

PLANNING OBLIGATIONS UNDER SECTION 75 OF THE TOWN  
AND COUNTRY PLANNING (SCOTLAND) ACT 1997

by

IAIN DOUGLAS JACKSON MASON, PIERS DOUGLAS WATSON  
AND EWAN JOSEPH WATSON

and

CALA MANAGEMENT LIMITED

to

SOUTH LANARKSHIRE COUNCIL

File Ref: 12217  
Planning Ref: EK/14/0296

Subjects: Lethame Road, Strathaven

Head of Administration and Legal Services  
Finance and Corporate Resources  
South Lanarkshire Council  
13<sup>th</sup> Floor – Council Offices  
Almada Street  
Hamilton

FAS 2089

## MINUTE OF AGREEMENT

among

**SOUTH LANARKSHIRE COUNCIL**, established by the Local Government etc (Scotland) Act 1994 and having its principal offices at Council Offices, Almada Street, Hamilton, ML3 0AA (who and whose successors as Planning Authority are hereinafter referred to as "**SLC**");

and

**CALA MANAGEMENT LIMITED**, a Company incorporated under the Companies Acts with registered number SC13655 and having its registered office at Adam House, 5 Mid New Cultins, Edinburgh, EH11 4DU ( (hereinafter referred to as the "**Initial Developer**");

and

**IAIN DOUGLAS JACKSON MASON**, residing formerly at 35 Balwyn Road, Canterbury, 3126, Melbourne, Australia and now residing at 9 Evans Street, Safety Beach, Mornington Peninsula, Victoria 3936, Australia; **PIERS DOUGLAS WATSON** residing formerly at 11 Valley, Street, Balmain, New South Wales 2041, Australia and now residing at 57 Curtis Road, Balmain, Sydney, New South Wales 2041, Australia and **EWAN JOSEPH WATSON** residing formerly at 108 Red Square, London N16 9AG and now residing at Flat 4, 13 Carleton Road, London N7 0QZ who together, and in substitution therefore whose successors and assignees, as heritable proprietors of the Subjects (but excluding Prior Owner) are hereinafter referred to as "**the Initial Owner**";

### CONSIDERING:-

- |         |  |
|---------|--|
| (One)   | That SLC are in terms of Section 1 of the 1997 Act the Planning Authority for the Subjects;  |
| (Two)   | That the Initial Developer has made the Application to SLC;  |
| (Three) | That SLC on 15 December 2015 resolved to grant the Application subject to various conditions and subject to entering into this Planning Obligation in terms of Section 75 of the 1997 Act; |

- (Four) That this Instrument secures the Planning Obligations on the Subjects as hereinafter defined;
- (Five) That the Owner is the heritable proprietors of the Subjects;
- (Six) That under Section 75 of the 1997 Act a person may enter into an obligation restricting or regulating the development or use of the land either permanently or during such period as may be specified in the Instrument by which the obligation is entered into and that any such obligation may, inter alia, contain such incidental and consequential provisions as appear to the Planning Authority to be necessary or expedient for the purposes of the obligation and the Initial Developer and Initial Owner have agreed to enter into such an agreement;

**NOW THEREFORE** the Parties have agreed and do hereby agree as follows:-

#### 1. Definitions

1.1 In this instrument (including the foregoing preamble) where the context so admits the following expressions shall have the following meanings:

<b>1997 Act</b>	means the Town and Country Planning (Scotland) Act 1997 as amended;
<b>Application</b>	means an application to SLC for consent under the 1997 Act in respect of the Development at the Subjects given reference number EK/14/0296;
<b>Cessation Procedure</b>	means the Cessation Procedure set out at Part 3 of the Schedule;
<b>Commencement Date</b>	means the date of Commencement of Development;
<b>Commencement of Development</b>	means the implementation of the Consent by the carrying out of a Material Operation;

<b>Consent</b>	means the Initial Consent and all Further Consents;
<b>Developer</b>	means the Initial Developer or in substitution therefore a Permitted Developer;
<b>Development</b>	means the development on any part of the Subjects as set out in the Consent;
<b>Effective Date</b>	means the last date of signature to this Instrument;
<b>Financial Payment</b>	means each monetary payment due and payable to the SLC in terms of this Instrument;
<b>Further Application</b>	means any planning applications affecting the Subjects submitted after the Effective Date and amending the Initial Consent or any Further Consents;
<b>Further Consent</b>	means the planning permission to be issued pursuant to the Further Application;
<b>Initial Consent</b>	means the planning permission to be issued pursuant to the Application;
<b>Insolvency Event</b>	means the occurrence in relation to any party bound by this Instrument of any of the following events: <ul style="list-style-type: none"> <li>(a) the party becoming apparently insolvent;</li> <li>(b) the making of an order that they be wound up or the passing of a resolution for voluntary winding up;</li> <li>(c) the appointment of an administrative receiver or receiver and manager in respect of any of their assets and undertakings;</li> <li>(d) the making of any bankruptcy order or order for sequestration;</li> <li>(e) the making of any voluntary arrangement (corporate or individual) for a composition of</li> </ul>



debts;

(f) the appointment of an administrator or the making of an administration order;

(g) the party being struck off the Register of Companies;

(h) the appointment of a liquidator or

(i) any similar event which in the opinion of SLC is of like effect

<b>Instrument</b>	means this deed;
<b>Late Payment Procedure</b>	means the procedure set out in Part 2 of the Schedule;
<b>Material Operation</b>	means an operation in accordance with Section 27(4) of the 1997 Act;
<b>Owner</b>	means collectively the Initial Owner and their successors in title to Subjects as defined by Section 75 of the 1997 Act but excluding (a) Prior Owners and (b) Ultimate Owners;
<b>Parties</b>	means SLC, the Developer and the Owner;
<b>Permitted Developer</b>	means any party other than the Initial Developer carrying out the Development at the Subjects who has delivered an Undertaking to SLC;
<b>Plan</b>	means the plan forming Part 6 of the Schedule;
<b>Planning Obligations</b>	means the obligations set out in Part 1, 2 and 3 of the Schedule;
<b>Prior Owner</b>	has the meaning ascribed to it in Part 4 of the Schedule;

<b>Procurement</b>	means the taking of such steps and procedures in relation to the award of public works contracts, public supply contracts and public services contracts as are necessary to comply with and be in accordance with the provisions of (1) the applicable European Union Treaties (2) the applicable Directives of the European Parliament and the Council of the European Union (3) such applicable United Kingdom and Scottish legislation and regulations in force from time to time and (4) the SLC's Standing Orders on Contracts applicable at the relevant time;
<b>Registration Date</b>	means the last date of receipt of the Keeper's acknowledgement, which relates to any part of the Subjects, of SLC's application for registration of this Instrument in the Land Register of Scotland or the recording of this Instrument in the relevant Division of the General Register of Sasines (as appropriate);
<b>Residential Unit</b>	means a single dwelling of any kind at the Subjects;
<b>Schedule</b>	means the schedule in 6 parts annexed and executed as relative hereto;
<b>Section 75C Procedure</b>	means the Procedure set out at Part 4 of the Schedule;
<b>Subjects</b>	means the subjects described in part 5 of the Schedule;
<b>Ultimate Owner</b>	means the first purchaser of each Residential Unit and his, her or their respective successors in ownership of that Residential Unit;

<b>Unauthorised Developer</b>	means any party (including, without prejudice to the foregoing generality, any Owner) carrying out the Development at the Subjects who has not delivered to SLC an Undertaking;
<b>Undertaking</b>	means a unilateral undertaking under section 75 of the 1997 Act from any proposed developer, with the consent of the Owner, registered against the Subjects in the Land Register of Scotland or the relevant Division of the General Register of Sasines as the case may be, that the proposed developer shall be bound by and shall comply with the terms of the Planning Obligations;
<b>Value Added Tax</b>	means value added tax or any other similar tax replacing the same or in addition thereto at the rate prevailing from time to time;
<b>Working Day</b>	means any day, excluding Saturdays, Sundays and SLC public holidays, during which the Scottish clearing banks in Glasgow are open for business;

1.2 In this Instrument (unless the context otherwise requires):-

- 1.2.1 The words "including" and "include" and words of similar effect shall not be deemed to limit the general effect of the words which precede them;
- 1.2.2 Reference to any agreement, contract, document or deed shall be construed as a reference to it as varied, supplemented or novated;
- 1.2.3 Obligations undertaken by a party which comprises more than one person shall be deemed to be made by them jointly and severally;
- 1.2.4 Words importing personal shall include firms, companies and bodies corporate and vice versa;

- 1.2.5 Words importing the singular shall be construed as importing the plural and vice versa;
- 1.2.6 Words importing one gender shall be construed as importing any other gender;
- 1.2.7 Words denoting an obligation on a party to do any act, or thing includes an obligation to procure that it be done and any words placing a party under a restriction include an obligation not to cause or permit or suffer any infringement of that restriction;
- 1.2.8 Construction of this Instrument shall ignore any headings and front/backing sheet (each of which is for reference only);
- 1.2.9 Reference to a numbered clause, schedule or paragraph are references to the clause, schedule or paragraph of or to this Instrument so numbered;
- 1.2.10 Any reference to any legislative provision shall be deemed to include any subsequent re-enactment or amending provision; and
- 1.2.11 No waiver (whether express or implied) by SLC of any breach or default of any other party to this Instrument or their agents, servants or successors (including their assignees) in performing or observing any of the provisions of this Instrument shall constitute a continuing waiver and no such waiver shall prevent SLC from subsequently enforcing any such provision or from acting on any subsequent breach thereof

## 2. **Statutory Authorities**

- 2.1 The Planning Obligations contained in this Instrument are made under Section 75 of the 1997 Act and are planning obligations for the purposes of the 1997 Act.
- 2.2 The Planning Obligations are undertaken by the Developer and the Owner and are enforceable by SLC as Planning Authority.
- 2.3 The obligations of the Developer and the Owner to SLC under this Instrument shall be owed to SLC and to no other party.



- 2.4 With the exception of the Section 75C Procedure, nothing contained in this Instrument shall prejudice or affect the rights, powers, duties and obligations of SLC in the exercise of their functions as Planning Authority.
- 2.5 Nothing in this Instrument shall confer regulatory approval for any matter in particular to carry out any building engineering or other operations in, on, over or under the Subjects;
- 2.6 If any provision of this Instrument is held to be invalid or illegal or unenforceable the validity, legality and enforceability of the remaining provisions shall not in any way be deemed to be affected or impaired.
- 2.7 Where SLC procures or acquires public works, public supply and/or public services in connection with the performance of this Instrument or any part or parts of it, SLC will do so in accordance with Procurement and in accordance with the provisions of Part 1 of the Local Government in Scotland Act 2003;

### 3. Commencement of Development

- 3.1 Neither the Developer nor the Owner will undertake any Commencement of Development until:-
  - 3.1.1 The Initial Consent has been issued by SLC; and
  - 3.1.2 The Developer has paid SLC's reasonable and properly incurred legal expenses in connection with the completion and registration of this Instrument
- 3.2 The Initial Owner, the Initial Developer and thereafter each Owner and each Developer will notify SLC in writing of the identity of any party or parties to whom they transfer (i) their title or their interest in the Subjects and (ii) of their right to develop in terms of the Consent.
- 3.3 The Section 75C Procedure shall only apply from and including the Commencement Date. Prior to the Commencement Date, where all or part of the Subjects are disposed, except in the case of any antecedent breach, the terms of this Instrument shall not continue to apply to the former owner in respect of those Subjects so disposed.

#### **4. Planning Obligations**

- 4.1 The Owner shall not permit an Unauthorised Developer to implement the Consent and/or carry out any Development.
- 4.2 The Owner and the Developer are obliged to implement the Planning Obligations.
- 4.3 An Owner and Developer is obliged to implement the Planning Obligations from the Commencement Date, without prejudice to any contractual or other remedy SLC have against any other Developer for any antecedent breach of this Instrument.
- 4.4 The Developer and the Owner agree that the Planning Obligations are reasonable, necessary and relevant in respect of the tests and guidance set out in Scottish Government Circular 3/2012 Planning Obligations and Good Neighbour Agreements.
- 4.5 The Section 75C Procedure will apply to the Owner.

#### **5. Entry**

- 5 Notwithstanding any rights SLC may have under the terms of the 1997 Act, the Owner consents to SLC and its statutory successors taking entry to the Subjects for the sole purpose of remedying any breach of the planning conditions attached to the Consent and/or the Planning Obligations in the event that:-
  - 5.1 a breach of the planning conditions attached to the Consent and/or the Planning Obligations has occurred;
  - 5.2 a written notice has been served by SLC on the Developer and/or the relevant Owner notifying them that a breach has occurred and specifying the steps to be taken in order to remedy the breach and the date by which these steps must be taken (provided always that this notice will be reasonable having regard to the nature of the breach) and the Developer and/or the relevant Owner has refused or failed to remedy such a breach; and
  - 5.3 There is no extant appeal by the Developer or the Owner in relation to alleged breach of planning conditions attached to the Consent which is pending determination under Part VI of the 1997 Act.



## 6. Notice

6.1 All notices which require to be given in terms of this Instrument shall be in writing and shall be deemed to be sufficiently served if signed by or on behalf of the party issuing the notice and either: (i) delivered personally, or (ii) sent by pre-paid recorded delivery or registered post, or (iii) sent by facsimile, to the following address(es) as the case may be:-

6.1.1 In the case of the Developer to its Registered Office or Head Office (if a body corporate) or (if an individual) to his last known address in the United Kingdom or (if a partnership) to the partnership and any one or more of the partners thereof at its last known principal place of business in the United Kingdom or (in any case) to such other address as may have been notified previously in writing to SLC and the Owner;

6.1.2 In the case of SLC, to SLC at Head of Planning, Council Offices, Almada Street, Hamilton, ML3 0AA, or to such other address as SLC may have notified to the Developer and Owner;

6.1.3 In the case of an Owner, to its Registered Office or Head Office (if a body corporate), to its last known address in the United Kingdom (if an individual) or to the partnership and any one or more of the partners thereof at its last known principal place of business in the United Kingdom (if a partnership) or (in any case) to such other address as the Owner may have notified to SLC previously in writing;

and any such notice shall be deemed to have been served (i) if delivered personally, at the time of delivery, (ii) in the case of pre-paid recorded delivery or registered post, on the second business day after the date on which the same was posted and (iii) in the case of facsimile at the time of transmission, save where transmission is after 4pm in which case receipt will be deemed to occur on the next Working Day.

6.2 In proving service, it shall be sufficient to prove that the envelope containing the notice was duly addressed to SLC or the Developer or the Owner, as the case may be, in accordance with this **Clause 6** and posted to the place to which it was so addressed (unless returned through the post).

## 7. Registration

7.1 Subject to payment of SLC's legal costs and outlays reasonably and properly incurred SLC shall register this Instrument in the Land Register of Scotland and/or record this Instrument in the relevant Division of the General Register of Sasines (as appropriate) against the Subjects within five (5) Working Days of the date of receipt

of this Instrument by SLC properly and validly executed by the Initial Developer and the Initial Owner.

- 7.2 The Initial Owner and the Initial Developer hereby undertake that prior to the Registration Date they (1) shall not convey, dispose of, sell, burden, or lease or otherwise grant any party an interest in their title to the Subjects or any part thereof, (2) have not nor shall they grant any Standard Security over the whole or any part of the Subjects all except in so far as the same may be specifically agreed in writing by SLC.
- 7.3 The Initial Developer and/or the Initial Owner undertake that, in the event that the Keeper of the Registers of Scotland requests that SLC will provide documentation, information or actions of any kind whatsoever to allow the registration/recording to complete the issue by the Keeper of a fully registered and/or recorded Instrument, they will deliver such documentation and information to SLC and carry out such action promptly to allow the Keeper to issue the registered and/or recorded Instrument.
- 7.4 In the event that the Keeper of the Registers of Scotland refuses or is unable to issue the registered Instrument by virtue of the Initial Developer's and/or the Initial Owner's failure to comply with Clause 7.3 hereof, SLC, acting reasonably, are entitled, but not obliged, to revoke the Consent in terms of Section 65 of the 1997 Act and the Initial Developer and/or the Initial Owner both agree that they or either of them will not (i) oppose such revocation in terms of Section 66 of the 1997 Act nor (ii) seek compensation or expenses from SLC.
- 7.5 The Initial Developer undertakes and/or the Initial Owner confirms that at the date on which they sign this Instrument they are not subject to or under threat or warning of an Insolvency Event and will not take steps to enter into any voluntary Insolvency arrangements the effect of which will be an Insolvency Event between the date on which they sign this Instrument and date of issue of the Initial Consent.
- 7.6 In the event that the Keeper of the Registers of Scotland refuses or is unable to issue the registered Instrument by reason of an Insolvency Event, SLC, acting reasonably, are entitled, but not obliged, to revoke the Consent in terms of Section 65 of the 1997 Act and the Initial Developer and/or the Initial Owner both agree that they or either of them will not (i) oppose such revocation in terms of Section 66 of the 1997 Act nor (ii) seek compensation or expenses from SLC. The Initial Developer and the Initial Owner hereby notify SLC, under section 67 (1) (b) of the 1997 Act that they do not object to such Revocation Order.



- 7.7 SLC undertake that before taking steps to revoke the Consent in terms of these Clauses, SLC will serve written notice on the Initial Developer and Initial Owner of their intention to revoke the Consent and will allow the Initial Developer and Initial Owner a reasonable opportunity to comply with the requirements of the Keeper of the Registers of Scotland to enable the Instrument to be registered or recorded.

## **8. Payments**

- 8.1 Any sums paid in accordance with the terms of this Instrument shall be exclusive of any Value Added Tax properly payable which shall be payable in addition.
- 8.2 Unless otherwise agreed in writing with SLC, the Late Payment Procedure will apply to all Financial Payments due and payable in terms of this Instrument.

## **9. Revocation of Consent**

In the event of the Consent being revoked prior to the Commencement Date, then the present obligations shall fall and be deemed pro non scripto from the date of such revocation (without prejudice to SLC's rights and remedies in respect of the antecedent breach of any obligations).

## **10. Laws of Scotland**

This Instrument shall be construed in accordance with the Laws of Scotland, and subject to the exclusive jurisdiction of the Scottish Courts.

## **11 Costs**

- 11.1 The Owner shall pay the whole reasonable and properly incurred legal expenses of SLC in connection with the following:-
- 11.1.1 This Instrument and any modification and/or discharge of the same; and
  - 11.1.2 The recording and/or registration dues in relation to the recording and/or registration of each of the documents referred to in this **Clause**, and the cost of obtaining three (3) extracts of each document.
- 11.2 The Owner shall pay the whole reasonable and properly incurred legal expenses of SLC in connection with the Section 75C Procedure.

**12. Registration**

The Parties consent to registration hereof for preservation and execution: IN  
**WITNESS WHEREOF** these presents typewritten on this and the 12 preceding  
 pages together with the Schedule annexed are executed as follows:-

They are subscribed for and on behalf of the said **CALA MANAGEMENT LIMITED** by:-

Print name... IAIN MCINTYRE

(Director/Company Secretary/Authorised Signatory)

Sign... [Signature]

At Strathmore on the 20<sup>th</sup> day of September 2016

Before this witness:-

Sign... [Signature]

Print name... ANDREW DUNCAN

Address... FLAT 4, 1 KIMMERGHAM  
DRIVE, COVINGTON, EH4 2GJ

.....

They are subscribed for and on behalf of the said **IAIN DOUGLAS JACKSON MASON** by ANDREW  
WILLIAM MACDONALD HALL, SOLICITOR, CONFORM TO  
POWER OF ATTORNEY IN HIS FAVOUR DATED 31 MAY 2016

Sign... [Signature]

At GLASGOW on the 19<sup>th</sup> day of SEPTEMBER 2016

Before this witness:-

Sign... Judith Stephenson

Print name... JUDITH HILARY STEPHENSON

Address... 101 WEST GEORGE ST  
GLASGOW

.....

.....

They are subscribed for and on behalf of the said **PIERS DOUGLAS WATSON** by ANDREW WILLIAM  
MACDONALD HALL, SOLICITOR, CONFORM TO POWER OF  
ATTORNEY IN HIS FAVOUR DATED 2 MAY 2016

Sign... [Signature]

At GLASGOW on the 19<sup>th</sup> day of SEPTEMBER 2016

Before this witness:-

Sign... Judith Stephenson

Print name... JUDITH HILARY STEPHENSON

Address... 191 WEST GEORGE ST  
GLASGOW

.....

.....

They are subscribed for and on behalf of the said **EWAN JOSEPH WATSON** by **ANDREW WILLIAM MACDONALD**  
 Sign..... *[Signature]* ..... **HALL, SOLICITOR, CONFORM TO POWER OF ATTORNEY IN HIS**  
**FAVOUR DATED 1 JUNE 2016**  
 At **GLASGOW** on the **19<sup>th</sup>** day of **SEPTEMBER** 2016

Before this witness:-

Sign..... *[Signature]* .....  
 Print name..... **JUDITH HILARY STEPHENSON** .....  
 Address..... **191 WEST GEORGE ST** .....  
**GLASGOW** .....  
 .....  
 .....

And they are sealed with the Common Seal of **SOUTH LANARKSHIRE COUNCIL** and  
 subscribed for and on their behalf by:-

Proper Officer..... *[Signature]* .....  
 Sign..... **MARGARET MARY CHIRNS** .....  
 At Hamilton on the **29<sup>th</sup>** day of **SEPTEMBER** 2016

This is the Schedule referred to in the foregoing Minute of Agreement between Cala Management Limited, Iain Douglas Jackson Mason, Piers Douglas Watson, Ewan Joseph Watson and South Lanarkshire Council

## Schedule

### Part 1

#### The Development Contribution – Annual Payments

#### PREAMBLE

It has been agreed among the Parties that a contribution to assist in the funding of education facilities, community facilities and affordable housing relating to the Development will be paid and that such contribution will be apportioned with regard to the number and type of Residential Units to be constructed on the Subjects in terms of this Part 1 of the Schedule.

#### 1. Definitions

In addition to the Definitions in Clause 1 of the Instrument of which this Schedule forms part, the following definitions will apply to this Part 1 of the Schedule:-

#### **Annual Payment**

means the sum calculated by the following formula

$$AP = A \times B,$$

where

AP = Annual Payment

A = the Indexed Unit Payment; and

B = the number of Residential Units meeting Completion in the Relevant Year;

#### **Annual Statement**

means a statement in the form of Annexure 1 of this Part of the Schedule to be provided each Year by the Owner to confirm the number of Residential Units meeting Completion on the



Subjects for the Relevant Year, including (i) the plot numbers of those Residential Units and (ii) a note of the Annual Payment that the Owner considers falls due;

**Calculation Date**

means 1<sup>st</sup> April in each year (unless otherwise agreed in writing with SLC prior to the Commencement Date);

**Completion**

means in respect of each Residential Unit, completion to the standard in respect of which an application for approval of a completion certificate has been granted by SLC;

**Council's Completion Records**

means all documents or records kept by the Council for the purposes of ascertaining and verifying an Owner's Annual Payment;

**Expiry Date**

means the date the last Residential Unit permitted in terms of the Consent reaches Completion;

**First Year**

means the period from and including the Effective Date to and including the next occurring Calculation Date;

**Full Year**

means each consecutive period of 12 months commencing from (but excluding) a Calculation Date to and including the next occurring Calculation Date;

<b>Fund</b>	means the ledger account set up, or to be set up, by SLC to receive the Financial Payments
<b>Index</b>	means the PubSec Index (Non House Building) exclusive of mortgage interest published by or on behalf of HM Government, or if that index ceases to be published or the basis upon which such index is calculated is substantially changed or rebased, such substitute or alternate index most likely to achieve an equivalent result as the parties may agree;
<b>Indexation Percentage</b>	means the percentage increase (but not decrease) in the Index between the Effective Date and the Relevant Calculation Date;
<b>Indexed Unit Payment</b>	means C plus D Where C = Unit Payment D = Unit Payment x Indexation Percentage;
<b>Last Year</b>	means the period from the Expiry Date back to the immediately preceding Calculation Date;
<b>Owner's Completion Records</b>	means all documents or records (including data storage systems) which are necessary or used or kept by the Owner for the purposes of ascertaining and verifying the payments due under this Instrument or which are relevant for such purpose;

<b>Payment Date</b>	means two calendar months after the Relevant Calculation Date;
<b>Relevant Calculation Date</b>	means in respect of (1) the First Year, the Calculation Date falling immediately after the Effective Date (2) a Full Year, the Calculation Date in each Full Year and (3) the Last Year, the Expiry Date;
<b>Relevant Year</b>	means the Year prior to the Relevant Calculation Date;
<b>Unit Payment</b>	means EIGHT THOUSAND TWO HUNDRED AND THIRTY FIVE POUNDS (£8,235) STERLING
<b>Works and Services</b>	means (i) Additional education accommodation in the East Kilbride Housing Market Area of which Strathaven forms part and in respect of which the Development has a direct impact, (ii) community facilities in the East Kilbride Housing Market Area of which Strathaven forms part and in respect of which the Development has a direct impact, and (iii) affordable housing by way of a commuted sum equivalent to up to 25% of the Subjects' capacity as serviced land and any parts or parts thereof;
<b>Year</b>	means either (1) the First Year; or (2) a Full Year or (3) the Last Year as the case may be

## 2. Annual Payment

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- 2.1 The Owner and the Developer will be jointly and severally liable to pay the Annual Payment to the Council on the Payment Date.

## 3. Payment Procedure

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- 3.1 The invoicing and payment arrangements for the Annual Payment is as follows:

i) The Owner will submit or procure that there is submitted an Annual Statement to the Council within 20 Working Days of the Relevant Calculation Date.

ii) If the Council agrees that the content of the Annual Statement conforms to the Council's Completion Records, the Council will issue an invoice based on the Annual Statement to the Owner within 10 Working Days of the date of receipt of Annual Statement;

iii) If the Council does not agree that the content of the Annual Statement conforms to the Council's Completion Records, the Council will advise the Owner within 10 Working Days of the date of receipt of Annual Statement and, at the same time, will issue an invoice based on the Council's Completion Records to the Owner;

iv) If an Owner fails to submit their Annual Statement to the Council within 20 Working Days of the Relevant Calculation Date, the Council will be entitled to issue an invoice based on the Council's Completion Records to that Owner.

- 3.2 The Owner will maintain the Owner's Completion Records fully and accurately throughout each Year.

- 3.3 If requested by the Council the Owner will, within 5 Working Days of the date of the request, provide the Council with the Completion Records relating to the then immediately preceding Year.

4. The Parties agree that the provision of the Works and Services by the Council is necessary for the implementation of the Development.

5. The Council will ensure that each Annual Payment is credited to the Fund and will be entitled to spend such sums from the Fund as they consider appropriate to meet the costs of the Works and Services which the Council at their sole discretion deem



required to enable the Development to progress. Where the Council has resolved to fund the Works and Services to support the Development, the Council will be entitled to recover the whole costs of this funding from the Fund.

6. The Parties agree that if in the sole opinion of the Council acting reasonably the Owner or Developer fails or delays to comply with this Part 1 of the Schedule the Council will be entitled to take action in terms of the Cessation Procedure.

**Annexure 1****Annual Statement**

[Addressed to Council]

[                    ] **Community Growth Area Annual Statement for Year Ending 31 March 20XX**

If change of Developer from last Annual Statement (or Effective Date if this is the first Annual Statement), date of change [    ]

If change of Owner from last Annual Statement (or Effective Date if this is the first Annual Statement), date of change [    ]

**Annual Payment Calculation**

Number of Residential Units meeting Completion from (Effective Date or 2 April 20XY) to 1 April 20XX

Relevant Unit Payment

Indexation percentage applied

Relevant Unit Payment after indexation

Unit Payment applied [        ]

Annual Payment [        ]

**Payment Details**

Owner/Developer's Bank Details [    ]

Date Annual Payment scheduled to be paid to Council [    ]

**Residential Unit Addresses and Types ( Market,**  
List

**Part 2****Late Payment Penalty**

## Definitions

1. In addition to the Definitions in Clause 1 of the Instrument, the following definitions will apply to this Part 2 of the Schedule:-

Date Paid means the date on which the Financial Payment and any interest accrued thereon is paid in full

Due Date means the date on which the Financial Payment is due

Interest Rate means 4% above the base lending rate of The Royal Bank of Scotland plc applicable at the Due Date and as varied from time to time until the Date Paid

2. Interest at the Interest Rate will accrue on all Financial Payments or any part thereof unpaid on the Due Date and will accrue from the Due Date until the Date Paid.
3. In the event that any Financial Payment or part thereof is not paid within 28 Working Days of the Due Date, SLC will be entitled to apply the Cessation Procedure.

**Part     3**  
**Cessation Procedure**

1.     Definitions

In addition to the Definitions in Clause 1 of the Instrument of which this Schedule forms part, the following definitions will apply to this Part     3 of the Schedule;-

Cessation Date               means a date not earlier than 14 Working Days after the date on the Cessation Notice

Cessation Notice            means a written notice in terms of the draft forming Annexure 2 of this Part     3 of the Schedule

Operations                    means the works carried out or to be carried out on the Subjects by the Owners or the Developers

Cessation Pre-Notice        mans a written notice in terms of Annexure 2 of this Part 3 of the Schedule.

2.     Without prejudice to the Council's statutory rights of enforcement in terms of the 1997 Act, in the event that an Owner or Developer is in breach of this Instrument or fails to comply with a Planning Obligation the Council will be entitled to serve a Cessation Notice on the Owner specifying the Cessation Date and the Owner and Developer must comply with it in full and cease Operations from the Cessation Date until the Council confirms in writing to the Owner that (i) the breach has been remedied or (ii) the Planning Obligation has been complied with or (iii) the Cessation Notice has been withdrawn
3.     The Council will not serve a Cessation Notice without first serving a Cessation Pre-Notice and allowing the Owner a reasonable opportunity to remedy the breach or failure to comply with the Planning Obligation.
4.     The Council will have no liability whatsoever for any loss or losses sustained by the Owner or Developer as a result or consequence of or attributable to the service of a Cessation Notice.



## Part 3 - Annexure 1

## CESSATION PRE-NOTICE

[Addressed to Owner]

Dear Sirs,

In this Notice the following definitions shall apply:-

Instrument means Section 75 Agreement between the Council and [ ] registered in the Land Register of Scotland [or recorded in the relevant Division of the General Register of Sasines (as appropriate) on [ ];

Cessation Notice has the meaning ascribed to it in Part 3 of the Instrument;

Council means South Lanarkshire Council established under the Local Government etc (Scotland) Act 1994 and having our main office at Council Offices, Almada Street, Hamilton;

[Owner] means [name of Owner]

Operations means all works and activities of any kind being carried out on the Subjects.

## CONSIDERING THAT

The Owner is bound to comply with the terms of the Instrument and that in the opinion of the Council the Owner is in breach of the Instrument or has failed to comply with a Planning Obligation specified in the Instrument as detailed in the Schedule annexed, the Council, in terms of the Instrument, hereby orders and notifies the Owner to remedy the breach by [date] failing which the Council will be entitled to serve a Cessation Notice no later than [date].

Signed

THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING CESSATION PRE-  
NOTICE DATED [ ] BY SOUTH LANARKSHIRE COUNCIL TO [ ].

The breach or failure to comply with a Planning Obligation to which this Notice relates is:

[Refer to planning obligation in the Instrument]

## Part 3 - Annexure 2

## CESSATION NOTICE

[Addressed to Owner]

Dear Sirs,

[ ] Community Growth Area

In this Notice the following definitions shall apply:-

Instrument means Section 75 Agreement between the Council and [ ] registered in the Land Register of Scotland [or recorded in the relevant Division of the General Register of Sasines (as appropriate) on [ ];

Council means South Lanarkshire Council established under the Local Government etc (Scotland) Act 1994 and having our main office at Council Offices, Almada Street, Hamilton;

Subjects means [ ];

Owner means [name of Owner];

Operations means all works and activities of any kind being carried out on the Subjects;

## CONSIDERING THAT

The Owner is bound to comply with terms of the Instrument and that in the opinion of the Council the Owner is in breach of the Instrument as detailed in the Schedule annexed, the Council, in terms of the Instrument, hereby orders and notifies the Owner to CEASE Operations on the Subjects on and from [DATE] until the Council withdraws this Notice in writing.

Signed



THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING CESSATION NOTICE  
DATED [ ] BY SOUTH LANARKSHIRE COUNCIL TO [ ]

The Breach to which this Notice relates is:-

**Part 4**  
**Section 75C Procedure**

**Definitions**

In addition to the Definitions in Clause 1 of the Instrument of which this Schedule forms part, the following definitions will apply to this Part 4 of the Schedule

Section 75C Completion Notice means a notice served by an Owner on the Council within 14 days of, and as specified in, the Section 75C Permission;

Section 75C Permission means a written notice in terms of the draft forming Annexure 1 of this Part 4 of the Schedule to be issued by the Council pursuant to a Section 75C Notification;

Section 75C Notification means a written notice given by any Owner to the Council that they intend to sell their interest to a third party which notice shall provide details of the proposed completion date of the sale and the name and address of the proposed purchaser;

Initial Section 75C Notification means a written statement from the Council as to whether the Planning Obligations in this Instrument have been complied with by the Owner as at the date of issue of such Initial Section 75C Notification;

Prior Owner means an Owner of the whole or any part of the Subjects who has served a Section 75C Notification, received a Section 75C Permission to that Section

75C Notification and thereafter served a timeous Section 75C Completion Notice pursuant to that Section 75C Permission;

#### Refusal Notice

means a written notice issued by the Council pursuant to the Section 75C Notification that the terms of Section 75C of the 1997 Act shall not be disapplied in respect of the proposed sale by the Owner;

#### Disposal

---

- 2.1 Any Owner shall be entitled to request an Initial Section 75 Notification from the Council at any time and the Council shall issue the same within three weeks of the date of receipt of written request for the same.
- 2.2 In the event of a proposed disposal of the whole of the Agreement Subjects, the Owner shall be entitled to serve a Section 75C Notification on the Council at any time up to four weeks prior to the proposed date of disposal notified in the Section 75C Notification, and the Council shall within three (3) weeks of receipt of the same issue either the Section 75C Permission or a Refusal Notice.
- 2.3 In the event of a proposed disposal of part of the Agreement Subjects, provided the Owner has complied in full with the terms of this Instrument at the date on which the Section 75C Notification is submitted to the Council, the Council shall not unreasonably withhold or delay the issue of a Section 75C Permission.
- 2.4 Unless otherwise agreed with the Council, the Owner shall pay the whole legal expenses of the Council in connection with this Part 4 of the Schedule.



## Part 4 - Annexure 1

[Addressed to Applicant of Section 75C Notification]

Dear Sirs,

Sale of Land at [ ]

In this letter the following definitions shall apply:-

Agreement means Section 75 Agreement between the Council and [ ] registered in the Land Register of Scotland [or recorded in the relevant Division of the General Register of Sasines (as appropriate) on [ ], against the Agreement Subjects:

Agreement Subjects means [ ] as [registered in the Land Register of Scotland under title Number LAN [ ] or recorded in the relevant Division of the General Register of Sasines (as appropriate);

Completion Notice means written evidence from Registers of Scotland that the New Owner is the registered heritable proprietor of [ ] part of the Agreement Subjects from the Disposal Date;

The Council means South Lanarkshire Council established under the Local Government etc (Scotland) Act 1994 and having our main office at Council Offices, Almada Street, Hamilton;

Disposal Date means [insert date specified in Section 75C Notification] or such earlier date as may be specified in the Completion Notice;

Owner means [insert applicant of Disposal Notification]

New Owner means [insert proposed Owner in Disposal Notification]

Section 75C means Section 75 C of the Town and Country Planning (Scotland) Act 1997;

Section 75 Notification means the Section 75 Notification annexed and signed as relative hereto;

CONSIDERING THAT the Agreement provides inter alia that Section 75C may be disapplied in certain circumstances with the consent of the Council;

FURTHER CONSIDERING that the Owner has served the Section 75C Notice on the Council and has requested that they be released from any liability in terms of the Agreement under Section 75C from the Disposal Date;

NOW THEREFORE the Council confirms that on receipt of the Completion Notice within fourteen (14) days of the Disposal Date, the Owner shall be released from the provisions of Section 75C in respect of the Agreement from and after the Disposal Date, save in respect of any antecedent breach detailed herein, and will have no continuing liability for any obligations incumbent under the Agreement from the Disposal Date;

Yours faithfully

Antecedent Breach (if any)

## Part 5

## Subjects

All and Whole the subjects extending to approximately 3.56 hectares outlined red on the Plan annexed and executed as relative hereto which subjects form part and portion of (FIRST) ALL and WHOLE the lands commonly called Letham being parts and portions of the lands called Nether Letham extending to a forty six shilling and eight penny land of old extent comprehending the lands of Kirkland and Kirkland House with houses, biggings, yards mosses, muirs, meadows, parts, pendicles and pertinents thereof whatsoever lying within the Parish of Avondale and Sheriffdom or County of Lanark AS ALSO (SECOND) ALL and WHOLE the lands of Blackmoss part of the six merk land of Carnduff sometime possessed by Robert Frame, thereafter by John Cochran of Carnduff and John Frame and Andrew Steel, with houses, biggings, yards, parts, pendicles and pertinents there of whatsoever lying within the Parish and Sheriffdom or County foresaid which subjects (FIRST) and (SECOND) aforesaid are more particularly described in (ONE) Disposition by Mrs Betty Doreen Berkeley-Miller in favour of Iain Douglas Jackson Mason and Mrs Janet Louise Watson dated 10 February and recorded in the General Register of Sasines for the County of Lanark on 13 March both dates in 1996 and (TWO) Disposition by Piers Douglas Watson and Ewan Joseph Watson as Executors of the late Janet Louise Watson in favour of Piers Douglas Watson and Ewan Joseph Watson dated 20 and 31 May and recorded in the General Register of Sasines for the County of Lanark on 6 July all dates in 2005 .

*Margaret Mary Cairns* <sub>SEC</sub>

*Alan*

*Alan*

*Alan*

*Alan* <sub>CALA x</sub>

*Alan* <sub>CALA</sub>



Part 6  
Plan



# Development Legend

- Denotes development application Boundary
- Denotes 1.8m high timber screen fence with Anstone piers
- Denotes 1.8m high Anstone wall
- Denotes 1m high Anstone feature stone wall & stone piers
- Denotes retaining wall
- Denotes 1m high post & wire fence
- Denotes 1.8m high timber screen fence
- Denotes drainage wayleave line
- Denotes Public Right of Way
- Denotes New Tree / shrub Planting
- Denotes hedge planting
- Denotes Adopted tarmac road / pavement Area
- Denotes Adopted monoblock road Area
- Denotes area to be turfed / seeded
- Denotes rear garden area
- Denotes monoblock private / shared driveways and parking courts
- Denotes Services Wayleaves
- Denotes timber decking to rear gardens

# Development Schedule

House Type	Beds	No.	ft2	Total ft2
BLAIR	4	4	1439	5756
BRYCE	4	2	1594	3188
CLELAND	4	5	1680	8400
COLVILLE	4 + 5	2	1633	3266
ELLIOT	4 + 5	2	1878	3756
DARROCH	5	7	1901	13727
DEWAR	4 + 5	11	1977	21747
KENNEDY	5	5	2204	11020
LOGAN	5	4	2225	8900
ELLIOT (5g st)	4 + 5	5	2408	12040
MELVILLE	5	3	2459	7377
MONCRIEF	5 + 5	3	2513	7539
		<b>53</b>		<b>104816 ft2</b>

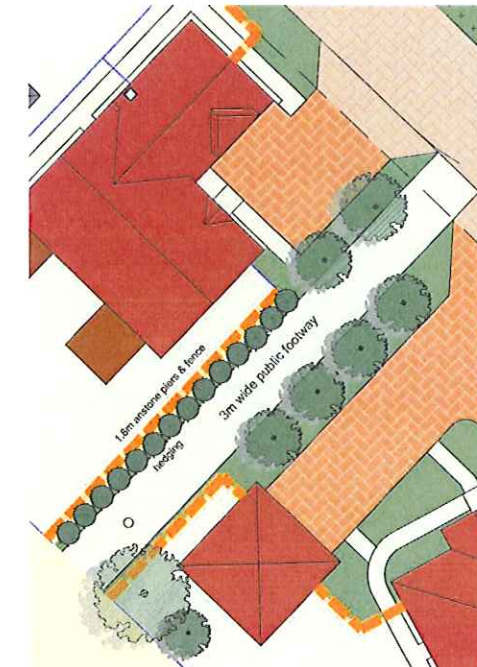
Mix Stats (%)	Areas (acres)
1,000 - 1,500 ft2	8
1,500 - 2,000 ft2	55
2,000 - 2,500 ft2	32
2,500 - 3,000 ft2	6
3,000 ft2 ++	0
	Gross
	Net Div
	NDA
	Coverage
	Units/NDA
	#2/NDA
	13,500

Planning Application Area - 8.81 Acres

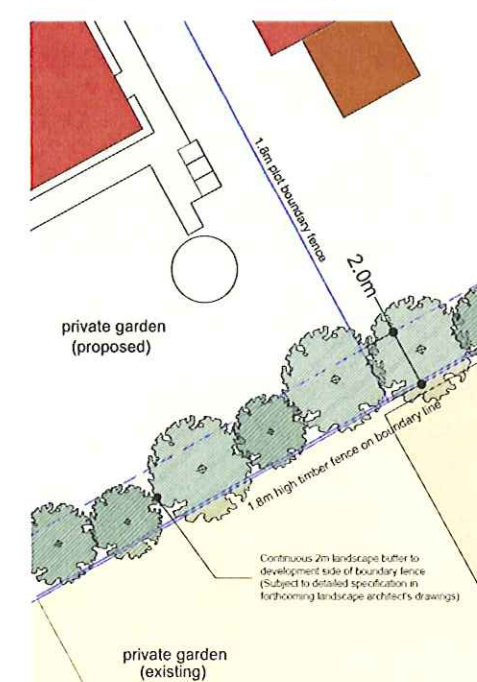
This is the Plan referred to in the foregoing Minute of Agreement between Iain Douglas Jackson Moss Piers Douglas Watson and Ewan Joseph Watson, Cala Management Limited and Salford Housing Council.

HV Cable Diversion

# PLANNING LAYOUT



Footway Connection at South West (plots 27 & 28)



Proposed Southern Boundary Treatment

Revisions  
 Margaret Mary Cairns  
 C 15/05/15 - Additional screen planting to south boundary - AD  
 B 23/03/15 - Footway link widened to 3m - AD  
 A 16/03/15 - Footway link to adjacent site between plots 27 & 28 - AD



Cairnlee House, Calendar Business Park  
 Calendar Road, Falkirk, FK11 1XE  
 Tel 01324 600000 Fax 01324 600101  
 www.cala.co.uk

Project Title:  
 Proposed Residential Development  
 Lethame Road, Strathaven.

Drawing Title:  
 Planning Application  
 Site Layout

Scale: 1:500 @ A1 Date: 18.9.14 Drawn By: B.Towers  
 Drawing Network Location:

Drawing Number:  
 091/PL\_01 Rev.D

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