

FOLDED 29/10/68.

DATED

22 DECEMBER

2014

THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BARNET

and

MONTCLARE LIMITED

and

FAIRVIEW NEW HOMES (PROPERTIES) LIMITED

and

LLOYDS BANK PLC

DEED OF PLANNING OBLIGATION

made under Section 106 of the Town and Country Planning Act 1990

and enabling powers relating to the development of the land at

Hendon Football Club, Claremont Road, London NW2 1AE in the London Borough of Barnet

HB Public Law

Legal Practice for Barnet and Harrow Councils

PO Box 2

Civic Centre

Harrow, Middlesex

HA1 2UH

DX 30450 HARROW 3

Ref: DL/EBAC PH006 – 015225

A series of handwritten signatures and initials in black ink, located on the right side of the page. The signatures appear to be of various individuals, possibly legal representatives or council members, associated with the deed.

THIS DEED is made the 22ND day of DECEMBER 2014

BETWEEN:

- (1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BARNET** of North London Business Park Oakleigh Road South London N11 1NP ("**the Council**")
- (2) **MONTCLARE LIMITED** (company registration number 08013673) of 30 City Road, London EC1Y 2AB (the "**Freeholder**");
- (3) **FAIRVIEW NEW HOMES (PROPERTIES) LIMITED** (company registration number 04622019) whose registered office is at 50 Lancaster Road Enfield Middlesex EN2 0BY (the "**Leaseholder**" and the "First Mortgagee");
- (4) **LLOYDS BANK PLC** (company registration number 2065) of Corporate Markets Division 25 Gresham Street London EC2V 7HN (the "**Second Mortgagee**").

RECITALS:-

- A. The Council is the local planning authority for the purposes of the 1990 Act Authority and the highway authority for the purposes of the Highways Act 1980 for the area within which the Land is situated and by whom the obligations in this Deed are enforceable.
- B. The Freeholder owns the freehold interest in the Land registered at HM Land Registry under title number AGL245927 subject to a lease dated 28.10.1997 for 99 years from 28.10.1997 to the Leaseholder and a charge dated 13.12.13 to the Mortgagee.
- C. The Leaseholder owns a leasehold interest in part of the Land registered at HM Land Registry under title number AGL77917.
- D. The First Mortgagee holds a legal charge over the Freeholder's interest in the Land.
- E. The Second Mortgagee holds a legal charge over the Leaseholder's interest in the Land.
- F. The Leaseholder has applied to the Council for the Planning Permission.

- G. At a meeting of the Council's Planning and Environment Committee dated 29 October 2014 it was resolved that subject to completion of this Deed the Planning Permission should be granted subject to conditions.
- H. The Council considers that it is expedient in the interests of proper planning of its area that the Owner should be required to enter into this Deed.
- I. The parties have agreed to enter into this Deed:
- (a) pursuant to the provisions of Section 106 of the 1990 Act, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011;
 - (b) as a pre-requisite to the grant of Planning Permission;
 - (c) upon the terms and conditions hereinafter appearing; and
 - (d) with the further intent that the same shall be a local land charge and registered as such upon its completion.

NOW THIS DEED made in pursuance of Section 106 of the 1990 Act, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 witness as follows:-

Interpretation

- 1.1 For the purposes of this Deed the following words and expressions shall unless the context otherwise requires have the following meanings:-

"the 1990 Act"	means the Town and Country Planning Act 1990 as amended;
"Access Works"	means works to be carried out under a Highways Agreement to enable vehicular and pedestrian access to the Development, along with all other necessary off-site works including relocation of bus stops and street lighting columns;
"Affordable Housing"	means housing designed to meet the needs of eligible households whose incomes are not sufficient to allow them access to decent and appropriate housing on the open market that is to be erected and made



CLITTERHOUSE RECREATION GROUND

CLAREMONT ROAD

CLITTERHOUSE ROAD



Revisions

[Handwritten signatures and initials]
 M.R.S.-H
[Handwritten signature]



Key:
 — Application Site Boundary

Job
**PROPOSED
 RESIDENTIAL DEVELOPMENT
 FORMER HENDON FC**

Title
SITE LOCATION PLAN

Biscoe + Stanton
 ARCHITECTS
 5 St John's Place
 London EC1M 4AP
 Tel: 020 7490 7919 Fax: 020 7490 7929
 e mail: mail@biscoestanton.co.uk

Scale
1:1250
 @ A3
 Drawing No.
1809:P2.01

Date: 28.08.14
 Drawn by:
 Checked:

permanently available for rent and Shared Ownership to persons in Housing Need nominated by the Council;

"Affordable Housing Assessment"

means a review of the assumptions and conclusions contained in the Financial Viability Appraisal in order to ascertain whether an Affordable Housing Commuted Sum can be provided by the Owner such assessment to be carried out by the Council or an independent expert appointed on behalf of the Council;

"Affordable Housing Assessment Fee"

means reasonable and properly incurred fees of the Council or an independent expert appointed on behalf of the Council in carrying out the Affordable Housing Assessment;

"Affordable Housing Commuted Sum"

means the amount equivalent to 50% of the difference between the Affordable Housing Commuted Sum Threshold and the sum of the Sale Receipts plus the Estimated Sale Receipts of all Open Market Housing Units (if higher than the Affordable Housing Commuted Sum Threshold) being the amount due to be paid by the Owner upon the conclusion of the Affordable Housing Assessment which shall not exceed the Maximum Value and which shall be spent by the Council on the delivery of Affordable Housing in the London Borough of Barnet;

"Affordable Housing Commuted Sum Payment Date"

means 30 Working Days after the Owner has received the Affordable Housing Payment Notice;

"Affordable Housing Commuted Sum Threshold"

means the amount of £44,240,467 being the value of the Open Market Housing Units (£43,970,467) plus parking (£270,000) as stated in the development appraisal

prepared by Deloitte for the consented scheme of 135 units dated 17th October 2014 and entitled Viability Review Addendum

"Affordable Housing Units"

means the provision of 29 units for Affordable Housing within the Development comprising:

- a) 4 x one bedroom (2 person Residential Units)
9 x two bedroom (4 person Residential Units)
7 x three bedroom (5 person Residential Units)
Affordable Rented Units;
- b) 4 x one bedroom (2 person Residential Units)
5 x two bedroom (4 person Residential Units)
Shared Ownership Units;

"Affordable Housing Payment Notice"

means the notice which the Council shall serve after it has agreed the Affordable Housing Commuted Sum;

"Affordable Rent"

means rent charged that is subject to rent controls and is required to be offered to eligible householders at a rental level (including service charges) that must be affordable and accessible for households on incomes comparable to the maximum that may be obtainable on Housing Benefit or Universal Benefit Cap of £26,000 per household as at the date of this Deed indexed in accordance with relevant government guidance by the Retail Prices Index whichever which may apply at the time of letting and which at no time will exceed 80% of local market rents

"Affordable Rented Units" means the units forming part of the Affordable Housing Units which are to be let by a Registered Provider (or the Council) at Affordable Rent and **"Affordable Rented Unit"** shall be construed accordingly;

"Apprenticeship"

means a work based training programme aimed at different levels, combining employment with learning and training which leads to nationally recognised qualifications for the apprentice and which ranges from craft occupations or trades to business administration and retail;

"ATTrBuTE"

means an on-line travel plan assessment tool for London created by Transport for London, available at www.attribute.org.uk;

"Car Club"

means a club operated by a company that is accredited by Carplus Trust (company number 04429814 and charity commission number 1093980) or its successor or an equivalent accredited organisation which supports car clubs and/or ride-sharing schemes in the United Kingdom which residents of the Development and members of the general public may join and which makes cars available to hire to members either on a commercial or part-subsidised basis;

"Commencement of the Development"

means the carrying out on the Land of a material operation as defined by Section 56(4) of the 1990 Act in connection with the Development save that for the purposes of this Deed none of the following operations shall constitute a material operation:

- i. archaeological or site inspections;
- ii. site or soil surveys;
- iii. decontamination works;
- iv. demolition or site clearance;
- v. the laying of services;
- vi. the erection of a site compound;
- vii. the erection of temporary fences or hoardings;

viii. the display of advertisements including the erection of advertisement hoardings; and

ix. interim landscaping works

and "**Commence**" shall be construed accordingly;

"Completion"

means unless the context otherwise so admits the proper issue of the certificate of practical completion of any works carried out pursuant to this Deed or as the context may allow any part, section or phase thereof by the Owner or its independent architect, engineer or other certifying professional as the case may be and the terms "**Complete**", "**Completed**" and cognate expressions shall be interpreted in accordance with this definition;

"Completion Statement"

means a certificate from the Owner's solicitor certifying the Sales Receipt for each Open Market Housing Unit for which the sale has been completed and "**Completion Statements**" shall be construed accordingly;

"Council's Nominee"

means Notting Hill Housing Trust or such other Registered Provider nominated by the Council to deliver the Affordable Housing Units;

"Cycle Voucher"

means a voucher which entitles the holder to use the value of the voucher towards the purchase of a bicycle from a participating store;

"Development"

means the redevelopment of the Land to provide 135 residential units (comprising 84 flats in three five storey blocks and 51 two/three storey dwellinghouses); associated highway works including new accessed from Claremont Road and removal of existing accesses; internal street network; care and cycle parking; refuse storage; landscaping and amenity space provision as described in the Planning Application

"Dwelling"

means a Residential Unit constructed as part of the Development and **"Dwellings"** shall be construed accordingly;

**"Estimated Sale(s)
Receipts"**

means the net estimated sales prices of the remaining Open Market Housing Units based on the Sale Receipts of the first 85 Open Market Housing Units excluding Sales Incentives, ground rents, parking, entryphones, satellite TV and other equipment;

**"Financial Viability
Appraisal"**

means a financial viability appraisal which is to be submitted to the Council on the following basis:

- (a) the projected sales values of the Open Market Housing Units;
- (b) the actual sale prices of the Open Market Housing Units and secured prices of the remaining Open Market Housing Units based on the Sale Receipts of the first 85 Open Market Housing Units excluding Sales Incentives, ground rents, parking, entryphones, satellite TV and other equipment;
- (c) the projected sales values and actual sale values to be provided to the Council on a schedule listing the number of bedrooms for each Open Market Housing Unit to be considered as part of the Financial Viability Appraisal;

"First Occupation"

means the first Occupation of any Residential unit;

"Hendon Football Club"

means Hendon Football Club Limited (Company registration number 02944496) whose registered office address is 30 City Road London EC1Y 2AB;

"Highways Agreement"

means an agreement or agreements entered into pursuant to s38 and/or s278 of the Highways Act 1980;

"Homes and Communities

Agency"

means the housing and regeneration agency for England or any successor body that takes over these powers (the statutory objectives of the Homes and Communities Agency are defined by the Housing and Regeneration Act 2008 and amended under the Localism Act 2011) and whose registered office is at Arpley House, 110 Birchwood Boulevard, Birchwood, Warrington WA3 7QH;

"Households on

Intermediate Incomes"

means households with a gross annual income (including benefits) between EIGHTEEN THOUSAND ONE HUNDRED POUNDS (£18,100.00) and EIGHTY THOUSAND POUNDS (£80,000.00) PROVIDED ALWAYS THAT all references to maximum gross household income levels contained in this definition shall be subject to adjustment by application of the changes in household income levels in terms of the criteria set out in any one of more of:

- (i) the London Plan as reviewed or amended from time to time;
- (ii) the Council's Supplementary Planning Guidance in respect of Affordable Housing;
- (iii) the Mayor's Supplementary Planning Guidance in respect of Affordable Housing;
- (iv) any other update of affordability criteria to be published by the Mayor in relation to intermediate housing including Shared Ownership; and
- (v) any update to the Council's intermediate housing policy in relation to Shared Ownership;

"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"	means 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 income is not sufficient to allow them to access decent and appropriate housing;
"Independent Expert"	means an expert with suitable qualifications, experience and resources to be able to properly assess the Financial Viability Appraisal, to be appointed by the Council in accordance with clause 8 of this Deed;
"Index"	the "all items" Retail Prices Index (as 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 comparable index as the parties may agree;
"Index Linked"	means a contribution payable under this Deed 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 Deed;
"Kingsbury Town Football Club Contribution"	means a contribution of £130,000 (one hundred and thirty thousand pounds) Index Linked towards improvements to the football ground at Silver Jubilee Park in the London Borough of Brent (to be occupied by Hendon Football Club);

"Land"	means the land at Hendon Football Club, Claremont Road, London NW2 1AE which is shown for purposes of identification only edged red on Plan 1;
"Level 2 Apprenticeship"	means a level 2 apprenticeship as defined in the National Apprenticeship Framework (or any subsequent scheme which replaces the same);
"London Housing Design Guide"	means the latest version of the guide approved and published by the Mayor of London or any subsequent standards that supersede these;
"Market Housing Units"	means those Dwellings which are to be sold or let on the open market and do not comprise the Affordable Housing Units;
"Market Value"	means in accordance with RICS Appraisal and Valuation Manual the estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had acted knowledgeably, prudently and without compulsion;
"Maximum Value"	means the amount of £1,769,251 which shall be the maximum Affordable Housing Commuted Sum payable to the Council and for the avoidance of doubt 100% of Sales Receipts over and above this sum shall be retained by the Owner;
"Monitoring Contribution"	means the sum of SIX THOUSAND THREE HUNDRED POUNDS (£6,300) Index-Linked towards the Council's costs of monitoring the planning obligations in this Deed which sum is payable in accordance with clause 9 to this Deed;
"Mortgagee"	means the First Mortgagee and Second Mortgagee;
"National Apprenticeship"	

Service"	means the official national government body which supports, funds and co-ordinates the delivery of Apprenticeships in England;
"National Apprenticeship Framework"	means a set of requirements for an Apprenticeship programme used by training providers, colleges and employers to ensure that all Apprenticeship programmes are delivered consistently and to national standards including (but not limited to) a range of qualifications incorporating the following main strands: (i) a competence based element; (ii) a technical element; and (iii) a skills element and any additional qualifications as may be required to give the most relevant skills and knowledge required for the job;
"North London Sub Region"	means the region that is comprised of the London Boroughs of Barnet, Brent, Camden, Enfield and Haringey and Westminster;
"Notting Hill Housing Trust"	means Notting Hill Housing Trust (an exempt charity incorporated as an Industrial and Provident Society limited by shares registered in England under number 16558R and registered with the Tenants Services Authority under number L0035) whose registered office address is Bruce Kenrick House, 2 Killick Street, London N1 9FL;
"Notting Hill Construction Training Initiative"	means Notting Hill Housing Trust's initiative which is managed by the Notting Hill Housing Trust 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) and the