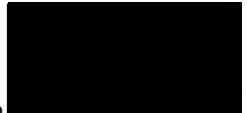


RECEIVED ON  
1 AUG 2014 (pm)  
LAND CHARGES

Legal Department

~~Robert Illsley - Legal Executive~~



Enclose a copy of the deed for your attention.

AS A LOCAL LAND CHARGE.

3 Clydesdale Bank PLC

2 Sevenhills Estates Limited

1 Ashfield District Council

between:

Would you please register the above Sec 106 Agreement

DATED 16 July 2014

SUBJECT land on the North Side of High Hazels Drive Huthwaite Sutton in Ashfield

FROM LEGAL DEPARTMENT

TO: LOCAL LAND CHARGES

ASHFIELD DISTRICT COUNCIL  
MEMORANDUM

5106/451

DATED 16<sup>th</sup> July 2014

62781634

SEVENHILLS ESTATES LIMITED (1)

and

ASHFIELD DISTRICT COUNCIL (2)

and

CLYDESDALE BANK PLC (3)

PLANNING AGREEMENT

Section 106 of the Town and Country Planning Act 1990  
relating to proposed residential development  
on land on the north side of High Hazels Drive Huthwaite Sutton in Ashfield  
Notts

THIS AGREEMENT is made the 16<sup>th</sup> day of July  
Thousand and Fourteen

BETWEEN:

1. SEVENHILLS ESTATES LIMITED (Company Registration Number 02460036) whose registered office is at Hudson House 9 Newbould Lane Sheffield South Yorkshire S10 2PJ ("the Owner")

2. ASHFIELD DISTRICT COUNCIL of Council Offices, Urban Road, Kirkby in Ashfield, Nottinghamshire NG17 8DA ("the Council")

3. CLYDESDALE BANK PLC (Scot. Co Regn No. SC00111110) of Yorkshire Bank 20 Merrion Way Leeds LS2 8NZ ("the Mortgagee")

RECITALS:

A. By means of the Planning Application reference V/2014/0175 planning permission is sought from the Council to carry out the Development

B. The Council is the Local Planning Authority for the purposes of the Act for the District of Ashfield within which the Land is situated

C. The Owner is registered as the freehold owner of the Land registered at the Land Registry with title absolute under title number NT440859 subject to the charge referred to in clause D but otherwise free from incumbrances

D. The Mortgagee is the proprietor of a charge dated 19<sup>th</sup> December 2007 and registered on 21<sup>st</sup> January 2008

E. The Council has resolved to grant the Planning Permission subject to certain conditions and the completion of this Agreement

F. The Owner has agreed to enter into this Agreement with the intent that its interest in the Land shall in accordance with the provisions of clause 2.3 be subject to the covenants and obligations entered into by it and

with the intention that the covenants and obligations entered into by it should create planning obligations pursuant to Section 106 of the Act

G. The Council is satisfied that the provisions of this Agreement and the planning obligations contained herein comply with its policy in relation to Section 106 of the Act and are sufficient in respect thereof

H. 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 Owner and (subject to the provisions of this agreement) the Mortgagee and subject as mentioned their successors in title and assigns and with the intention that this Agreement shall bind the Owners or Occupiers of the land other than the Owners or Occupiers of any Dwelling or any service authority and or utility company

#### OPERATIVE PROVISIONS:

#### DEFINITIONS AND INTERPRETATION

1. In this Agreement the following expressions shall have the following meanings:

1.1 "Act" the Town & Country Planning Act 1990 as amended

"Affordable Dwellings/s" means up to 10% of the Dwellings to be constructed as part of the Development as Affordable Housing to be provided in accordance with the Affordable Housing Scheme

"Affordable Housing" has the meaning given to it in Annex 2 of the National Planning Policy Framework March 2012 or its successor

"Affordable Housing Scheme" means the scheme for the provision of the Affordable Dwellings which shall specify those details in clause 3.1.2

"Affordable Housing Provider" means either:  
(i) a provider of Affordable Housing who



- (i) trial holes or other operations to establish the ground conditions of the Application Land, site survey work, or works of remediation
  - (ii) archaeological investigations on the Application Land
  - (iii) any works of demolition or site clearance
  - (iv) any structural planting or landscaping works
  - (v) ecological or nature conservation works associated with the Development
  - (vi) construction of site compounds boundary fencing or hoardings
  - (vii) construction of access or highway works or provision of services (including drainage and media)
  - (viii) any other preparatory works agreed
- means dwellings let by an Affordable Housing Provider at rent of not more than eighty per cent (80%) of local market rent
- "Commencement of Development"
- "Affordable Rented Dwellings"
- (i) is registered with the Homes and Communities Agency (formerly the Housing Corporation) under the Housing and Regeneration Act 2008 or such successor authority; or
  - (ii) any other housing provider approved in writing by the Council; or
  - (iii) any other company or body approved in writing by the Council
- Development
- purposes of constituting Commencement of constitute a material operation for the none of the following operations shall of the provisions of Section 56 (4) of the Act Permission is begun save that irrespective 56(4) of the Act) pursuant to the Planning material operations (as defined by Section the earliest date on which any of the

"Commencement of Development"

"Affordable Rented Dwellings"

in writing with the Council

"Development"  
the development defined in the Planning Application and to be carried out pursuant to the Planning Permission

"Discounted Market Dwellings"(s)"  
means a Dwelling to be sold by the Owners at seventy five per cent (75%) of its open market value

"Dwelling"  
a dwelling built pursuant to the Planning Permission and whether an Affordable Dwelling or otherwise

"Education Authority"  
means the Nottinghamshire County Council or any successor body responsible for the provision of educational facilities which will serve the Development

"Education Contribution"  
means the sum of FORTY FIVE THOUSAND EIGHT HUNDRED AND TWENTY POUNDS (£45,820.00) subject to the Index Provisions payable by the Owner to the Council in accordance with the provisions of clause 3.1.11 towards the provision of educational facilities which will serve the Development

"Index Provisions"  
means the provisions referred to in the First Schedule

"Interest"  
means the LIBOR RATE for the time being in force

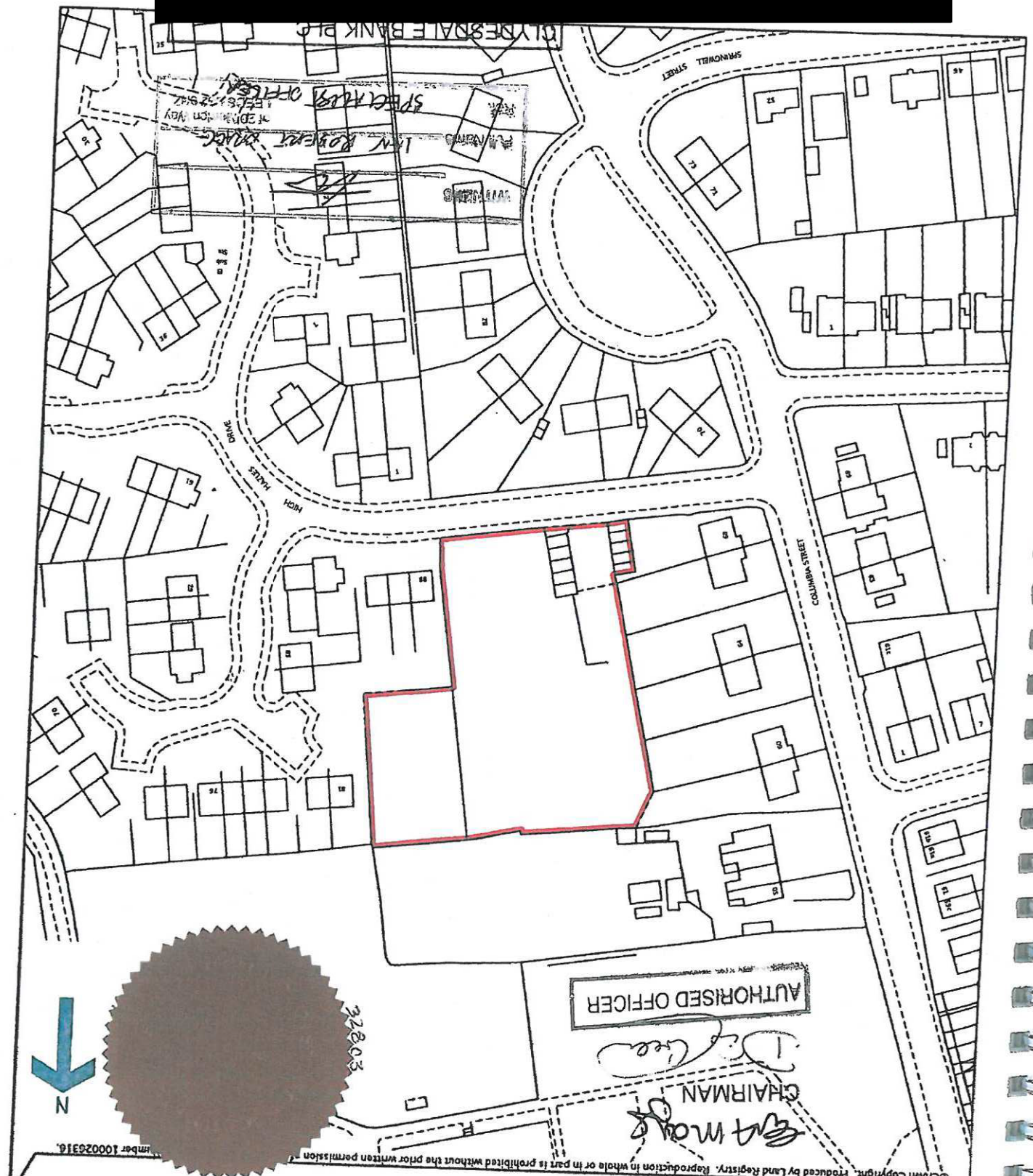
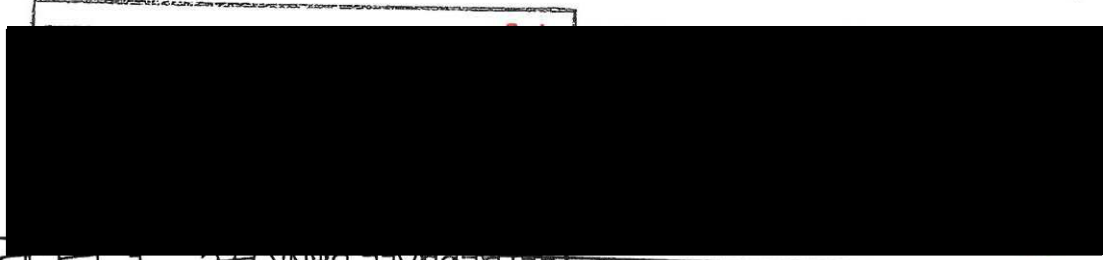
"Intermediate Affordable Dwellings"  
means housing for sale and rent provided at a price above social rent but below market levels which may include shared equity (shared ownership and equity loans) and other low cost homes for sale and intermediate rent

"Land"  
means the land shown edged red on the Plan

"Market Dwellings/s"  
means any dwelling constructed as part of the Development which is not an Affordable Dwelling

"Occupation"  
means in relation to the Development

This office



AUTHORISED OFFICER

*[Handwritten Signature]*  
 CHAIRMAN

Land Registry  
 Official copy of  
 the plan

Title number NT440859  
 Ordnance Survey map reference SK4759SW  
 Scale 1:1250  
 Administrative area Nottinghamshire : Ashfield



© Crown Copyright. Produced by Land Registry. Reproduction in whole or in part is prohibited without the prior written permission of the Controller of Her Majesty's Stationery Office. Number 100026310.

beneficial occupation of any part of it for residential purposes but shall not include

(i) daytime occupation by workmen involved in the erection fitting out or decoration of any part of the Development; or

(ii) the use of any Dwelling for the marketing of the Development; or

(iii) the storage of plant and materials

and "Occupy" and "Occupied" shall be construed accordingly

"Open Space Contribution"

means instead of any open space or play equipment or the like being requested as part of the development of the land the sum payable pursuant to clause 3.1.10 at the rate of £3000 subject to the index provisions per dwelling to be contrasted pursuant to planning permission

"Planning Application"

means the Planning Application submitted to the Council and allocated reference number V/2014/0175

"Planning Permission"

means the planning permission granted pursuant to the Planning Application substantially in the form attached at the Second Schedule

"Penalty Interest"

means the interest referred to in 2.23

"Social Rented Dwelling"

means social rented housing for which guideline target rents are determined through the national rent regime

1.2

Words in this Agreement importing the singular meaning shall where the context so admits include the plural meaning and vice versa

1.3

Words in this Agreement of the masculine gender shall include the feminine and neuter genders and vice versa and words denoting natural persons shall include corporations and vice versa

1.4

References in this Agreement to any statutes or statutory instruments



shall include and refer to any statute or statutory instrument amending consolidating or replacing them respectively from time to time and for the time being in force

Where in this Agreement reference is made to a Clause Schedule or Plan such reference (unless the context otherwise requires) is a reference to a Clause or Schedule of or in the case of a Plan attached to this Agreement

Covenants made hereunder on the part of the Council shall be enforceable against the Council and any statutory successor to it as Local Planning Authority

The expression "the Owner" shall where the context so admits include its respective successors and assigns

Reference to the Owner and the Mortgagee in this agreement shall include their respective successors in title and assigns and all persons deriving title under them except as stated in paragraph H and in clause 2.20 and where otherwise expressly provided

## 2. GENERAL PROVISIONS

### Statutory Authority

2.1 This Agreement and each of the covenants given by the Owner contained herein is a planning obligation and is made pursuant to Section 106 of the Act and any statutory successor to it as Local Planning Authority

2.2 The covenants by the Owner contained herein shall be enforceable only by the Council

### Liability

2.3 The covenants given by the Owner contained in clause 3.1 are made with the intent that the covenants will bind the Land and will be binding

on and enforceable against its successors in title or assigns and subject to clause 2.5 those deriving title under the Owner and obligations and liabilities of a party comprising more than one person are obligations and liabilities of such persons jointly and severally PROVIDED THAT without prejudice to the enforcement of covenants against successors in title no person shall be liable for any breach or non-performance of any of the provisions covenants or other obligations contained herein or for the performance of any obligations which arise from the carrying out of the Development on the Land after they have parted with all interest in the Land or part thereof in respect of which they are no longer seized and such breach occurs save in respect of any prior subsisting breach

2.4

Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission as defined herein or any renewal thereof or any reserved matters approval with respect thereto) granted (whether or not on appeal) after the date of this Agreement in respect of which development in this Agreement will not apply PROVIDED THAT the obligations in this Agreement can be applied to any planning permission granted subsequent to the grant of the Planning Permission as herein defined by agreement between the Owner and the Council as evidenced by a memorandum endorsed on this Agreement

The covenants contained in this Agreement shall not be enforceable against individual purchasers or lessees of Dwellings on the Land constructed pursuant to the Planning Permission having a roof, windows and doors and being in a state of readiness for occupation or against an Affordable Housing Provider or statutory undertakers in relation to any parts of the Land acquired by them for electricity sub-stations gas governor stations or pumping stations or against anyone whose only interest in the Land or any part of it is in the nature of the benefit of an easement or covenant

2.5

2.6

In the event that any of the Owner dispose of its respective interest in

the Land or any part thereof (other than a disposal to a purchaser of a Dwelling) they shall within twenty-eight days of such disposal give written notice of the name and address of its successors in title to the Council together with sufficient details of the land included in the disposal to allow its identification

**Contingencies**

The obligations in this Agreement shall be conditional upon the issuing of the Planning Permission and save for clauses 2.3 and 3.1.2 upon the Commencement of Development and until such time as these conditions are satisfied the obligations contained herein shall be of no effect

In the event of the Planning Permission expiring or in the event of the revocation of the Planning Permission the obligations under this Agreement shall cease absolutely and the Council shall procure that any entry referring to this Agreement in the Register of Local Land Charges shall be removed forthwith

**Commencement of Development**

The Owner shall give the Council seven days' notice in advance of the Commencement of Development and the date on which Commencement of Development has taken place shall be confirmed by exchange of correspondence between the Owner and the Council PROVIDED THAT default in giving notice or confirming the date by exchange of correspondence shall not prevent Commencement of Development occurring

**Determination by Expert**

Notwithstanding any specific provision in this Agreement in the event of any dispute between the Owner and the Council concerning this Agreement including any dispute as to whether or not an obligation has been performed or matter to be agreed under any of the provisions of this Agreement the matter may at the written option of any relevant

2.10

2.9

2.8

2.7

party (notice of which shall be given to the other party or parties) be referred to such expert as they may agree or (in default of agreement within 20 working days of the date of giving of the notice) appointed by the Chairman for the time being of the Planning and Environment Bar Association whose appointment shall be conducted on the following terms

2.10.1 The person to be appointed pursuant to Clause 2.10 shall if possible be a person having ten years or more relevant post-qualification experience of the issue in dispute and projects comprising works of the scale and nature of the Development and of the particular issue in dispute

2.10.2 The reference to the expert shall be on terms that:

2.10.2.1 the expert shall afford the parties to the dispute an opportunity to make representations to him/her in writing and if he/she so directs to make submissions on one another's representation;

2.10.2.2 the expert shall be able to stipulate periods of time for the making of such submissions and representations;

2.10.2.3 the expert shall be bound to have regard to the said submissions and representations;

2.10.2.4 the expert shall have the power to award the costs of the determination in favour of either party at the expense of the other in the event that the expert shall consider that the said other party has acted unreasonably and the extent of the costs awarded shall reflect the extent and effect of said unreasonable behaviour;

2.10.2.5 the expert shall be limited in his/her findings to the proposals put by either party or a proposal falling between both of them; and

2.10.2.6 the findings of the expert shall save in the case of manifest material error be final and binding on the Owner and the Council save that the parties retain the right to refer to the Courts on a matter of law



**VAT**

2.11 In the event that the provision by the Owner to the Council or other body of any land or buildings or infrastructure or matters pursuant to this Agreement is a taxable supply for the purposes of the legislation relating to Value Added Tax in respect of which any Value Added Tax should become payable then the Council or other body in receipt of such supply shall pay to the Owner all such Value Added Tax upon receipt from the Owner of a Value Added Tax invoice therefore and the Owner shall endeavour to ensure that the timing of such invoice or invoices within any four week period shall be such as to minimise the period between settlement of the invoice and recovery of the tax

**Time Periods**

2.12 It is agreed between the parties that any of the periods specified in the Agreement may be extended by mutual agreement in writing between the Owner and the Council (as the case may be) SAVE THAT any party to this Agreement who requires time to be of the essence in any period extended shall serve notice on any other relevant party stating that time is of the essence in relation to any time period so extended

**Approvals**

2.13 For the purposes of this Agreement where a party is required to make a request give confirmation approval or consent express satisfaction with agree to vary or to give notice of any matter such request confirmation approval consent expression of satisfaction agreement to vary or notice shall be deemed to have not been given or expressed unless given or expressed in writing and shall not be unreasonably withheld or delayed

**Notices**

2.14 The service of notices and communications pursuant to this Agreement shall be sent to the addressee at the address stated in this Agreement

or at such other address as the addressee shall have notified to the others in writing

Notices and communications under this Agreement may be sent by personal delivery or by First Class Post (recorded delivery) and any notice or communication sent by First Class Post (recorded delivery) and correctly addressed shall be conclusively deemed to have been received by the addressee on the second business day following the date of posting

#### **Exclusion of the Contracts (Rights of Third Parties) Act 1999**

Nothing herein contained or implied shall give or be construed as giving rights, privileges, powers or enforceability other than to the specific parties executing this document and their successors (if any) as defined herein and the provisions of the Contracts (Rights of Third Parties) Act 1999 and any benefits or rights which could arise therefrom are expressly excluded to the intent that no third party within the meaning of that Act shall have any rights of enforcement in respect of any matter herein contained

#### **Void Provisions**

If any provision of this Agreement is declared by any judicial or other competent authority to be void voidable illegal or otherwise unenforceable the remaining provisions of this Agreement shall continue in full force and effect and the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality provided that any party may seek the consent of the other or others to the termination of this Agreement on such terms as may in all the circumstances be reasonable if the effect of the foregoing provisions would be to defeat the original intention of the parties

2.15

2.16

2.17

**Application of this Agreement**

2.18 If the Council agrees in writing with the Owner pursuant to an application under Section 73 of the Town and Country Planning Act 1990 to any variation or release of any condition contained in the Planning Permission the covenants or provisions of this Agreement shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission

**No Fetter of Discretion**

2.19 Save as permitted by law in equity nothing contained or implied in this Agreement shall prejudice or affect the rights powers duties and obligations of the Council in their respective rights powers duties and obligations under all public and private statutes bylaws and regulations which may be as fully and effectually exercised as if the Council were not a party to this Agreement

**Mortgages Consent**

2.20 The Mortgagee consents to the Owner entering into this agreement and hereby covenants with the Council to observe and perform the covenants restrictions liabilities and obligations of this agreement as if the Mortgagee were the Owner during any period in which the Mortgagee becomes a Mortgagee in possessions of the Land or any part of it PROVIDED ALWAYS and the parties hereby agree that

(a) where the Mortgagee becomes a Mortgagee in possession of any part(s) but not the whole of the land the Mortgagee convenient under this clause shall be related to and be binding in respect of any such part(s) only and not the rest of the land

(b) for the avoidance of doubt the Mortgagee shall not have any liability under the terms of the agreement except in the circumstances described in this clause

**Effect of any Waiver**

No waiver (whether express or implied) by the Council of any breach or default by the Owner in performing or observing any of the terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council (as relevant) from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereof by the Owner

2.21

**General Requirement to Co-operate**  
Without prejudice to its statutory duties the Council and the Owner shall all act reasonably and in good faith and shall co-operate with each other to facilitate the discharge and performance of the obligations of the other contained within this Agreement within the timescales specified

2.22

**Interest**  
If the Owner fails to make any payment due to any party under this deed by the due date for payment then without limiting such other party's other remedies the Owner shall pay interest on the overdue amount at the rate of 7% per annum. Such interest shall accrue on a daily basis from the due date until the actual date of payment of the overdue amount before or after judgement. The Owner shall pay the interest together with the overdue amount. For the avoidance of doubt the due dates for payment are set out in this deed

2.23

### 3. THE OWNER'S OBLIGATIONS TO THE COUNCIL

3.1 The Owner covenants with the Council :

3.1.1 To submit to the Council prior to the Commencement of Development the Affordable Housing Scheme for approval (such approval not to be unreasonably withheld or delayed)

3.1.2

The Affordable Housing Scheme shall include the following details:

- a) The mix of Affordable Rented Dwellings Social Rented Dwellings and Intermediate Affordable Dwellings;
- b) The intended Affordable Housing Provider if known;
- c) The intended funding arrangements for the Affordable Housing Scheme; and
- d) The programme for the construction of the Affordable Dwellings including the proposed phasing of the Affordable Dwellings

3.1.3 To construct or procure the construction of the Affordable Dwellings in accordance with the Affordable Housing Scheme or any variations thereto approved in advance in writing by the Council (such approval not to be unreasonably withheld or delayed)

3.1.4 To use reasonable endeavours to enter into a binding contract with an Affordable Housing Provider within 18 months of the Commencement of Development for the sale and purchase of the Affordable Dwellings to be sold at a price agreed with the Affordable Housing Provider which shall enable it to let those units comprising the Affordable Rented Dwellings and the Social Rented Dwellings and to dispose of the units comprising the Intermediate Affordable Dwellings by way of a shared ownership lease to persons in need to Affordable Housing such agreement to provide that the Affordable Dwellings shall be constructed and ready for Occupation and transferred to the Affordable Housing Provider in accordance with the following:

3.1.4.1 Fifty per cent (50%) of the Affordable Dwellings shall be ready for Occupation and transferred to an Affordable Housing Provider prior to the first Occupation of fifty per cent (50%) of the Market Dwellings; and

3.1.4.2 The remaining fifty per cent (50%) of the Affordable Dwellings shall be ready for Occupation and transferred to an Affordable Housing Provider prior to the first Occupation of ninety per cent (90%) of the Market Dwellings unless otherwise agreed in writing between the

Owners and the Council (such agreement not to be unreasonably withheld or delayed)

3.1.5 Any transfers under clause 3.1.4 shall contain the following provisions:

3.1.5.1 the grant and reservation by the Owner of all rights of access and passage of services and other rights reasonably necessary to the beneficial enjoyment of the Affordable Dwellings and the remainder of the Dwellings constructed or to be constructed as part of the Development

3.1.5.2 the imposition of such covenants as the Owner shall reasonably require as are consistent with the sale of any Dwellings within the Development

3.1.6 To provide that the Affordable Rented Dwellings shall remain as Affordable Rented Dwellings and that the Social Rented Dwellings shall remain available as Social Rented Dwellings and that the Intermediate Affordable Dwellings shall remain as Intermediate Affordable Dwellings provided that this provision shall not be binding on:

a) any present or future mortgagee of the Affordable Dwellings

b) any receiver appointed by such a mortgagee or chargee

c) any person acquiring an interest in an Affordable Dwelling under a statutory right to buy or acquire the said Affordable Dwelling

d) a person who has staircased under a shared ownership lease of an Affordable Dwelling to acquire the freehold of the said Affordable Dwelling or a mortgagee or chargee of such an Affordable Dwelling

e) any person deriving title from any such person as is mentioned in (a) to (d) (inclusive) above

3.1.7

To notify the Council within fourteen days of the transfer of any of the Affordable Dwellings to an Affordable Housing Provider of the date of such transfer and to provide to the Council details of the Affordable



Housing Provider to which such Affordable Dwellings were transferred

3.1.8

In the event the Owner has not entered into a binding contract with an Affordable Housing Provider within 18 months of Commencement of Development pursuant to clause 3.1.4 to offer to transfer the Affordable Dwellings to the Council and to use reasonable endeavours to exchange legally binding contracts with the Council (such contracts to be on the terms contained in clause 3.1.5) within 3 months of receiving the written acceptance of the offer

If within 3 months of the Owner receiving written acceptance of the offer from the Council legally binding contracts have not been exchanged with the Council or the Council has provided written confirmation of its withdrawal from acceptance of that offer the Owner shall be entitled to withdraw the offer from negotiations with the Council the Owner shall be released from the requirement to comply with the provisions of this Agreement in relation to the provision of Affordable Housing and shall be entitled to dispose of the Affordable Dwellings as Discounted Market Dwellings on the open market without restriction and the Owner shall be entitled to retain the proceeds of sale there from save that the Owner shall pay to the Council not later than 14 days from the date of legal completion of the relevant sale a sum equal to 40% of the agreed open market value inclusive of standard fixtures and fittings but disregarding any additions made thereto or extras included by the Owner as part of the sale and always provided that;

Any sums paid to the Council pursuant to this clause shall be held by the Council in an interest bearing account and shall be applied solely for the purpose of providing affordable housing be it for rental shared ownership or discounted market sales within the District of Ashfield

If any of the sums paid to the Council for the purpose of providing affordable housing have not been spent allocated or set aside within 10 years of the date of the last payment then those sums shall be repaid together with interest to the person who paid the sums to the Council and where there is more than one such person the sums paid shall be identifiable whether held

in the same account or not

3.1.9

**Open Space Contribution**

3.1.10

(i) Not to occupy or cause to be occupied (disregarding any show homes or sales office) more than 50% of the dwellings to be built in accordance with the planning permissions unless payment has first been made to the Council of the Open Space Contribution

(ii) To pay the Open Space Contribution to the Council prior to the occupation of no more than 50% of the dwellings on the land in accordance with the planning permission

3.1.11

**Education Contribution**

To pay the Education Contribution in accordance with the following:

(i) not to occupy or cause to be occupied (disregarding any show homes or sales office) more than 50% of the dwellings to be built on the land in accordance with the planning permissions unless payment has first been made to the Council of the Education Contribution

(ii) pay the Education Contribution to the Council prior to the occupation of no more than 50% of the dwellings on the land in accordance with the planning permission

3.1.12

**Council Legal Costs**

To pay the Council's reasonable legal costs in respect of the preparation of this Agreement on its execution limited to £495.00

4.

**COUNCIL'S OBLIGATION TO THE OWNER**

The Council covenants with the Owner as follows: -

**On Site Open Space Area**



4.2.2 provide full details of the expenditure of the Education Contribution on demand to the Council or the Owner

4.2.1 apply the Education Contribution solely for the purposes of providing education facilities the need for which arises from the Development and for no other reason whatsoever

4.2.2 Following agreement of the required works identified in accordance with clause 3.1.11 to pay the Education Contribution to the Education Authority following receipt of a document from the Education Authority confirming that they will:

4.2.1 To work with the Education Authority to procure that capital expenditure is undertaken by the Education Authority to provide such additional education facilities as shall be required the need for which arises from the Development

4.2

**Education Contribution**

To use the Open Space Contributions as follows:-  
a) £1,000 of every £3,000 paid per dwelling to be used towards Public Open Space in the District of Ashfield  
b) £2,000 of every £3,000 paid per dwelling to be used towards improvements of Huthwaite Town Centre  
c) to provide to the Owner on request evidence as to how much of an how the Open Space Contribution has been spent expended or allocated  
d) to refund the Owner (in otherwise the real or corporate person who has paid the open Space Contribution to the Council) such parts of the Open Space Contribution as has not been allocated committed or expended in accordance with this clause above within 5 years from the date of receipt by the Council of such contribution together with interest for the period from the date of payment to the date of refund

4.1

- 4.2.3 return any unspent part of the Education Contribution after the expiry of five years from the date of receipt of the Education Contribution from the Council
- 4.2.3 To repay to the Owner any unspent monies received pursuant to clause 3.1.11 within 28 working days of receipt from the Education Authority
- 4.2.4 In the event that the document in the form required by clause 4.2.2 above is not received following the expiry of five years from the date of receipt of the Education Contribution by the Council then the Council's obligation to pay the Education Contribution to the Education Authority shall cease absolutely and the Council shall refund to the Owner the Education Contribution

THE FIRST SCHEDULE  
INDEXATION PROVISIONS

1. In this Schedule:-

"Index" means the Retail Prices Index ("RPI") as published by the Office for National Statistics or any successor body or in the event that the RPI or such other index as shall be agreed between the Owner and the Council

"Base Index Date" means the date of this Agreement  
"Base Index Figure" means the figure published in respect of the Index immediately prior to the Base Index Date

"Final Index Figure" means the figure published or otherwise agreed or determined in respect of the Index immediately prior to the respective dates upon which the relevant contribution is paid

2. The relevant contribution shall be increased by such sum, if any, in pounds sterling as shall be equal to the sum calculated according to the following

formula:-

$$\text{Increased Sum} = \frac{A \times C}{B}$$

Where: "A" equals the relevant contribution

"B" equals the Base Index Figure

"C" equals the Final Index Figure

3. If after the Base Index Date there should be any change in the Base Index Figure by reference to which changes in the Index are calculated, the figure taken to be shown in the Index after such change shall be the figure which would have been shown in the Index if the said Base Index Figure had been retained and the appropriate reconciliation shall be made

4. If any substitution for the said the RPI, or any index previously substituted therefore shall occur, the parties hereto shall endeavour to agree the appropriate reconciliation between the Index substituted on the one hand and the RPI or any index previously substituted therefore on the other hand

THE SECOND SCHEDULE  
DRAFT PLANNING PERMISSION

**TOWN AND COUNTRY PLANNING ACT 1990**  
 Town and Country Planning (Development Management Procedure) Order 2010  
 Town and Country Planning (Control of Advertisements) (England) Regulations 2007  
 Town and Country Planning (Tree Preservation) (England) Regulations 2012  
 Planning (Listed Buildings and Conservation Areas Act 1990  
 Planning (Hazardous Substances) Act 1990  
 Planning and Compensation Act 1991

# Approval Notice

## Major Outline

Approval has been granted by Ashfield District Council for the development referred to below providing it is carried out in accordance with the application and plans submitted. The approval is subject to the conditions set out on the attached sheet.

## Application Details

Planning Reference Number: V/2014/0175

Location of Development: Land off High Hazles Drive  
Huthwaite  
Nottinghamshire

Description of Development: Outline application for up to twenty two dwellings  
Sevenhills Estates Ltd  
Mr Bo Kahn

Date:

CONDITIONS:

1. The formal approval of the Local Planning Authority shall be obtained prior to the commencement of any development with regard to the following Reserved Matters:
  - (a) Layout
  - (b) Scale
  - (c) Appearance
  - (d) Landscaping
2. Application for approval of the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development to which this permission relates shall be begun not later than the expiration of 2 years from the final approval of the Reserved Matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
4. The new dwellings shall be afforded protection from any harmful ground gases that may be present. Such protection shall be equivalent to characteristic situation 2 (CIRIA Report 149). The installed gas membranes must be resistant to Radon, methane and carbon dioxide gases. Written confirmation that this level of protection has been provided, shall be forwarded to the LPA by the approved building control provider prior to completion of the dwellings.
5. Prior to first occupation, the Applicant shall submit suitable chemical test results of the topsoil, to the LPA, to demonstrate that all topsoils in the upper 600mm of the garden areas (including any topsoils imported to site) are suitable for residential use.
6. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
7. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
8. No development shall take place until the following matters have been submitted to and agreed in writing by the Local Planning Authority:
  - (a) Full details of the proposed treatment of the site's boundaries.
  - (b) A phasing scheme for the implementation of the agreed boundary treatment.
 The boundary treatment shall be undertaken in accordance with the agreed details. No development shall take place until samples of the materials and finishes to be used for the external elevations and roof of the proposal have been agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out with those materials, unless the Local Planning Authority gives written approval to any variation.
9. No work shall commence until such time as a scheme indicating proposed floor levels of all buildings, and the relationship of such to the existing dwellings has been submitted to and approved by the Local Planning Authority. The development shall be constructed in accordance with the agreed levels.
10. No work shall commence until such time as a scheme indicating proposed floor levels of all buildings, and the relationship of such to the existing dwellings has been submitted to and approved by the Local Planning Authority. The development shall be constructed in accordance with the agreed levels.



11. No part of the development hereby permitted shall take place until details of the new road have been submitted to and approved in writing by the Local Planning Authority including longitudinal and cross sectional gradients, street lighting, drainage and outfall proposals, construction specification, provision of and diversion of utilities services, and any proposed structural works. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.
12. No part of the development hereby permitted shall be brought into use until the access driveways parking and turning areas are constructed with provision to prevent the unregulated discharge of surface water from the driveway, parking and turning areas to the public highway in accordance with details first submitted to and approved in writing by the Local Planning Authority. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.
13. No part of the development hereby permitted shall be brought into use until all drives and any parking or turning areas are surfaced in a bound material (not loose gravel) for a minimum of 5 metres behind the Highway boundary. The surfaced drives and any parking or turning areas shall then be maintained in such bound material for the life of the development.
14. Prior to the first occupation of the hereby approved development, a scheme for the inclusion of bird boxes within the site shall be submitted and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full.
15. Prior to the commencement of development, an ecological survey shall be carried out by a suitably qualified Ecologist to ascertain whether there have been any changes which could impact on protected species. The details of the survey shall be submitted to and approved by the Local Planning Authority. Any mitigation measures shall be implemented in full.
16. Prior to the commencement of any construction works on site, a Construction Method Statement shall be submitted to and approved in writing by the Planning Authority. The approved Method Statement shall be implemented in full.

**REASONS:**

1. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
2. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
3. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
4. To ensure that the site, when developed, is free from contamination, in the interests of safety.
5. To ensure that the site, when developed, is free from contamination, in the interests of safety.
6. To ensure that the development provides a satisfactory means of drainage, in order to reduce the risk of creating, or exacerbating a flooding problem, and to minimise the risk of pollution.
7. To ensure the satisfactory overall appearance of the completed development and to help assimilate the new development into its surroundings.
8. To safeguard the amenities of residents living in the vicinity of the application site.
9. To ensure the satisfactory appearance of the development.
10. To protect the amenity of the area.
11. To ensure the development is constructed to adoptable standards.



- 12. To ensure surface water from the site is not deposited on the public highway causing dangers to road users.
- 13. To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc).
- 14. As compensation for the loss of nesting habitat.
- 15. To ensure the protected species are adequately protected during construction.
- 16. In the interest of residential amenity.

**INFORMATIVES**

- 1. The applicant/developer is strongly advised to ensure compliance with all planning conditions, if any, attached to the decision. Failure to do so could result in LEGAL action being taken by the Ashfield District Council at an appropriate time, to ensure full compliance. If you require any guidance or clarification with regard to the terms of any planning conditions then do not hesitate to contact the Development & Building Control Section of the Authority on Mansfield (01623 450000).
- 2. This consent will require approval under Section 19 of the Nottinghamshire County Council Act 1985 and where the new streets are to be adopted an Agreement pursuant to Section 38 of the Highways Act 1980 will be required. Please contact Nottinghamshire County Council to ensure that approvals and agreements are secured before commencement of works.
- 3. The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority, the new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks.
- 4. The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the Highways Authority with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible.
- 5. It is strongly recommended that the developer contact the Highway Authority at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstances, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council (or District Council) in writing before any work commences on site.

Highways Development Control Section  
 Highways North  
 Fountain Court  
 Bevercotes House  
 Sherwood Energy Village  
 Ollerton  
 Nottinghamshire, NG22 9FF

- 6. The applicant is advised that unless the S106 agreement is agreed, executed and signed within 3 months of the date of this report, the proposal may be reconsidered.
- 7. In order to avoid impacts to nesting birds it is requested that all tree/shrub/hedgerow/scrub and rough grassland removal work be undertaken outside of the bird-breeding season (March-September inclusive). If works are to be carried out during this time then a suitably qualified ecologist should be on site to

8. survey for nesting birds prior to any vegetation clearance. As you will be aware all nesting birds, birds' nests, young and eggs (except pest species) are protected by the Wildlife and Countryside Act 1981 (and as amended). Nesting is taken to be from the point at which birds start to build a nest, to the point at which the last chick of the last brood of the season has fully fledged and left the nesting area. For further information please contact Rachel Hoskin at Natural England Telephone 0300 0602343 or [rachel.hoskin@naturalengland.org.uk](mailto:rachel.hoskin@naturalengland.org.uk)

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 0845 762 6848.

Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk)

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

9. Reference in any condition contained in this permission/refusal of permission to any Statute, Statutory Instrument, Order, Regulation, Design Guide or other document shall be taken to include any amendment, replacement consolidation or variation that shall from time to time be in force and any reference to anybody or organisation (public or private) shall be taken to include any successor-body or organisation exercising relevant functions in place of or alongside the body named.

10. The applicant is advised that surface water should be attenuated to allow discharge at 'Green Field' run off rate.

11. The Construction Method Statement referred to in Condition 16 is required to contain the following information:

12. This statement shall include full details of environmental management issues and mitigation measures to be adopted for the control of dust, noise, artificial lighting and waste disposal.

The plan shall require the applicant and contractors to minimise disturbance during construction and will provide details of the following information for approval:

- Roles and Responsibilities
- Communication - external and internal
- Equipment and Plant
- Working Hours (including deliveries)
- Details of any works envisaged outside normal working hours
- Details of noise control
- Details of dust control
- Details on the design and control of construction/security lighting
- Details of waste disposal arrangements and procedures
- Complaints Procedures

For further detail on the decision please see the application report by contacting the Development Section on 01623 457388.

Trevor Watson  
SERVICE DIRECTOR - ECONOMY

The processing of this application has been undertaken in accordance with the requirements of the National Planning Policy Framework (Core Planning Principles).

**PROACTIVE WORKING**

The decision to grant permission has been taken having regard to the policies and proposals in the Ashfield Local Plan Review (2002) and all relevant material considerations, including Supplementary Planning Guidance:

**REASONS FOR APPROVAL**



# ASHFIELD DISTRICT COUNCIL

Tel: 01623 450000  
Fax: 01623 457033  
www.ashfield-dc.gov.uk/planning

Urban Road,  
Kirkby-in-Ashfield,  
Nottingham,  
NG17 8DA

## IMPORTANT NOTES

It is your responsibility to make sure that where necessary approval under Building Regulations has been obtained before you start work. The approved plans for both Building Regulations and Planning Permission must be for the same development. You must make sure that any changes made to meet Building Regulations are sent to the Planning Department as well. In some cases you may need further planning approval. Where residential layouts are involved, a favourable planning decision does not necessarily imply that the infrastructure will be suitable for an adoption agreement under the Highways Act 1980.

Details of how to appeal against the conditions on this decision are given on the attached sheet.

## Appeals to the Planning Inspectorate

You can appeal against this decision within the time given below. Appeals should be made to the \*Planning Inspectorate in all cases. In respect of applications for:

- Planning Permission
- Details pursuant to an outline planning permission
- Removal or variation of a condition
- Discharge of condition
- Listed building consent
- Conservation area consent and
- Applications for the determination of prior approval of details.

You have 6 months from the date of the decision to appeal.

In respect of householder applications you have 12 weeks from the date of decision to lodge an appeal.

\*Planning Inspectorate  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol  
BS1 6PN

Telephone: 0117 372 6372  
Email: [enquiries.pins@gtnet.gov.uk](mailto:enquiries.pins@gtnet.gov.uk)  
Website: [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)

**Confirmation of Compliance with Planning Conditions**

A fee is now payable for the confirmation of compliance with planning conditions at the following rates:

Householder applications £28.00 per request  
Other applications £97.00 per request

The fee is payable for each separate occasion on which application is made to confirm compliance for any conditions.

The authority has a period of up to 12 weeks to consider such information. Planning your building programme to allow a reasonable time for this confirmation to be issued – particularly the choice of materials is therefore advised.

Forms for applications for approval of details reserved by condition are available from the Planning Portal [www.planningportal.gov.uk](http://www.planningportal.gov.uk) the Council officers or on the Council's website [www.ashtfield-dc.gov.uk/planning](http://www.ashtfield-dc.gov.uk/planning).

**Compliance with plans and conditions.**

We expect strict compliance with all conditions. Failure to do so may result in issuing a Breach of Condition Notice and prosecution.

You are reminded that the development must be carried out strictly in accordance with the details shown on the approved drawings. Failure to do so may result in enforcement proceedings.

If you need to vary any details from those submitted with your application, we would be pleased to advise you whether or not a further planning application is required. Please send copies of any amended plans to both the Development Advice and Building Control Section.

For any further correspondence regarding this application contact the Development Advice and Control section quoting the reference number on the decision notice.

**Contact Details**

Development Advice & Control  
Ashfield District Council  
Urban Road,  
Kirkby-in-Ashfield,  
Nottingham,  
NG17 8DA

Telephone: 01623 457388  
Email: [planning.admin@ashfield-dc.gov.uk](mailto:planning.admin@ashfield-dc.gov.uk)  
Website: [www.ashtfield-dc.gov.uk/planning](http://www.ashtfield-dc.gov.uk/planning)

Details submitted \_\_\_\_\_  
 Application Number V/2014/0175 \_\_\_\_\_  
 Date Submitted \_\_\_\_\_

This portion to be filled in and retained by the Customer

CONFIRMATION OF DETAILS SUBMITTED

Other applications £97.00 per request  
 D05112/J202

Receipt Number

Householder applications £28.00 per request  
 D05112/J202

Receipt Number

Tile Sample (Name)

Brick Sample (Name)

Plan/Report - Type

Site Address

Condition Number

Application Reference Number

Contact Number

Contact Name

Date Submitted

One sheet for each item

This portion to be filled in and retained with sample / plan

CONDITION DISCHARGE





Notes for applicants who intend to carry out works that affect new or existing Highway and Public Open space:

It is strongly recommended that the applicant contact the Council at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council (or District Council) in writing before any work commences on site.

Correspondence with the Council should be addressed to:-

**Nottinghamshire County Council**  
**Highways Management (North)**  
**Fountain Court**  
**Bevercotes House**  
**Sherwood Energy Village**  
**Ollerton**  
**Nottinghamshire**  
**NG22 9FF**

Telephone contact - 01623-520021

Email contact - [hdc.north@nottscc.gov.uk](mailto:hdc.north@nottscc.gov.uk)

Section 38 Agreement (Highways Act 1980)

The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Council, the new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for road works.

[www.leics.gov.uk/htd](http://www.leics.gov.uk/htd)

Advanced Payments Code (Highways Act 1980)

The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The code applies both to roads/streets that are to remain private and those that are to be adopted. The developer should contact the Council with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the applicant contact the Council as early as possible to discuss this.

Diversions, 'stopping up' of public rights of way or highway (Section 247 & 257 of the Town & Country Planning Act 1990)

The proposed development may affect a public right of way. Following a grant of planning permission, the local planning authority may make an order to stop up or divert a footpath or bridleway if they are satisfied that it is necessary to enable development to be carried out in accordance with Planning Permission.

The granting of planning permission does not mean that public rights of way will automatically be diverted or stopped up. A separate application must be made to stop up

or divert a footpath or bridleway following the granting of planning permission. The applicant will need to contact **Legal Services 01623-457323** to ascertain the legal steps required to be undertaken.

Any preliminary obstruction or interference with the public rights of way concerned is not only an offence but may make it impossible for the local planning authority to proceed with the making of the Order.

### **Green Space & Sustainable Urban Drainage Systems (SUDS) schemes**

It is important that the applicant contact the Council at an early stage when looking to introduce any Green Space areas and features or SUDS proposals into any future development sites, to agree long term maintenance issues and help eliminate future land ownership problems and concerns including boundaries, perimeters and public access points.

Correspondence with the Council for Green Space and SUDS enquiries should be addressed to:-

**For public open/green space land transfer-**

**Estates Manager**

**Telephone contact 01623-457277**

**And for future maintenance-**

**Service Lead - Waste & Environment**  
**Telephone contact 01623-457873**



Notes for applicants who intend to carry out work which will include the demolition of a building of more than 50 cubic metres:

You will be required to serve a notice on the Authority under Section 80 of the Building Act 1984. The notice should be accompanied by a location plan. Upon receipt of the notice we will consult with the necessary bodies and, where appropriate, a consent to demolish will be issued (under Section 81 of the Act) together with conditions, which must be complied with when demolition is carried out. An application form for demolitions can be obtained on our website under Building Control [www.ashfield-dc.gov.uk/buildingcontrol](http://www.ashfield-dc.gov.uk/buildingcontrol).

Notes for applicants who intend to carry out work to which the Building Regulations apply:

Now that your Planning permission has been granted, you will also need to consider applying for Building Regulation approval. The process should be straight-forward and is in simple terms a technical exercise to ensure that your project will comply with current national building standards. These are minimum standards that aim to ensure your health and safety (and other members of your household) is not compromised.

Ashfield District Council's Land & Property Division provides a customer focussed Building Control Service, delivered by a team of staff who have excellent local knowledge of the area and who are more than willing to help and guide you through the construction process. If you wish to discuss our service further, please contact the Building Control Section on 01623 457387.

Application forms together with useful information can be found on our web site: [www.ashfield-dc.gov.uk/buildingcontrol](http://www.ashfield-dc.gov.uk/buildingcontrol).

Or you can make an e-mail enquiry by contacting [bcadmin@ashfield-dc.gov.uk](mailto:bcadmin@ashfield-dc.gov.uk) or telephone 01623 457387

### What Building Control will do for you

- ✓ Our qualified team of building control officers will assess applications submitted for compliance with the Building Regulations and provide a constructive response to you or your agent.
- ✓ In order to help ensure that your building work meets the minimum safety standards our Surveyors will carry out all necessary site inspections. There is no imposed limit on the number of inspections we carry out and we will provide you and your contractor with on-site advice throughout the duration of the project.
- ✓ We offer a same day inspection service (for all inspections booked before 10.00am) and will tailor our inspections to suit your requirements. Both early and late inspections can be accommodated by agreement with the officer dealing with your application.
- ✓ As a Local Authority Building Control Service – you can be assured of an impartial and independent service. Building Control aim to be a self-financing service, not driven by profit and therefore our primary concern is that your project meets current construction standards and that your health and safety (and other members of your household) is given the highest priority.

**Ashfield**



**ASHFIELD DISTRICT COUNCIL**

Tel: 01623 450000  
Fax: 01623 457033  
www.ashfield-dc.gov.uk/planning

Urban Road,  
Kirby-in-Ashfield,  
Nottingham,  
NG17 8DA

Mr Jamie Tingle  
Wireframe Studio  
Studio One Menzels Court  
301 Ecclesall Road  
Sheffield  
S11 8NX

**Contact:** Alan Redmond  
**Direct Line:** 01623 457262  
**Email:** a.redmond@ashfield-dc.gov.uk  
**Your Ref:**  
**Our Ref:** V/2014/0175  
**Date:** 14/07/2014

Dear Sir/Madam

**PLANNING DECISION OF THE LOCAL PLANNING AUTHORITY**  
Major Outline

**APP NO:** V/2014/0175  
**SITE:** Land Off High Hazles Drive Huthwaite Nottinghamshire  
**PROPOSAL:** Outline application for up to twenty two dwellings

I refer to your planning application for the above and I enclose a copy of the Decision Notice together with the relevant notes. Should you wish to discuss any aspect of the Decision then do not hesitate to contact the case officer, Alan Redmond

The applicant/developer is strongly advised to ensure compliance with all planning conditions if any, attached to the decision notice. Failure to do so could result in LEGAL action being taken by the Council to ensure full compliance. This planning permission does not constitute an approval under the Building Regulations and the applicant/developer is advised to acquire any necessary permission under such before commencing work.

I trust that you have been satisfied with the service provided by my Development and Building Control Section. If this has fallen short of your expectations then please contact me at your earliest convenience, as I am eager to improve the service wherever possible.

Yours faithfully

Levor Watson

SERVICE DIRECTOR - ECONOMY

IN WITNESS whereof the parties hereto have executed this Agreement on the date first above written

EXECUTED AS A DEED by  
SEVENHILLS ESTATES LIMITED  
acting by two Directors or a  
Director and its Secretary

)  
)  
)  
)

