

Agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 and associated powers relating to the development of land at the rear of the former Colindale Hospital site, Colindale Avenue, London

Dated 29th March 2012

The Mayor and Burgesses of The London Borough of Barnet
(Council)

Fairview New Homes (South East) Limited
(Fairview)

Barnet Enfield and Haringey Mental Health National Health Service Trust
(Trust)

Contents

1	Definitions	2
2	Interpretation	6
3	Legal Effect	7
4	Covenants	7
5	Mortgagee Exclusion Clause	9
6	Change in Ownership	9
7	Arbitration	9
	Schedule 1	10
	The Land	10
	Schedule 2	11
	Fairview's Covenants	11
	Schedule 3	14
	The Trust's Covenants	14
	Schedule 4	17
	Council's Covenants	17
	Appendix 1 - HCA Economic Appraisal Tool – Fairview Land	18
	Appendix 2 - HCA Economic Appraisal Tool – Trust Land	19
	Appendix 3 – Plans and Transfers	20

Agreement

Dated 29th March 2012

Between

- (1) **The Mayor and Burgesses of The London Borough of Barnet (Council)** of the North London Business Park, Oakleigh Road South, London N11 1NP; and
- (2) **Fairview New Homes (South East) Limited (Fairview)** registered in England with number 03427497 of 50 Lancaster Road Enfield Middlesex EN2 0BY; and
- (3) **Barnet Enfield and Haringey Mental Health National Health Service Trust (Trust)** of Trust Headquarters Block B2 St Ann's Hospital St Ann's Road, London N15 3TH; and

Whereas

- A Fairview has the freehold interest in the Land registered at Land Registry under Title Number AGL241354 and in the land transferred to Fairview by the Trust by a transfer dated 16th March 2012 attached to this Agreement at Schedule 1 and the Trust has the freehold interest in the Land registered at Land Registry under Title Number NGL729018 and in the land transferred to the Trust by Fairview by a transfer dated 16th March 2012 attached to this Agreement at Schedule 1.
- B The Council is the Local Planning Authority for the purposes of the Town and Country Planning Act 1990 (as amended) and the Highway Authority for the purposes of the Highways Act 1980 for the area within which the Land is situated.
- C On 7 November 2011 Fairview through their agent applied to the Council for the Permission in relation to the Land for the Development.
- D At a meeting of the Council's Planning and Environment Committee held on 14th February 2012 it was resolved that the Permission should be granted subject to the completion of this Agreement.
- E The Council is a Local Authority for the purposes of Section 111 of the Local Government Act 1972 and is satisfied that the arrangements made in this Agreement will facilitate be conducive to and be incidental to the Council's functions.
- F The Council considers it expedient and in the interests of the proper planning of its area that provision should be made for regulating development in the manner hereinafter appearing and the parties hereto have accordingly agreed to enter into this Agreement.

It is agreed as follows:

1 Definitions

In this Agreement unless the context otherwise requires:

1990 Act means the Town and Country Planning Act 1990 (as amended).

Affordable Housing means housing designed to meet the needs of households whose incomes are not sufficient to allow them access to decent and appropriate housing that is to be erected and made permanently available for rent and shared ownership to persons in Housing Need

nominated (in accordance with Schedule 2 paragraph 1(d) in respect of the Fairview Affordable Housing Units and Schedule 3 paragraph 1(d) in respect of the Trust Affordable Housing Units) by the London Borough of Barnet.

Affordable Housing Scheme means a scheme for the supply of the Affordable Housing Units

i) **Fairview Affordable Housing Units** means the provision on the Fairview Land of:

37 Units for Affordable Rent within the Development which are to be transferred to a Registered Provider comprising:

8 x 1 bedroom / 2 person flats;
6 x 2 bedroom / 3 person flats
9 x 2 bedroom / 4 person flats
1 x 2 bedroom / 4 person wheelchair flat
10 x 3 bedroom / 5 person flats
1 x 3 bedroom / 5 person wheelchair flat
2 x 3 bedroom / 4 person maisonettes

ii) **Trust Affordable Housing Units** means the provision on the Trust Land of:

6 Affordable Rented Units within the Development which are to be transferred to a Registered Provider comprising:

1 x 1 bedroom / 2 person flat
1 x 2 bedroom / 3 person flat
1 x 2 bedroom / 4 person flat
1 x 3 bedroom / 5 person flat
2 x 3 bedroom / 4 person maisonettes

3 Shared Ownership Units which are to be transferred to the Council's nominee being a Registered Provider comprising:

2 x 2 bedroom / 3 person flats
1 x 3 bedroom 5 person flats

Affordable Rented Units means rented housing by Registered Providers of affordable rented housing. The rent charged is required to be offered to eligible householders at a rental level that must be affordable and accessible for households on incomes comparable to the maximum that may be obtainable on Housing Benefit or Universal Credit of £26,000 per household as at the date of this agreement indexed by RPI whichever may apply at the time of letting and which does not exceed 80% of local market rents.

Application means the application for planning permission registered by the Council bearing reference number H/04541/11 in respect of the Land being the demolition of existing buildings and construction of 240 flats within three separate blocks ranging from four to seven storeys in height, together with associated parking, landscaped public and private open space and new public square.

Car Club means a car club to serve the Development established pursuant to the Section 106 Agreement dated 20th November 2009 made between the parties in respect of planning permission H/00342/09.

Contributions means the financial contributions to be paid to the Council by Fairview or the Trust as the case may be under the terms of this Agreement.

Cycle Maintenance Workshop Contribution means the sum of £2,260 towards workshops to be operated by an independent bicycle shop on a bi-annual basis for the servicing and maintenance of bicycles belonging to occupiers of the Development.

Development means that development permitted by the Permission.

Development Standards means the Design and Quality Standards and Housing Quality Indicators (April 2007)

Education Contribution means a financial contribution in the sum of £1,316,573.00 Index Linked to be paid to the Council in accordance with Schedule 2 and 3 of this Agreement for the purpose of providing primary and secondary education facilities to serve the Development.

Healthcare Contribution means the sum of £212,179.00 Index Linked to be paid to the Council in accordance with Schedule 2 and 3 of this Agreement for the provision of healthcare facilities within the London Borough of Barnet to serve the Development

Highways Contribution means the sum of £840,000 Index Linked to be paid to the Council in accordance with Schedule 2 and 3 of this Agreement towards highways and public transport infrastructure in the Colindale AAP area

Housing Benefit means a means tested social security benefit that is intended to help meet housing costs for rented accommodation in accordance with the Social Security Contributions and Benefits Act 1992 and the Housing Benefit Regulations 2006.

Housing Need A person has a housing need if he is homeless or the dwelling he occupies is overcrowded or under occupied or in need of renovation or unfit for human habitation or for whatever reason the Council deem it unreasonable for them to continue to occupy and their incomes are not sufficient to allow them to access decent and appropriate housing.

Index' means the "all items" Retail Prices Index published by the Office for National Statistics or any successor ministry department or organisation or (if such Index is at the relevant time no longer published) such other comparable Index or basis for indexation as the parties may agree

Index- Linked means the product (if any) of the amount of the contributions payable under this Agreement multiplied by A and divided by B where "A" is the most recently published figure for the Index prior to the date of the payment and "B" is the most recently published figure for the Index at the date of the Agreement

Initial Viability Assessment - Fairview Land means the HCA Economic Appraisal Tool submitted as part of the Application and attached as Appendix 1

Initial Viability Assessment - Trust Land means the HCA Economic Appraisal Tool submitted as part of the Application and attached as Appendix 2

Implementation means the commencement of the Development by the carrying out of a material operation as defined in Section 56(4) of the 1990 Act, save that for the purposes of determining whether or not a material operation has been carried out there shall be disregarded such operations as archaeological investigation demolition site clearance site preparation preliminary site works providing services and statutory undertakers equipment site or soil investigations diversion of services the erection of fences and hoardings or other site security measures and construction of access or service roads.

Land means the Fairview Land shown coloured green and the Trust Land shown coloured yellow on Plan 1 and described in Schedule 1 of this Agreement.

Monitoring Contribution means the sum of £20,000 Index Linked towards the Council's costs in monitoring the obligations under this Agreement.

Montrose Park Access Works Contribution means the sum of £25,000 towards works to improve and extend the existing footpath and provide for a new cycle/foot bridge between the Land and Montrose Park as indicated on Plan 5 and being carried out pursuant to the Section 106 Agreement dated 20th November 2009 between the parties in respect of planning permission H/00342/09

Notting Hill Construction Training Initiative means Notting Hill Housing Trusts initiative to secure training and work experience for unemployed people seeking to pursue a career in construction as detailed in the Council's Supplementary Planning Document for Affordable Housing (adopted February 2007)

Occupied means first beneficial occupation of a building or any part thereof for the purposes for which it was built and the terms **Occupy** and **Occupation** and cognate expressions shall be interpreted in accordance with this definition.

Open Market Housing Units means those Residential Units forming part of the Development other than the Affordable Housing Units.

Oyster Card means an Oyster Card smartcard affiliated to Transport for London that allows the holder to travel on public transport services within the Greater London area of the United Kingdom

Permission means the planning permission granted pursuant to the Application together with any modification made thereto with the consent of the parties to this Agreement.

Plan(s) 1 – 3 means the plans attached to this Agreement at Appendix 2 marked individually S.106 Agreement Plan 1 – 3 .

Registered Provider means registered providers as defined in Section 80 of the Housing and Regeneration Act 2008

Residential Units means the residential accommodation comprised in the Development.

Revised Viability Assessment - Fairview Land means the viability assessment to be carried out in accordance with Schedule 2 and which shall be in the same form as the Initial Viability Assessment- Fairview Land save that:

- 1) the "Capital Value (£psm) of the Open Market Housing" shall be increased or decreased at the date of Implementation of works to the Fairview Land in accordance with the Halifax House Price Index using the Index for January 2012 (being 520.8) as the base position, and
- 2) the "Building Costs- Gross (£/sq m)" shall be increased or decreased at the date of Implementation of works to the Fairview Land in accordance with the BCIS General Building Cost Index taking the Index for Quarter 1 2012 as the base position.
- 3) The "Site Value Today" referred to in said assessment shall be fixed at £5,763,933 by adjusting the entry for "Developer's Return for Risk and Profit (before taxation) Open Market Housing (%)" referred to in the said assessment

AND for the avoidance of doubt all other entries will remain unchanged from the Initial Viability Assessment – Fairview Land except where they are varied automatically as a consequence of re-running the HCA Economic Appraisal Tool with the entries for the Capital Value (£psm), of the Open Market Housing, and Building Costs- Gross (£/sq m) and the "Developer's Return for Risk and Profit (before taxation) Open Market Housing (%)" in the manner described above

Revised Viability Assessment - Trust Land means the viability assessment to be carried out in accordance with Schedule 3 and which shall be in the same form as the Initial Viability Assessment- Trust Land save that:

1) the "Capital Value (£psm) of the Open Market Housing" shall be increased or decreased at the date of Implementation of works to the Trust Land in accordance with the Halifax House Price Index using the Index for January 2012 (being 520.8) as the base position, and

2) the "Building Costs- Gross (£/sq m)" shall be increased or decreased at the date of Implementation of works to the Trust Land in accordance with the BCIS General Building Cost Index taking the Index for Quarter 1 2012 as the base position.

3) The "Site Value Today" referred to in said assessment shall be fixed at £ by adjusting the entry for "Developer's Return for Risk and Profit (before taxation) Open Market Housing (%)" referred to in the said assessment

AND for the avoidance of doubt all other entries will remain unchanged from the Initial Viability Assessment – Trust Land except where they are varied automatically as a consequence of re-running the HCA Economic Appraisal Tool with the entries for the Capital Value (£psm), of the Open Market Housing, and Building Costs- Gross (£/sq m) and the "Developer's Return for Risk and Profit (before taxation) Open Market Housing (%)" in the manner described above

Serviced Condition means the provision of all service media for electricity gas foul and surface water drainage and rights of way as are reasonably necessary for the beneficial enjoyment the relevant part of the Development.

Shared Ownership means the granting of a lease of an Affordable Housing Unit for a term of not less than 125 years granting an equity share in the affordable housing unit to a shared ownership lessee where first sales should not be less than 25% and not exceed 75% within the provisions allowing the shared ownership lessee to purchase further shares in the shared ownership unit such shared ownership lease to be drafted in accordance with the terms recommended by the Homes and Community Agency

TfL means Transport for London.

Travel Plan means a plan to be prepared by Fairview in accordance with paragraph 9 of the Second Schedule and paragraph 8 of the Third Schedule as may be varied from time to time with the written consent of the Council.

Travel Plan Monitoring Contribution means a contribution of the sum of £10,000 Index Linked to be applied by the Council towards the costs of monitoring the Travel Plan.

Travel Voucher means a voucher up to the value of £150 per Residential Unit for the purposes set out at paragraph 9(b)(iv) of the Second Schedule and paragraph 8(b)(iv) of the Third Schedule.

Universal Credit means a new benefit due to be introduced in October 2013, replacing current means-tested benefits and tax credits for people of working age.

Utility Land means land acquired by a utility company or other statutory undertakings for operational purposes.

2 Interpretation

2.1 Where the context so requires:

- (a) the singular includes the plural
- (b) the masculine includes the feminine;
- (c) references to any party shall include the successors in title of that party;

- (d) where a party includes more than one person any obligations of that party shall be joint and several;
- (e) references to clauses and schedules are references to clauses in and schedules to this Agreement; and
- (f) save as otherwise provided in this Agreement any approval in writing or consent to be given by the Council or Fairview or the Trust under this Agreement shall not be unreasonably withheld or delayed.

3 Legal Effect

- 3.1 This Agreement is made pursuant to Section 106 of the 1990 Act, Section 278 of the Highways Act 1980 and Section 111 of the Local Government Act 1972 to the intent that it shall bind Fairview and the Trust and their respective successors in title to each and every part of the Land and their respective assigns as provided in those sections.
- 3.2 The covenants hereinafter contained are planning obligations for the purposes of Section 106 of the 1990 Act.
- 3.3 This Agreement is also entered into by the Council pursuant to Section 2 of the Local Government Act 2000 as being expedient for the purposes of improving the economic social or environmental wellbeing of the area.
- 3.4 The Council is the local planning authority by whom the obligations are enforceable.
- 3.5 No person or company shall be liable for any breach of this Agreement unless he or it holds an interest in the part of the Land in respect of which such breach occurs or held such an interest at the date of the breach.
- 3.6 Except for the covenants in clauses 4.1 and 4.3 (which take effect from the date of this Agreement) the other covenants in this Agreement shall take effect subject to the grant and implementation of the Permission.
- 3.7 If the Permission expires within the meaning of Section 91 of the 1990 Act or is revoked or quashed or otherwise withdrawn or modified by any statutory procedure without the consent of Fairview and the Trust or their respective successors in title this Agreement shall cease to have effect.
- 3.8 Nothing in this Agreement shall be construed as prohibiting or limiting any right to develop any part of the Land in accordance with a planning permission granted by the Council or by the Secretary of State of Communities and Local Government on appeal or reference to him after the date of this Agreement.

4 Covenants

- 4.1 Fairview covenants with the Council to give not less than 14 days prior written notification to the Council's Director of Planning and Environmental Protection (or such other officer as may be advised to Fairview) at North London Business Park, Ground Floor, Building 4, Oakleigh Road South, London N11 1NP of the intended date of Implementation of the Permission.
- 4.2 Fairview covenants with the Council to carry out and comply with the obligations on its part contained in the Schedule 2 hereto and the Trust covenants with the Council to carry out and comply with the obligations on its part contained in the Schedule 3 hereto.
- 4.3 Fairview shall pay the Council's proper and reasonable legal costs and professional fees for the preparation and completion of this Agreement in the sum of £3,511.00.

- 4.4 Fairview shall pay to the Council the Monitoring Contribution within 14 days of Implementation.
- 4.5 Fairview covenants with the Council to pay the Contributions in their entirety Index Linked to the Council in accordance with the terms of this Agreement.
- 4.6 Without prejudice to any other right remedy or power herein contained or otherwise available to the Council if any payment of any sum referred to herein shall have become due but shall remain unpaid then Fairview and/or the Trust (as the case maybe in accordance with this Agreement) shall pay the Council interest at the rate of 4% above the base lending rate of the Co-operative Bank Plc or such other bank as the Council uses on any unpaid amounts of the contributions from the dates when they are due to the dates on which they are paid to the Council.
- 4.7 Fairview (in respect of the Fairview Land) and the Trust (on Implementing the Development in respect of the Trust Land) shall provide bi-annual updates to the Council unless otherwise agreed in writing between the parties in the form of a report containing an update on the progress of the Development for all stages of the Development and construction including the number of units completed and those units in Occupation.

The Council

- 4.8 The Council covenants with Fairview and the Trust to carry out and comply with the obligations on its part contained in the Schedule 4 hereto.
- 4.9 The Council covenants with Fairview and the Trust to use the Contributions and any interest accrued thereon for the purposes set out in this Agreement and for no other purpose unless otherwise agreed in writing with Fairview or the Trust as the case may be.
- 4.10 Upon written request from Fairview and/or the Trust the Council covenants to provide written explanation as to how the Contributions have been applied.
- 4.11 Unless otherwise provided for in this Agreement in the event that the Contributions or any of them or any part thereof are not expended by the Council within the period of five years from the date of payment then the Council shall following receipt of a request from Fairview and/or the Trust return such unexpended balance or part thereof to the person who paid the relevant Contribution or part thereof together with any interest accrued thereon.
- 4.12 The Council covenants with Fairview and the Trust to hold all payments received under the terms of this Agreement in an interest bearing account and upon written request from Fairview and/or the Trust to provide Fairview and/or the Trust with a status report and statements in relation to that account.

General

- 4.13 The obligations in this Agreement shall not affect, bind or be enforceable against any owner of an occupational interest in a Residential Unit or Utility Land forming part of the Development unless expressly so stated in this Agreement.
- 4.14 The parties hereto shall act in good faith and shall co-operate with the other to facilitate the discharge and performance of all obligations contained herein.
- 4.15 Where any approval, consent, agreement or the like is required to be given by Fairview and/or the Trust, or the Council pursuant to the terms of this Agreement it shall be in writing and no party shall unreasonably withhold or delay any such approval, consent, agreement or the like provided that nothing herein shall fetter the statutory rights, powers or duties of the Council.
- 4.16 Any notice under this Agreement must be in writing and must either be delivered personally or sent by first class prepaid post and the addressed for service on Fairview, the Trust, and the Council are those stated in this Agreement or such other addresses in England as the party to be served may have previously notified in writing.

- 4.17 Each notice served in accordance with sub-clause 4.16 is deemed to have been given or made and delivered if by delivery when left at the relevant address or if by letter 48 (forty eight) hours after posting.

5 Mortgagee Exclusion Clause

- 5.1 The provisions of this Agreement shall not bind:
- 5.1.1 any mortgagee or chargee of the holder of any freehold or leasehold interest in the Affordable Housing Units or any part thereof or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 or otherwise by a party who has provided loan facilities to such freehold or leasehold owner;
- 5.1.2 any occupier of the Affordable Housing Units who shall exercise any statutory power to acquire or buy that Unit from a Registered Social Landlord pursuant to the Housing Act 1985 or the Housing Act 1996 or who has acquired 100% of the shares of the unit;
- 5.1.3 any successor in title to any of the persons categorised in this clause

6 Change in Ownership

Fairview and the Trust covenant with the Council to give the Council immediate written notice of any change in ownership of any of their respective interests in the Land occurring before all the obligations under this Agreement have been discharged. Such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Land or unit of occupation purchased by reference to a plan.

7 Arbitration

Any dispute or difference arising between the parties with regard to their respective rights and obligations as to any matter or thing in any way arising out of or connected with this Agreement shall be referred to the decision of a single arbitrator to be agreed by the parties or failing agreement between them to be nominated by the President for the time being of the Royal Institution of Chartered Surveyors as the case may be and any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1996 or any statutory modification or re-enactment for the time being in force.

In witness of which the parties have signed and sealed this Agreement as a Deed on the date first written above.

Schedule 1

The Land

Land at the rear of Colindale Hospital comprising the former NHSBT expansion site, Birch Court, Willow Court and Elysian House, Colindale Avenue, London NW9 5DZ registered at Land Registry under Title Number AGL241354 as shown on Plan 2 (save as varied by Transfer 2) and the land transferred to Fairview by the Trust by a transfer dated 16th March 2012 ("Transfer 1") attached at Appendix 3 (together being "the Fairview Land") and Title Number NGL729018 as shown on Plan 3 (save as varied by Transfer 1) and the land transferred to the Trust by Fairview by two transfers dated 16th March 2012 attached hereto ("Transfer 2") attached at Appendix 3 (together being the "Trust Land").

Schedule 2

Fairview's Covenants

Fairview covenants with the Council as follows:

Affordable Housing

1. Prior to Implementation of the Fairview Affordable Housing Fairview shall offer to transfer to a Registered Provider the freehold interest or a leasehold interest for a term of no less than 125 years on a full repairing and insuring basis for each of the Fairview Affordable Housing Units (subject to Clause 6) free from all encumbrances (other than those on the title of the Fairview Land at the date of this Agreement) and free from all financial charges in respect of the Fairview Affordable Housing upon the following basis:
 - (a) Fairview shall procure that the Fairview Affordable Housing Units shall be built to Developments Standards;
 - (b) that no more than 75% of the Open Market Housing Units shall be Occupied on the Fairview Land until the Fairview Affordable Housing Units have been Completed;
 - (c) that the Fairview Affordable Housing Units shall be occupied only by persons who are in Housing Need;
 - (d) Fairview shall procure that the Registered Provider grants to the Council the right to nominate initially 100% of suitable households in Housing Need for the Affordable Rent Units on the Fairview Land and 75% for subsequent lettings of the Units for Affordable Rent on the Fairview Land.
2. Prior to Completion of the Fairview Affordable Housing Units, Fairview must ensure, in accordance with all statutory requirements in force at the time that:
 - (a) all highways (if any) and sewerage and drainage serving the Fairview Affordable Housing Units are in place;
 - (b) all private roads footways and footpaths (if any) serving the Fairview Affordable Housing Units are in place and constructed and Completed;
 - (c) all private sewage and drainage pipes channels and gutters and all mains water gas and electricity pipes and cables serving the Fairview Affordable Housing Units are in place and constructed laid and Completed.
3. Fairview shall give the Council not less than two calendar months prior written notice of the date of Completion of the Fairview Affordable Housing Units to the Council's Housing Association Development Officer (or such other officer as may be advised by the Council) at North London Business Park, Oakleigh Road South, London N11 1NP.
4. Fairview shall include the Fairview Affordable Housing Units within the Notting Hill Construction Training Initiative, which secures training and work experience for unemployed adults seeking to pursue a career in construction details of which are stated in the Council's Supplementary Planning Document for Affordable Housing and shall include:
 - (a) The agreed number of trainee places to be provided on the site of the Fairview Affordable Housing Units and the duration of each placement;
 - (b) A commitment to pay a percentage of the build costs in respect of that part of the Fairview Affordable Housing Units such payment to cover general running costs such as trainees' fees fares and tools;

- (c) A commitments to pay a "provisional sum" expressed as a percentage of the build costs in respect of the Fairview Affordable Housing Units to cover trainees' wages.

Viability Review

5. Within 28 days of Implementation of works on the Fairview Land to submit a Revised Viability Assessment- Fairview Land to the Council in respect of the Dwellings to be constructed on the Fairview Land as part of the Development.
6. In the event that the Revised Viability Assessments submitted in accordance with paragraph 5 of the said assessment shows a "Developers Return for Risk and Profit" (before taxation) on Open Market Housing of more than 20% ("the Surplus") then 50% of the Surplus shall be paid to the Council before Occupation of 50% of the Open Market Housing Units on the Fairview Land PROVIDED that the payment (the "Deferred Affordable Housing Contribution") shall be capped at £918,944 being the amount which the Council accepts as being equivalent to the provision of 30% affordable housing on site and after which payment or such lesser payment as may be indicated by the Revised Viability Assessment the Council acknowledges that Fairview has no further obligations in respect of the provision of Affordable Housing on the Fairview Land.

Montrose Park Access Works Contribution

7. To use the Montrose Park Access Works Contribution prior to Occupation of the 520th unit constructed pursuant to planning permission H/00342/09

Highway, Education and Healthcare Contributions

8. To pay part of the Highway Contribution, Education Contribution and Healthcare Contribution to the Council as follows:
- (a) Prior to Implementation to pay £168,000 of the Highway Contribution Index Linked
- (b) Prior to Occupation of the 100th Residential Unit to pay:
- (i) £548,572.08 of the Education Contribution Index Linked
- (ii) £88,407.92 of the Health Contribution Index Linked
- (c) Prior to Occupation of the 119th Residential Unit to pay £525,000 of the Highway Contribution Index Linked
- (d) Prior to Occupation of the 134th Residential Unit to pay:
- (i) £537,600.64 of the Education Contribution Index Linked
- (ii) £86,639.76 of the Health Contribution Index Linked

Travel Plan

9. Not to Occupy the Development within the Fairview Land until:
- (a) a local level Travel Plan in respect of the Development within the Fairview Land ("the Fairview Travel Plan") has been submitted to and approved by the Council that adheres to the Transport for London guidance 'Travel Planning for new development in London incorporating deliveries and servicing' and thereafter to reduce reliance on the use of the private car, manage deliveries and servicing and to ensure the sustainability of the Development within the Fairview Land.
- (b) The Fairview Travel Plan shall include the following obligations to facilitate modal shift in the choice of transport mode available to occupiers of the residential units within the Fairview Land as follows:

- (i) The Development within the Fairview Land shall take account of the Travel Plan for the main Colindale Hospital development approved under planning reference H/00342/11;
 - (ii) The Development within the Fairview Land shall link in with the Car Club provided on the main Colindale Hospital development approved under planning reference H/00342/11;
 - (iii) Provision of at least 1 dedicated Car Club parking space within the development with scope for more spaces to be provided subject to demand;
 - (iv) Upon acquiring a Residential Unit the occupier will be given a Travel Voucher to the value of £150 per dwelling up to a maximum cost of £29,700 to Fairview. The voucher shall either allow the occupier to purchase up to 2 years' membership to the Car Club with the remaining value as an Oyster Card travel pass, or the full value of £150 shall be provided as an Oyster Card travel pass;
 - (v) Provision for five years of bi-annual workshops for the servicing and maintenance of bicycles, at a cost of £2,260 to Fairview, in order to encourage occupiers to cycle more regularly;
- (c) promote and publicise the approved Fairview Travel Plan;
 - (d) appoint and maintain a Travel Plan Co-ordinator for at least 5 years to co-ordinate the implementation of the approved Fairview Travel Plan;
 - (e) use all reasonable endeavours to procure the implementation of the Travel Plan by the dates or within the time limits set out in the Fairview Travel Plan;
 - (f) review the approved Fairview Travel Plan annually from the date of implementation of the approved Fairview Travel Plan within three months of receiving the report of the review to work up a revised Fairview Travel Plan for any further measures and methods identified by the review and to submit the same to the Council for approval;
 - (g) use reasonable endeavours to procure the implementation of the revised Fairview Travel Plan by the dates and within the time limits set out in the revised Fairview Travel Plan.

Cycle Maintenance Workshop Contribution

- 10. For a period of five years from the Occupation of the Development to provide the Cycle Maintenance Workshops at a cost to Fairview of £2,260 over that five year period

Travel Plan Monitoring Contribution

- 11. To pay the Travel Plan Monitoring Contribution of £10,000 to the Council in accordance with the provisions of the Travel Plan prior to the occupation of the Development

Schedule 3

The Trust's Covenants

The Trust covenants with the Council as follows:

Affordable Housing

1. Prior to Implementation of the Trust Affordable Housing the Trust shall offer to transfer to the Council's Nominee (being a Registered Provider) the freehold interest or a leasehold interest for a term of no less than 125 years on a full repairing and insuring basis for each of the Trust Affordable Housing Units (subject to Clause 6) free from all encumbrances (other than those on the title of the Trust Land at the date of this Agreement) and free from all financial charges in respect of the Trust Affordable Housing upon the following basis:
 - (a) The Trust shall procure that the Trust Affordable Housing Units shall be built in accordance with the Development Standards;
 - (b) that no more than 75% of the Open Market Housing Units shall be Occupied on the Trust Land until the Trust Affordable Housing Units have been Completed;
 - (c) that the relevant Affordable Housing Units shall be occupied only by persons who are in Housing Need;
 - (d) The Trust shall procure that the Registered Provider grants to the Council the right to nominate initially 100% of suitable households in Housing Need for the Affordable Rent Units on the Trust Land and 75% for subsequent lettings of the Units for Affordable Rent on the Trust Land.
2. Prior to Completion of the Trust Affordable Housing Units, the Trust must ensure, in accordance with all statutory requirements in force at the time that:
 - (a) all highways and sewerage and drainage serving the Trust Affordable Housing Units are in place;
 - (b) all private roads footways and footpaths (if any) serving the Trust Affordable Housing Units are in place and constructed and Completed;
 - (c) all private sewage and drainage pipes channels and gutters and all mains water gas and electricity pipes and cables serving the Trust Affordable Housing Units are in place and constructed laid and Completed
3. The Trust shall give the Council not less than two calendar months' prior written notice of the date of Completion of the Trust Affordable Housing Units to the Council's Housing Association Development Officer (or such other officer as may be advised by the Council) at North London Business Park, Oakleigh Road South, London N11 1NP
4. The Registered Provider shall take all reasonable steps and use its reasonable endeavours to ensure that the Trust Affordable Housing Units for Shared Ownership are sold in accordance with this Agreement however should there be insufficient persons who are in Housing Need wishing to purchase such Affordable Housing Units within three months of the Affordable Housing Units being ready for occupation the Registered Provider may sell units after three months of the Affordable Housing Units being ready for occupation in accordance with their own sales policy giving priority to people residing in the North London Sub Region
5. The Trust shall include the Trust Affordable Housing Units within the Notting Hill Construction Training Initiative, which secures training and work experience for unemployed adults seeking

to pursue a career in construction, details of which are stated in the Council's Supplementary Planning Document for Affordable Housing and shall include:

- (a) The agreed number of trainee places to be provided on the site of the Trust Affordable Housing Units and the duration of each placement;
- (b) A commitment to pay a percentage of the build costs in respect of that part of the Trust Affordable Housing Units such payment to cover general running costs such as trainees' fees fares and tools;
- (c) A commitment to pay a "provisional sum" expressed as a percentage of the build costs in respect of that part of the Trust Affordable Housing Units to cover trainees' wages.

Viability Review

- 6. Within 28 days of Implementation of works on the Trust Land to submit a Revised Viability Assessment Trust Land to the Council in respect of the Dwellings to be constructed on the Trust Land as part of the Development.
- 7. In the event that the Revised Viability Assessments submitted in accordance with paragraph 5 of the said assessment shows a "Developers Return for Risk and Profit" (before taxation) on Open Market Housing of more than 20% ("the Surplus") then 50% of the Surplus shall be paid to the Council before occupation of 50% of the Open Market Housing Units on the Trust Land PROVIDED that the payment (the "Deferred Affordable Housing Contribution") shall be capped at £114,868 being the amount which the Council accepts as being equivalent to the provision of 30% affordable housing on site and after which payment or such lesser payment as may be indicated by the Revised Viability Assessment the Council acknowledges that the Trust has no further obligations in respect of the provision of Affordable Housing on the Trust Land.

Travel Plan

- 8. Not to Occupy the Development within the Trust Land until:
 - (a) a local level Travel Plan in respect of the Development within the Trust Land ("the Trust Travel Plan") has been submitted to and approved by the Council that adheres to the Transport for London guidance 'Travel Planning for new development in London incorporating deliveries and servicing' and thereafter to reduce reliance on the use of the private car, manage deliveries and servicing and to ensure the sustainability of the Development within the Trust Land.
 - (b) The Trust Travel Plan shall include the following obligations to facilitate modal shift in the choice of transport mode available to occupiers of the residential units within the Development on the Trust Land as follows:
 - (i) The Development within the Trust Land shall take account of the Travel Plan for the main Colindale Hospital development approved under planning reference H/00342/11;
 - (ii) The Development Within the Trust Land shall link in with the Car Club provided on the main Colindale Hospital development approved under planning reference H/00342/11;
 - (iii) Provision of at least 1 dedicated Car Club parking space within the development with scope for more spaces to be provided subject to demand;
 - (iv) Upon acquiring a Residential Unit within the Trust Land the occupier will be given a Travel Voucher to the value of £150 per dwelling up to a maximum cost of £6,300 to the Trust. The voucher shall either allow the occupier to purchase up to 2 years' membership to the Car Club with the remaining value

as an Oyster Card travel pass, or the full value of £150 shall be provided as an Oyster Card travel pass;

- (c) promote and publicise the approved Trust Travel Plan;
- (d) appoint and maintain a Travel Plan Co-ordinator for at least 5 years to co-ordinate the implementation of the approved Trust Travel Plan;
- (e) use all reasonable endeavours to procure the implementation of the Trust Travel Plan by the dates or within the time limits set out in the Trust Travel Plan;
- (f) review the approved Trust Travel Plan annually from the date of implementation of the approved Trust Travel Plan within three months of receiving the report of the review to work up a revised Trust Travel Plan for any further measures and methods identified by the review and to submit the same to the Council for approval;
- (g) use reasonable endeavours to procure the implementation of the revised Trust Travel Plan by the dates and within the time limits set out in the revised Trust Travel Plan.

Highway, Education and Healthcare Contributions

- 9. To pay part of the Highway Contribution, Education Contribution and Healthcare Contribution to the Council as follows:
 - (a) Prior to Occupation of the 199th Residential Unit to pay:
 - (i) £147,000 of the Highway Contribution Index Linked
 - (ii) £230,400.28 of the Education Contribution Index Linked
 - (ii) £37,131.33 of the Health Contribution Index Linked

Elysian House

- 10. In accordance with London Plan Policy 3.17 prior to Implementation of the Development on the Trust Land, the Trust will submit information to the Council satisfactorily demonstrating that the accommodation is no longer required in relation to the relevant wider healthcare strategy for the borough or that alternative accommodation is to be provided

Schedule 4

Council's Covenants

The Council covenants with Fairview and the Trust as follows:

Affordable Housing

1. To use its reasonable endeavours to agree the terms of a nomination agreement with Fairview and/or the Trust and/or the relevant Registered Provider as soon as reasonably practicable and in any event within 28 days of receipt.

Cycle Maintenance Workshop Contribution

2. In respect of the Cycle Maintenance Workshop Contribution to pay the said contribution to the providers of the maintenance workshop to be provided in accordance with the Section 106 Agreement between the parties dated 20th November 2009 in respect of planning permission H/00342/09 within 14 days of receipt of such contribution.

Travel Plan

3. To consult with TfL in relation to the draft Travel Plan submitted in accordance with Schedule 2;
4. To notify Fairview of any amendments it suggests to the draft Travel Plan submitted in accordance with Schedule 2 of this Agreement (or to any revisions made pursuant to Schedule 2 of this Agreement) as soon as reasonably practicable and in any event within 28 days of receiving the draft Travel Plan (or such amendments).
5. To approve the draft Travel Plan submitted in accordance with Schedule 2 of this Agreement (or any revisions thereto) in writing as soon as reasonably practicable and in any event within 28 days of receiving the draft Travel Plan (or such amendments).
6. To assist and facilitate Fairview in meeting the objectives of the Travel Plan as stated in Schedule 2 of this Agreement.

Revised Viability Assessments

7. If any Deferred Affordable Housing Contribution is received by the Council as a result of the Revised Viability Assessment – Fairview Land and/or Revised Viability Assessment – Trust Land then such contribution shall be used to fund the provision of other Affordable Housing Units in the London Borough of Barnet within 5 years of the date of receipt.

General

8. In the event that any monies or part thereof received by the Council pursuant to paragraph 7 above remains unexpended 5 years after the date of receipt such monies shall be returned to the party who paid the relevant Deferred Affordable Housing Contribution

Appendix 1 - HCA Economic Appraisal Tool – Fairview Land

Economic Appraisal Tool

[click here to proceed](#)

Version 2.0 July 2009



Bespoke Property Group

GVA GRIMLEY & BESPOKE PROPERTY GROUP
HCA ECONOMIC APPRAISAL TOOL

(Worksheet 1)

INPUT SHEET 1 - RESIDENTIAL MIX ASSUMPTIONS
Basic Site Details

Site Address	MONTROSE PARK
Site Reference	
File Source	37 UNITS OF AFFORDABLE HOUSING
Scheme Description	SUBMITTED APPRAISAL
	BLOCK P & Q
Date	20/12/2011
Site Area (hectares)	1.55
Author & Organisation	Fairview New Homes
HCA Investment Manager	

Residential Mix Assumptions
Affordable Housing Tenure 1:
Affordable Rented

	1 Bed WC Flat	2 Bed 3p Flat	2 Bed 4p Flat	2 Bed W/C Flat	3 Bed Flat	3 Bed W/C Flat	3 Bed Maisonette
Unit Size (sq m) - NIA	51.8	63.497862	71.4333	75.4	86.87	99.3	94.2
Habitable Rooms per Unit	2	3	3	4	5	4	5
Persons per Unit	2.00	4.00	4	3.00	5.00	4.00	5
Total Number of Units	8	6	9	1	10	1	2

Affordable Housing Tenure 2:

	1 Bed Flat	2 Bed Flat	3 Bed Flat	2 Bed House	3 Bed House	4 Bed House	Other
Unit Size (sq m) - NIA							
Habitable Rooms per Unit							
Persons per Unit							
Total Number of Units							

Affordable Housing Tenure 3:

	1 Bed Flat	2 Bed Flat	3 Bed Flat	2 Bed House	3 Bed House	4 Bed House	Other
Unit Size (sq m) - NIA							
Habitable Rooms per Unit							
Persons per Unit							
Total Number of Units							

Affordable Housing Tenure 4:

	1 Bed Flat	2 Bed Flat	3 Bed Flat	2 Bed House	3 Bed House	4 Bed House	Other
Unit Size (sq m) - NIA							
Habitable Rooms per Unit							
Persons per Unit							
Total Number of Units							

Affordable Housing Tenure 5:

	1 Bed Flat	3 Bed Flat	3 Bed Flat	2 Bed House	3 Bed House	4 Bed House	Other
Unit Size (sq m) - NIA							
Habitable Rooms per Unit							
Persons per Unit							
Total Number of Units							

* Other = User-defined

Open Market Housing Type 1:

	Studio	1 Bed Flat	2 Bed Flat	3 Bed Flat	3 Bed Maisonette		
Unit Size (sq m) - NIA	40.20	51.85	67.58	86.32	98.18		
Habitable Rooms per Unit	1	2	3	4	5		
Persons per Unit	1	2	3.5375	5	4.69231		
Total Number of Units	7	37	80	24	13		

Open Market Housing Type 2:

	Studio	1 Bed	2 Bed	3 Bed	4 Bed	Other 1	Other 2
Unit Size (sq m) - NIA							
Habitable Rooms per Unit							
Persons per Unit							
Total Number of Units							

Open Market Housing Type 3:

	Studio	1 Bed	2 Bed	3 Bed	4 Bed	Other 1	Other 2
Unit Size (sq m) - NIA							
Habitable Rooms per Unit							
Persons per Unit							
Total Number of Units							

Open Market Housing Type 4:

	Studio	1 Bed	2 Bed	3 Bed	4 Bed	Other 1	Other 2
Unit Size (sq m) - NIA							
Habitable Rooms per Unit							
Persons per Unit							
Total Number of Units							

Open Market Housing Type 5:

	Studio	1 Bed	2 Bed	3 Bed	4 Bed	Other 1	Other 2
Unit Size (sq m) - NIA							
Habitable Rooms per Unit							
Persons per Unit							
Total Number of Units							

Parking spaces (see handbook for correct definition)

Total number of residential car parking spaces
Value of each residential car parking space

1	(Open Market and Affordable)
£1,135,715	(See user manual for correct definition)

GVA GRIMLEY & BESPOKE PROPERTY GROUP

HCA ECONOMIC APPRAISAL TOOL

(Worksheet 2)

INPUT SHEET 2 - RESIDENTIAL VALUE & COST ASSUMPTIONS

BUILDING PERIOD (month 0 = date of planning consent, allow for lead in period to start on site)

Construction Start	Timing (month)	
Construction End	12	
	44	(whole number, minimum of 0, maximum of 60)
Overall Scheme End Date (this must be completed)		
Final End Date of Scheme (scheme built and fully let/sold)	Month	
	45	(whole number, minimum of 0, maximum of 60)

RESIDENTIAL VALUE ASSUMPTIONS

Base Value

Affordable Housing Tenure 1:

Affordable Rented

Type of Unit	Rent per Unit per Week (£)	Total Annual Rent (£ per Unit)
1 Bed WC Flat	£200.00	£10,400
2 Bed 3p Flat	£210.00	£10,920
2 Bed 4p Flat	£220.00	£11,440
2 Bed W/C Flat	£210.00	£10,920
3 Bed Flat	£185.00	£9,620
3 Bed W/C Flat	£185.00	£9,620
3 Bed Maisonette	£185.00	£9,620
Management Costs (% of rent)	4.00%	(% of gross rent per annum)
Void / bad debts (% of rent)	4.00%	(% of gross rent per annum)
Repairs Fund (% of rent)	12.00%	(% of gross rent per annum)
Yield (%)	5.39%	(to capitalise the net rent, currently circa 6% but please seek)
Timing of Affordable Housing Tenure 1 Purchase Payment	Start Month	End Month
	12	43 (whole number, minimum 0)

Affordable Housing Tenure 2:

Type of Unit	Total Unit Capital Value (£ psm, NIA)	Rent per Unit per week of rented share (£)	Total Annual Rent (£ per Unit)
1 Bed Flat		£0	£0
2 Bed Flat		£0	£0
3 Bed Flat		£0	£0
2 Bed House		£0	£0
3 Bed House		£0	£0
4 Bed House		£0	£0
Other		£0	£0
Owner-occupied share (%)			
Unsold Equity Rent Per Annum (%)			
Management Costs (% of rent)			(HCA Limit of 2.75%)
Void / bad debts (% of rent)			(% of gross rent per annum)
Repairs Fund (% of rent)			(% of gross rent per annum)
Yield (%)			(% of gross rent per annum)
Timing of Affordable Housing Tenure 2 Purchase Payment	Start Month	End Month	(to capitalise the net rent, c)
			(whole number, minimum 0)

Affordable Housing Tenure 3:

Type of Unit	Capital Value pre-discount (£ psm, NIA)
1 Bed Flat	
2 Bed Flat	

3 Bed Flat
2 Bed House
3 Bed House
4 Bed House
Other

% of Open Market Value

(ie discounted value)

Start Month

End Month

Timing of Affordable Housing
Tenure 3 Purchase Payment

(whole number, minimum 0)

Affordable Housing Tenure 4

0

Type of Unit	Total Unit Capital Value (£ psm, NIA)	Rent per Unit per week of rented share (£)	Total Annual Rent (£ per Unit)
1 Bed Flat		£0	£0
2 Bed Flat		£0	£0
3 Bed Flat		£0	£0
2 Bed House		£0	£0
3 Bed House		£0	£0
4 Bed House		£0	£0
Other		£0	£0

Owner-occupied share (%)

Unsold Equity Rent Per Annum (%)

Management Costs (% of rent)

(% of gross rent per annum)

Voids / bad debts (% of rent)

(% of gross rent per annum)

Repairs Fund (% of rent)

(% of gross rent per annum)

Yield (%)

(to capitalise the net rent, c

Start Month

End Month

Timing of Affordable Housing
Tenure 4 Purchase Payment

(whole number, minimum 0)

Affordable Housing Tenure 5

0

Type of Unit	Rent per Unit per Week (£)	Total Annual Rent (£ per Unit)
1 Bed Flat		
3 Bed Flat		
3 Bed Flat		
2 Bed House		
3 Bed House		
4 Bed House		
Other		

Management Costs (% of rent)

(% of gross rent per annum)

Voids / bad debts (% of rent)

(% of gross rent per annum)

Repairs Fund (% of rent)

(% of gross rent per annum)

Yield (%)

(to capitalise the net rent, currently circa 6% but please seek

Start Month

End Month

Timing of Affordable Housing
Tenure 5 Purchase Payment

(whole number, minimum 0)

Open Market Values

Open Market Housing Type 1:
Open Market Housing Type 2:
Open Market Housing Type 3:
Open Market Housing Type 4:
Open Market Housing Type 5:

Capital Value (£ psm)
£4,001

Average value of unit
£272,188

Month

29

(whole number, minimum 0)

44

(whole number, minimum 0)

Ground rents

		Average ground rent per unit per annum (£)	(where applicable)
Affordable Housing Tenure 1:	Affordable Rented	0	
Affordable Housing Tenure 2:		0	
Affordable Housing Tenure 3:		0	
Affordable Housing Tenure 4:		0	
Affordable Housing Tenure 5:		0	
Open Market Housing Type 1:	+	£245	
Open Market Housing Type 2:	+		
Open Market Housing Type 3:	+		
Open Market Housing Type 4:	+		
Open Market Housing Type 5:	+		
Yield (%)	6.65%	(to capitalise the ground rents)	
Timing of ground rent payment	Month 44	(whole number, minimum of 0, maximum of 60)	

Social Housing Grant & Other Funding

		Grant per unit (£)	
Affordable Housing Tenure 1:	Affordable Rented	£0	
Affordable Housing Tenure 2:		0	
Affordable Housing Tenure 3:		0	
Affordable Housing Tenure 4:		0	
Affordable Housing Tenure 5:		0	
Timing Social Housing Grant Paid		Timing of 1st Payment	Timing of 2nd Payment

Other sources of funding

	Value (£)	Timing of Payment	
RSL Cross Subsidy			(whole number, minimum 0)
HCA Infrastructure Grant			(whole number, minimum 0)
LA re-cycled SHG			(whole number, minimum 0)
Other source of funding 1			(whole number, minimum 0)
Other source of funding 2			(whole number, minimum 0)
Land Remediation Tax Relief			(whole number, minimum 0)

BUILDING COST, MARKETING COST & SECTION 106 ASSUMPTIONS

		Building Costs - Gross (£ / sq m)	Net to Gross Ratio for Building Costs (%)*
Affordable Housing Tenure 1:	Affordable Rented	£1,836	100%
Affordable Housing Tenure 2:		0	
Affordable Housing Tenure 3:		0	
Affordable Housing Tenure 4:		0	
Affordable Housing Tenure 5:		0	
Open Market Housing Type 1:	+	£1,836	100%
Open Market Housing Type 2:	+		
Open Market Housing Type 3:	+		
Open Market Housing Type 4:	+		
Open Market Housing Type 5:	+		

* The ratio is typically 70% - 85% in blocks of flats to reflect the difference between GIA & NIA (ie common parts such as lifts, stairs, corridors etc) and 100% in houses which have no common parts

Residential Car Parking Building Costs (average cost / car parking space)

	Building Costs (£ / car parking space)	% of Building Costs	
Building Design Fees % (Architects, QS etc)	10.96%	(typically around 10%)	
Building Contingencies (% of Building Costs)	7.50%	(typically around 5% for new)	
Section 106 Payments (£) *			
SECTION 106 COSTS	Cost (£)	Month of Payment	
SECTION 106 LEGALS	£2,127,992	45	
TRAINING INITIATIVE	£20,000	1	
TRAVEL PLAN COORDINATOR	£44,000	24	
	£40,000	45	

* This section excludes Affordable Housing section 106 payments
Site Abnormals (£)
Infrastructure Costs
Contamination Costs

Cost (£) Month of Payment