does not increase the risk of flooding in accordance with Policies ST2 and DM1 of the South Tyneside Local Development Framework.

11 Finished floor levels

Prior to the commencement of any house, bungalow or flat hereby permitted; details of their ground floor finished floor levels relative to those of the existing surrounding properties shall be submitted to and approved in writing by the Local Planning Authority.

Development shall be carried out in accordance with the approved details.

To ensure a satisfactory standard of development in the interests of both visual and residential amenity in accordance with Policy DM1 of the South Tyneside Local Development Framework.

12 Soft Landscaping

Notwithstanding the indicative details shown on drawing number 112153/8001 Rev. B received 23/05/2017, a detailed soft landscaping planting plan/specification shall be submitted to and approved in writing by the Local Planning Authority. Any new trees or shrubs which within a period of 5 years of planting die, are removed or become seriously damaged or diseased, shall be replaced within replacement planting of similar species not later than the next available planting season after the loss or damage occurred (unless otherwise agreed in writing by the Local Planning Authority).

The approved details shall be carried out prior to the first occupation of each house, bungalow or flat or within the first available soft landscaping planting season thereafter, whichever occurs sooner.

To ensure a satisfactory standard of development in the interests of visual amenity

and ecology in accordance with Policy DM1, DM7 and EA3 of the South Tyneside Local Development Framework.

13 Shed details

Prior to their construction, details of the external appearance and facing materials of the sheds (indicated on the proposed site layout plan drg. no. SL-01 Rev. H) shall be submitted to and approved in writing by the Local Planning Authority.

The approved details shall be carried out prior to the first occupation of each house, bungalow.

To ensure a satisfactory standard of development and in the interests of visual amenity in accordance with Policy DM1 of the South Tyneside Local Development Framework.

14 Ecology - bat box

Prior to their installation, the exact position and height of 5 habitat bat boxes (as specified in the applicant's Ecological Appraisal document and its guidance about positioning), shall be submitted to and approved in writing by the Local Planning Authority.

The approved details shall be completed on-site prior to the first occupation of each dwelling (that includes a bat habitat box).

To ensure that the ecological enhancement that is recommended in the submitted Ecological Appraisal document is carried out. In accordance with Policies EA3 and DM7 of the South Tyneside Local Development Framework.

15 Acoustic glazing and trickle vents

The development hereby permitted shall be carried out in accordance with the glazing and ventilation specification for the planning application site as set within Table 1 and Figure 1 of the applicant's submitted Noise Survey and Façade Acoustic Design Strategy (by Apex Acoustics) received 20/03/2017.

To safeguard against excessive levels of traffic noise from the nearby A19 and A185 roads and to ensure a reasonable standard of amenity for the occupants of the development in accordance with Policy DM1 of the South Tyneside Local Development Framework.

16 Construction working hours

No construction or associated works or deliveries of materials shall take place outside the hours of 8am - 6pm Monday to Friday and 9am - 1pm Saturdays and no such works or deliveries shall be carried out at any time on Sundays or Public Holidays.

To safeguard the amenity of the nearby residents in accordance Policy DM1 of the South Tyneside Local Development Framework.

17 Materials

The external materials to be used in the construction of the dwellings and hard surface treatments shall be carried out in accordance with the details included on drawing number MP-01 Rev. I, received 23/05/2017. Unless alternatives have been previously submitted to and agreed in writing by the Local Planning Authority

pursuant to this condition and development is then carried out accordance with them.

To ensure a satisfactory standard of development and in the interests of visual amenity in accordance with Policy DM1 of the South Tyneside Local Development Framework.

18 Obscure glazing

Prior to the first occupation of the dwellings at plots 68, 69 and 71; all habitable room windows in the side elevations of these dwellings at ground floor and first floor levels (i.e. serving the kitchen/dining room and bedroom 2) shall be glazed with obscure glass to a level sufficient to protect the privacy of the occupants and neighbouring occupiers. The form of windows and obscure glazing shall be retained thereafter.

To ensure the protection of privacy for the occupants and neighbouring occupiers, in the interests of residential amenity and accordance with Policy DM1 of the South Tyneside Local Development Framework.

19 Boundary treatments

The boundary treatments serving the hereby approved development shall be completed on-site in accordance with the details included within drawing number BT-01 Rev. H received 23/05/2017. Unless alternatives have been previously submitted to and agreed in writing by the Local Planning Authority pursuant to this condition and development is then carried out accordance with them.

To ensure a satisfactory standard of development and in the interests of visual amenity in accordance with Policy DM1 of the South Tyneside Local Development Framework.

NOTES TO APPLICANT:

- 1 In dealing with this application the Council has implemented the requirements of the National Planning Policy Framework (paragraphs 186 & 187) to seek to approve applications for sustainable development where possible.
- 2 The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

UNIQUE NOTES TO APPLICANT

3 Bins

The Council requires the developer to provide to each unit before first occupation a 240l refuse bin and a 240l recycling bin to the Council's specification in order that the council can fulfil its obligation to collect and dispose of household waste. Details of the Council's specifications can be obtained from Waste Services at South Tyneside Council

4 Highways alterations

Alterations to the existing adopted highway or creation of new highway proposed for

adoption will require the separate approval of the Highway Authority under the provisions of the Highways Act 1980 (as amended). Please contact Highway Engineering Services, Adoptions and Projects Team, for further information on 0191 424 7507.

5 Birds

It is advisable that any tree, shrub, bush removal or site clearance works are carried out in full accordance with the recommendations set out in the submitted reports by Dendra Consulting Limited.

Under UK legislation it is an offence to intentionally or recklessly disturb, damage or destroy an active birds nest. An active nest is one which is in the process of being built or contains eggs / chicks. Activities which may affect nesting birds, for example tree, shrub, bush removal, must be organised and timed to avoid the bird breeding season which is March to August inclusive, unless a suitably qualified ecologist has undertaken a checking survey immediately prior to removal and has confirmed that no active birds nest(s) are present. Failure to do so may result in an offence being committed, regardless of planning consent, and could lead to prosecution under the Wildlife and Countryside Act 1981.

6 Dust mitigation measures

It is recommended that development is carried out with due consideration to the dust mitigation measures set out in the submitted Air Quality Assessment (at pages 31-33).

7 Planning obligations

This notice of grant of planning permission should be read in conjunction with the connected planning obligations [s106 agreement] between (1) The Council of the Borough of South Tyneside and (2) South Tyneside Housing Ventures Trust dated xx/xx/xxxx.

[Insert signature here]

George Mansbridge
Head of Development Services

Your attention is drawn to the attached schedule of notes which form part of this notice

NOTES

- 1 This certificate is issued under the Town and Country Planning Acts, Regulations and Orders and does not constitute a permission, approval or consent by South Tyneside Council for any other purpose whatsoever. Applications must therefore be made to the appropriate Departments of the Council for any other permission, approval or consent (including Building Regulations approval or approval of South Tyneside Council as ground landlord where appropriate) which may be necessary in connection with the proposed development or anything incidental thereto, or the use to be made of the premises which form the subject of such development.
- 2 You may also require permissions, approvals or consents under other legislation, or from bodies other than South Tyneside Council. This could include works affecting a public sewer, gas main, or electricity line, works within the adopted highway, works affecting a public right of way, property covenants, legislation relating to disabled persons, land drainage consent, waste management consent, scheduled monument consent or works affecting protected habitats or species.
3. Any non-material change to the approved plan(s) that form part of this permission would require the submission of an application for a non-material change under section 96A of the Town and Country Planning Act 1990. Whether changes to a proposed development are considered non-material is a matter for Planning Authority discretion.
- 4 The approved development should be implemented in strict compliance with all of the planning conditions, and in particular any which require details to be approved prior to the commencement of the development. Failure to do so may result in any commencement of development being unauthorised, which could be liable to enforcement action.
- 5 If you wish to change, or not comply with, any of the planning conditions attached to the permission, then you will need to submit a new application for planning permission under section 73 of the Town and Country Planning Act 1990. This does not affect your statutory rights of appeal against any of the planning conditions. This includes if you wish to not comply with a condition attached to a permission which details the approved plan(s), so as to make a minor material change to the approved plan(s). A minor material change is defined as one whose scale and nature results in a development that is not substantially different from that which has been approved.
- 6 Your attention is drawn to your responsibilities under the Chronically Sick and Disabled Persons Act 1970 and the Disability Discrimination Act 1995 relating to disabled persons, to ensure that adequate attention has been paid to their needs. If the proposed development involves new or existing buildings to which the public are to be admitted, or offices, shops, railway premises, factories or educational buildings, provision should be made for the means of access, parking and sanitary conveniences to meet the needs of disabled people. In addition, appropriate signposting of the facilities should be provided. In carrying out these statutory obligations your attention is drawn to the "Code of Practice for Access for the Disabled to Buildings" (BS5810:1979). You are advised to seek professional advice to ensure that you meet your legal obligations under the Disability Discrimination Act 1995, especially with regard to Part III thereof.

APPEALS TO THE SECRETARY OF STATE

7 Only the applicant possesses the right of appeal

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice unless:

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice [reference no. if applicable], if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice; or
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months of the date of this notice, whichever period expires earlier.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <https://acp.planninginspectorate.gov.uk>

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

PURCHASE NOTICES

- 8 If permission to develop land is granted subject to conditions, whether by South Tyneside Council as local planning authority or by the Secretary of State for Communities and Local Government, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances the owner may serve a purchase notice on the Council, requiring the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

SCHEDULE 2

1. Subject to paragraph 2 of this Schedule the Developer covenants not to Occupy (or cause or permit Occupation of) any of the Affordable Housing Units at any time other than as Affordable Housing.
2. The covenant at paragraph 1 of this Schedule shall no longer apply after any Affordable Housing Unit has been subject to a disposal required by:
 - 1.1 any statutory provisions now or hereafter enforced;
 - 1.2 any Order of the Court;
 - 1.3 the Homes and Communities Agency or its successor body,

and none of the terms of this Schedule shall bind a Protected Tenant or any Chargee of the Protected Tenant or any person deriving title from the Protected Tenant or Chargee or any successor in title thereto and their respective mortgagees and chargees and successors in title or any Chargee of the Developer or their respective successors in title who shall be free to sell free from the provisions of this Agreement.

3. Within 21 days following the Commencement of Development, the Developer covenants to pay the Council £2,700 as a contribution towards woodland management and/or improvement works and new specimen planting at Primrose Local Nature Reserve, Jarrow and the Council covenants with the Developer to not to use the said contribution other than for the purposes for which it was paid as specified in this paragraph.

SCHEDULE 3

Nomination Agreement

1. BACKGROUND

- 1.1 This Nomination Agreement comprises part of the requirements of a planning obligation under section 106 of the Town and Country Planning Act 1990 between (1) The Council of the Borough of South Tyneside and (2) South Tyneside Housing Ventures Trust Limited on the date hereof (the 's106 Agreement')
- 1.2 The Council may so far as reasonable and having regard to its overall housing objectives require the Affordable Housing Provider to enter into such revised Nomination Agreement as is agreed with the Affordable Housing Provider (both parties acting reasonably) in substitution for this Schedule 3.
- 1.3 The Council operates a choice based lettings allocation scheme 'South Tyneside Homes'. All nominations shall be made in accordance with this scheme or any replacement scheme.
- 1.4 For the avoidance of doubt is agreed that this Nomination Agreement shall only bind the Affordable Housing Units and no other Dwelling.

2. TRUE VOIDS

- 2.1 "True Voids" Comprise:
- 2.1.1 voids within new build / newly built rehabilitated schemes;
 - 2.1.2 voids created where a tenant moves to another landlord where no reciprocal arrangements exist;
 - 2.1.3 voids created by the death of a tenant where there is no statutory right to succeed;
 - 2.1.4 voids created because of a transfer to another borough (unless the transfer is due to harassment or domestic violence);
 - 2.1.5 voids created by a tenant buying their own property in the private sector;
 - 2.1.6 voids created by eviction or abandonment of a property; and

2.1.7 voids created because of a permanent decant, unless the property is re-let to a tenant who is being decanted.

3. NON-TRUE VOIDS

3.1 "Non True Voids" comprise:

3.1.1 voids created as the result of a tenant transfer where the tenant is moving within the borough in which the previous tenancy was situated;

3.1.2 voids created because of a tenant transfer where the tenant is moving to a void owned by the same Affordable Housing Provider within the district provided that the cross-borough transfer is being carried out because of racial or sexual harassment, domestic violence or extreme social need where the support of relatives is deemed essential; and

3.1.3 voids created by a decanted tenant who is returning.

4. NOMINATION RIGHTS

4.1 The Council shall have nomination rights in respect of 100% of new build lets and 50% of any nomination rights to any subsequent True Void lets.

5. NEW BUILD LETS

5.1 The Affordable Housing Provider shall notify the Council in writing of the proposed date of completion of the Development no later than 28 days prior to such proposed date.

5.2 Within 14 days of receipt of the notice referred to in clause 5.1 the Council will provide the Affordable Housing Provider with a list of nominations (up to 3 nominations per True Void) sufficient to fill all of the Affordable Housing Units.

5.3 In the event of rejections, by either the Affordable Housing Provider or any applicant, the Council will provide further nominations until such time as each of the Affordable Housing Units is first Occupied pursuant to a Council nomination.

6. SUBSEQUENT TRUE VOID LETS

- 6.1 The Affordable Housing Provider shall serve notice on the Council of a vacant Affordable Housing Unit within 14 days of the Affordable Housing Unit becoming vacant or from when it is first known it will become vacant, whichever occurs first.
- 6.2 The Registered Provider shall request nominations from the Council using the appropriate request form.
- 6.3 The Council shall advertise the vacant Affordable Housing Unit and invite applications from people listed on the local housing register.
- 6.4 Within seven days of receipt of the notification in paragraph 6.1 the Council shall provide a shortlist of up to three applicants to the Affordable Housing Provider.
- 6.5 The Affordable Housing Provider shall decide on whether to approve or refuse the applications nominated by the Council.
- 6.6 The Affordable Housing Provider shall advise the Council of any offer of accommodation following a nomination. On acceptance of the offer the Registered Provider shall notify the Council and confirm the tenancy start date.
- 6.7 The Affordable Housing Provider shall inform the Council of any reasons for refusal should a refusal be made. A nominee who delays their agreement to take up a tenancy of the relevant Dwelling for more than [fourteen] days following receipt of the Affordable Housing Provider's offer shall be deemed to have rejected the offer of the tenancy.
- 6.8 Should the Council nomination fail then the Affordable Housing Provider may offer the property to a person from their own list. This will be classified as a Council nomination.
- 6.9 Should the percentage of successful Council nominations fall below 50% to any material extent at any time, the Council and Affordable Housing Provider shall use reasonable endeavours to adopt a procedure to Council nominations so as to ensure the percentage of successful nominations achieves 50%..

7. MONITORING

- 7.1 The Affordable Housing Provider will record details of all lettings made to nominations in the Continuous Recording of Lettings (CORE) as required by the Homes and Communities Agency.

8. INCUMBRANCES

The Council hereby acknowledges that the provisions of this Agreement are personal to the Council (and any successor body of the Council) and the Affordable Housing Provider (and any successor body of the Affordable Housing Provider which is a Registered Provider as defined by the Housing and Regeneration Act 2008) and shall not bind any tenant, leaseholder or other owner or occupier of the Affordable Housing Units or a Chargee or its or their successors in title

EXECUTED as a DEED)
by affixing the COMMON)
SEAL of THE COUNCIL)
OF THE BOROUGH OF)
SOUTH TYNESIDE)
in the presence of:)



Mayor / Authorised Signatory



~~Head of Legal Services /~~
Authorised Signatory



EXECUTED as a DEED)
By SOUTH TYNESIDE HOUSING)
VENTURES TRUST LIMITED)
by affixing)
Its COMMON SEAL in the)
presence of: CHRIS JONES)



SOUTH TYNESIDE HOMES
STRATHMORE

Authorised Signatory



COMPANY SECRETARY.

