



Registration of a Charge

Company Name: **BLACKWELL GRANGE JV LIMITED**

Company Number: **14423023**



XCVW64C9

Received for filing in Electronic Format on the: **31/01/2024**

Details of Charge

Date of creation: **22/01/2024**

Charge code: **1442 3023 0001**

Persons entitled: **DARLINGTON BOROUGH COUNCIL**

Brief description: **THAT FREEHOLD PROPERTY KNOWN AS LAND ON THE NORTH WEST SIDE OF GRANGE ROAD, DARLINGTON AS SHOWN EDGED RED ON THE PLAN ANNEXED AT SCHEDULE A OF THE LEGAL CHARGE AND BEING PART OF THE LAND REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER DU306166 AS AT THE DATE OF THIS CONTRACT IN ACCORDANCE WITH PLANNING PERMISSION 23/00782/FUL**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by:

SWINBURNE MADDISON LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 14423023

Charge code: 1442 3023 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd January 2024 and created by BLACKWELL GRANGE JV LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 31st January 2024 .

Given at Companies House, Cardiff on 31st January 2024

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

Dated

22 January

2024

Blackwell Grange JV Limited

and

Darlington Borough Council

Legal Charge

Dated

22 January

2024

BETWEEN:

- (1) **BLACKWELL GRANGE JV LIMITED** whose registered office is at Esh House, Bowburn North Industrial Estate, Bowburn, Durham, County Durham, DH6 5PF and whose company registration number is 14423023 (the **Borrower**); and
- (2) **DARLINGTON BOROUGH COUNCIL** of Town Hall, Feethams, Darlington, DL1 5QT (the **Lender**).

BACKGROUND

- (A) The Lender has agreed, under the Loan Agreement, to provide the Borrower with loan facilities on a secured basis.
- (B) The Borrower owns the Property.
- (C) Under this deed, the Borrower provides first security to the Lender for the loan facilities made or to be made available under the Loan Agreement.

1. INTERPRETATION

1.1 In this Deed the following words and expressions have the following meanings:-

"Act" the Law of Property Act 1925;

"Development" the development so defined in the Loan Agreement;

"Event of Default" any of the events mentioned in clause 7;

"Insurance Policy" means each contract or policy of insurance effected or maintained by the Borrower from time to time in respect of the Property.

"Insured Risks" fire, explosion, lightning, earthquake, storm, flood, bursting and overflowing of water tanks, apparatus or pipes, impact by aircraft and articles dropped from them, impact by vehicles, riot, civil commotion and any other risks against which the Borrower decides to insure from time to time;

"Loan Agreement" the deed relating to the payment of further sums dated on the date hereof relating to the loan to support the Development as between the Lender (1) and the Borrower (2);

"Property" all that freehold property known as land on the north west side of Grange Road, Darlington as shown edged red on the plan annexed at Schedule A and being part of the land registered at the Land Registry under title number DU306166 as at the date of this contract in accordance with planning permission 23/00782/FUL

"Receiver" includes any person appointed as receiver by the Lender under this Deed;

"Secured Amounts" all the Borrower's liabilities to the Lender pursuant to the Loan Agreement and all costs, expenses and interest thereon including without limitation all interest commission fees and legal and other costs charges and expenses which the Lender or any Receiver may charge or incur in relation to the Borrower or this Charge and/or in relation to the Property and/or breach of any

provision of, and the protection realisation or enforcement of, this Charge in each case on a full indemnity basis; and

"Security Interest" any mortgage, charge, pledge, lien, right of set off or any security interest (whether fixed or floating) or any arrangement in relation to the Property which has substantially the same commercial or substantive effect as the creation of security.

1.2 In this Deed:

1.2.1 references to the Borrower and the Lender include persons deriving title under them respectively;

1.2.2 references to the Property include all rights and interests in the same and all buildings, structures, fixtures (including trade fixtures), and all fixed plant and equipment for the time being thereon;

1.2.3 references to any document (including this Deed) shall be construed as a reference to that document as from time to time supplemented or varied; and

1.2.4 references to any statute shall include any statutory modification or re-enactment thereof.

2. COVENANT FOR REPAYMENT

The Borrower covenants with the Lender to pay the Secured Amounts when due and payable in accordance with the Loan Agreement and this Deed provided that if the Secured Amounts are paid in full the Lender will, at the request of the Borrower promptly discharge the security created by this Deed.

3. GRANT OF SECURITY

3.1 Legal mortgage and fixed charges

As a continuing security for the payment and discharge of the Secured Amounts, the Borrower with full title guarantee charges to the Lender:

3.1.1 by way of first legal mortgage, the Property; and

3.1.2 by way of first fixed charge:

3.1.2.1 all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy,

3.1.2.2 the benefit of all other contracts, guarantees, appointments and warranties relating to the Property and other documents to which the Borrower is a party or which are in its favour or of which it has the benefit relating to any letting, development, sale, purchase, use or the operation of the Property or otherwise relating to the Property (including, in each case, but without limitation, the right to demand and receive all monies whatever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatever accruing to or for its benefit arising from any of them);

3.1.2.3 all authorisations (statutory or otherwise) held or required in connection with the Borrower's business carried on at the Property or the use of any Charged Property, and all rights in connection with them.

3.2 Assignment

As a continuing security for the payment and discharge of the Secured Amounts, the Borrower with full title guarantee assigns to the Lender absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Amounts all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy provided that nothing in this clause 3.2 shall constitute the Lender as mortgagee in possession.

4. PERFECTION OF SECURITY

4.1 Registration of legal mortgage at the Land Registry.

The Borrower consents to an application being made by the Lender to the Land Registrar for the following restriction in Form P to be registered against its title to the Property:

"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [DATE] in favour of [NAME OF PARTY] referred to in the charges register or their conveyancer.

4.2 Further advances

The Lender covenants with the Borrower that it shall perform its obligations to make advances under the Facility Agreement (including any obligation to make available further advances).

4.3 Cautions against first registration and notices

Whether or not title to the Property is registered at the Land Registry, if any caution against first registration or any notice (whether agreed or unilateral) is registered against the Borrower's title to the Property, the Borrower shall immediately provide the Lender with full particulars of the circumstances relating to such caution or notice. If such caution or notice was registered to protect a purported interest the creation of which is not permitted under this deed, the Borrower shall immediately, and at its own expense, take such steps as the Lender may require to ensure that the caution or notice, as applicable, is withdrawn or cancelled.

5. LIABILITY OF THE BORROWER

5.1 Liability not discharged

The Borrower's liability under this deed in respect of any of the Secured Amounts shall not be discharged, prejudiced or affected by:

5.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;

5.1.2 the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or

5.1.3 any other act or omission that, but for this clause 5 might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

5.2 Immediate recourse

The Borrower waives any right it may have to require the Lender to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against the Borrower.

6. REPRESENTATIONS AND WARRANTIES

6.1 Times for making representations and warranties

The Borrower makes the representations and warranties set out in this *clause 6* to the Lender on the date of this deed.

6.2 Ownership of Property

The Borrower is the sole legal and beneficial owner of the Property and has good and marketable title to the Property.

6.3 No Security

The Property is free from any Security Interest other than the Security Interest created by this deed.

6.4 No adverse claims

The Borrower has not received, or acknowledged notice of, any adverse claim by any person in respect of the Property or any interest in it.

6.5 Avoidance of security

No Security Interest expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Borrower or otherwise.

6.6 Enforceable security

This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Borrower and is and will continue to be effective security over all and every part of the Property in accordance with its terms.

7. GENERAL COVENANTS

7.1 Negative pledge and disposal restrictions

The Borrower shall not at any time, except with the prior written consent of the Lender:

7.1.1 create, purport to create or permit to subsist any Security on, or in relation to the Property other than any Security created by this deed;

7.1.2 sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Property; or

7.1.3 create or grant (or purport to create or grant) any interest in the Property in favour of a third party.

7.2 Preservation of Property

The Borrower shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender or materially diminish the value of any of the Property or the effectiveness of the security created by this deed.

7.3 Compliance with laws and regulations

The Borrower shall not, without the Lender's prior written consent, use or permit the Property to be used in any way contrary to law.

7.3.1 The Borrower shall:

7.3.1.1 comply with the requirements of any law or regulation relating to or affecting the Property or the use of it or any part of it;

7.3.1.2 obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Charged Property or its use or that are necessary to preserve, maintain or renew any Charged Property; and

7.3.1.3 promptly effect any maintenance, modifications, alterations or repairs to be effected on or in connection with the Charged Property that are required to be made by it under any law or regulation.

7.4 Enforcement of rights

The Borrower shall use its best endeavours to:

7.4.1 procure the prompt observance and performance by the relevant counterparty to any agreement or arrangement with the Borrower and forming part of the Property of the covenants and other obligations imposed on such counterparty; and

7.4.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Property that the Lender may require from time to time.

7.5 Notice of misrepresentations and breaches

The Borrower shall, promptly on becoming aware of any of the same, give the Lender notice in writing of:

7.5.1 any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and

7.5.2 any breach of any covenant set out in this deed.

7.6 Title documents

The Borrower shall, on the execution of this deed, deposit with the Lender and the Lender shall, for the duration of this deed, be entitled to hold:

7.6.1 all deeds and documents of title relating to the Property that are in the possession or control of the Borrower (and if these are not within the possession and/or control of the Borrower, the Borrower undertakes to obtain possession of all these deeds and documents of title);

7.6.2 each Insurance Policy;

7.7 Notices to be given by the Borrower

7.7.1 The Borrower shall within five days of the execution of this deed:

7.7.1.1 give notice to the relevant insurers of the assignment of the Borrower's rights and interest in and under each Insurance Policy (including the proceeds of any claims under that Insurance Policy) under clause 3.2; and

7.7.1.2 the Borrower shall obtain the Lender's prior approval of the form of any notice or acknowledgement to be used under this clause 7.

8. CONTINUANCE OF SECURITY

The charge contained in this Security is a charge for the Secured Amounts and provisions hereof shall remain in force until the execution by the Lender of an unconditional release or a receipt for all (and not part only) of the Secured Amounts.

9. GENERAL COVENANTS

9.1. The Borrower covenants with the Lender:

9.1.1 not without the prior written consent of the Lender (such consent not to be unreasonably withheld or delayed) to create or allow any Security Interest which ranks in priority to or *pari passu* with the charge in this Deed or any Security Interest which will rank after the charge detailed in this Deed;

9.1.2 following completion of the construction of the Dwellings to insure and keep insured the Property in its full reinstatement value against the Insured Risks;

9.1.3 punctually to pay all sums due by the Borrower in respect of the said insurance and following the occurrence of an Event of Default to hold any insurance moneys received upon trust for the Lender and to apply them in reinstating the damage suffered;

9.1.4 to comply with all obligations under any present or future statute, regulation, order or instrument or under bye laws regulations or requirements of any competent authority or approvals licences or consents relative to the Property or its uses of enjoyment and to punctually pay all governmental, municipal or other taxes, duties, rates and outgoings payable with reference to the Property; and

9.1.5 not do or allow anything to be done on the Property which shall be treated as a development within the meaning of the Town and Country Planning Acts unless prior written consent of the Lender has been obtained and for the avoidance of doubt the Lender has consented to the development authorised pursuant to planning permission 23/00782/FUL.

9.2 If the Borrower fails to comply with any obligation to the Lender, whether under this Deed or otherwise, the Lender shall have the power but shall not be obliged, on behalf of the Borrower or

otherwise, to take such action as it considers appropriate to remedy or mitigate the consequences of such failure without thereby becoming liable as a mortgagee in possession. For the avoidance of doubt, any expenditure incurred by the Lender in acting under this clause 5.2 shall be deemed to be a part of the Secured Amounts.

10. THE LENDER'S POWERS

10.1 Section 103 of the Act shall not apply to this Deed which shall be immediately enforceable and all statutory powers of mortgagees shall arise on execution of this Deed and be exercisable at any time after an Event of Default.

10.2 The powers conferred by the Act are hereby extended to authorise the Lender to do anything which the Borrower could do in relation to the Property.

11. EVENTS OF DEFAULT

An Event of Default shall have occurred if:

11.1 the Borrower fails to pay any of the Secured Amounts to the Lender under the Loan Agreement unless its failure to pay is caused by administrative or technical error and payment is made within 5 days of its due date;

11.2 any default occurs under any Security Interest granted by the Borrower or any encumbrancer takes possession of or a trustee or administrative or other receiver or similar officer is appointed over all or any part of the assets of the Borrower or distress or any form of execution is levied or enforced upon any such assets or any Security Interest created by the Borrower becomes enforceable; or

11.3 the Borrower is, or is deemed for the purposes of any law to be, unable to pay its debts as they fall due or to be insolvent, or admits inability to pay its debts as they fall due; or

11.4 proceedings are initiated against the Borrower which in the reasonable opinion of the Lender are not frivolous or vexatious under any applicable insolvency laws or any step is taken by any person to appoint an administrator or receiver or an administrator or receiver is appointed in relation to it or in relation to the whole or any substantial part of its undertaking or assets; or

11.5 any event or series of events whether related or not occurs which would be likely to materially and adversely affect the value of the Property or the ability of the Borrower to perform its obligations to the Lender under this Deed and/or pursuant to the Loan Agreement.

12. RECEIVER

12.1 The Lender may by writing or by deed appoint (and thereafter remove or substitute) any person or persons to be receiver of the Property at any time after an Event of Default if the Lender has properly demanded payment of the Secured Amounts or if so requested by the Borrower. If more than one person is appointed they may act and exercise all their powers together or separately.

12.2 The Receiver shall be the agent of the Borrower who alone shall be responsible for his acts and defaults and liable on any contracts entered into or adopted by him. His remuneration may be fixed by the Lender but shall be payable by the Borrower alone, and shall form part of the Secured Amounts.

12.3 Insofar as statute permits, any Receiver (even though not an "administrative receiver" as defined in the Insolvency Act 1986) shall have the following powers:

12.3.1 all powers specified in Schedule 1 to the Insolvency Act 1986;

12.3.2 all powers conferred on a mortgagee in possession or receiver by the Act;

12.3.3 to grant or surrender any lease of the Property on any terms without being subject to the limitations in sections 99 and 100 of the Act;

12.3.4 to maintain, alter, improve or develop the Property and sever one part from any other;

12.3.5 on such terms as he may think fit, to acquire any property, assets or rights which he considers desirable for the improvement or realisation of the Property;

12.3.6 to redeem or compromise any Security Interest ranking prior to or *pari passu* with this Deed; and

12.3.7 generally to do anything in relation to the Property which he may consider expedient as if he were the sole legal and beneficial owner of it.

13. APPLICATION OF PROCEEDS

All moneys arising from the exercise of the powers of the Receiver or the Lender (subject to any prior claims) shall be applied in the following order and sections 109(6) and (8) of the Act shall not apply:

13.1 all moneys raised or borrowed and all costs, charges, expenses and liabilities paid or incurred by the Receiver in the exercise of his powers;

13.2 the remuneration of the Receiver;

13.3 the Secured Amounts; and

13.4 the claims of those entitled to any surplus.

14. PROTECTION OF THIRD PARTIES

14.1 No purchaser for value dealing with the Lender or the Receiver shall be concerned to enquire whether any power has arisen, become exercisable or is being validly exercised.

14.2 The receipt of the Lender or the Receiver shall be an absolute discharge and the payer shall not be obliged to see to the application of moneys paid to them.

15. PROTECTION OF THE SECURITY TRUSTEES AND RECEIVER

15.1 Neither the Lender nor the Receiver shall be liable to the Borrower in respect of any loss or damage arising out of the exercise or the attempted, purported or failure to exercise any of their respective powers so long as the exercise of these powers are properly conceived.

15.2 Entry into possession of the Property shall not render the Lender or the Receiver liable to account as mortgagee in possession nor prevent the Lender at any time going out of such possession.

15.3 The Borrower further covenants with the Lender upon demand to execute any document or do any act or thing which may perfect the charge intended to be created by this Deed or facilitate the exercise of any of the powers of the Lender or the Receiver.

16. EXPENSES AND INDEMNITY

The Borrower further covenants with the Lender to reimburse or pay and indemnify the Lender and the Receiver against all reasonable and proper costs, charges, expenses, losses and liabilities (together with VAT payable thereon) incurred by the Lender or the Receiver in connection with the exercise of any of their powers under or the enforcement or preservation of this Deed or because of any breach by the Borrower of its obligations to the Lender.

17. FURTHER ASSURANCE

The Borrower will undertake all acts and/or execute all documents that the Lender may reasonably specify in order to perfect the security created or intended to be created under this Deed and enable the Lender to exercise its rights, power and remedies under this Deed or law.

18. POWER OF ATTORNEY

The Borrower irrevocably appoints the Lender and the Receiver jointly and also severally to be its attorney (with full power of substitution) on behalf of the Borrower and in its name or otherwise, to execute any document or do any act or thing which the Lender or the Receiver may, in their absolute discretion, consider appropriate in the exercise of any of their powers or which the Borrower is obliged to the Lender to execute or do, whether under this Deed or otherwise.

19. EXAMINATION OF PROPERTY

The Borrower shall permit and shall ensure that any occupier of the Property shall permit the Lender and any persons appointed by them to enter the Property at all reasonable times to view its state and condition and to enable the Lender to exercise its rights under clause 5.2.

20. OTHER SECURITY

20.1 This Deed is in addition to any other Security Interest which the Lender may have in respect of the Secured Amounts. Such charges and other Security Interests can be enforced in whatever order the Lender decides.

20.2 Section 93 of the Act (relating to consolidation) shall not apply.

20.3 If there are any Security Interests having priority to the charges in this Deed and any powers or remedies conferred by them are being exercised or enforced against the Property, the Lender or any Receiver may redeem or take a transfer of such prior Security Interest and all monies paid or costs incurred in such redemption or transfer shall be paid to the Lender on demand and, until payment, added to the Secured Amounts.

21. FURTHER PROVISIONS

21.1 If any provisions of this Deed become invalid or unenforceable under any law, the validity and enforceability of the remaining provisions shall not be affected in any way.

21.2 Neither the Borrower nor the Lender may assign, transfer, novate, dispose of, sub-contract or deal in any manner with any one or more of its rights and/or obligations under this Deed.

21.3 All notices shall be delivered by hand or sent by first-class post or facsimile to the recipient's address as set out in this Deed or to such other address in England and Wales as may be substituted.

21.4 Notices shall be deemed to have been received on the next business day after posting and if delivered or sent by facsimile, on the day of delivery if a business day or, if not, the next business day.

21.5 This Deed is governed by, and shall be construed in accordance with the law of England and Wales.

IN WITNESS whereof this document has been executed as a deed by the parties hereto but is not intended to have legal effect until it has been unconditionally delivered and dated

**SIGNED as a DEED by
Blackwell Grange JV Limited**

**acting by a Director or its Secretary
or two Directors**

Director

Director/Secretary

**THE COMMON SEAL OF
Darlington Borough Council
was hereunto affixed in the presence of:**

Authorised Signatory

**Schedule A
Plan**

Inserted overleaf.

A1



ward hadaway	
Client: Darlington Borough Council	
File: BARB23.20	Rev: 1
Type: Property Plan	
Land at Blackwell Grange Darlington DL3 0GL	
Date: 9/12/2021	Drawn: 15/03/22
Drawn by: Ward Hadaway	Checked by: Ward Hadaway
Scale: 1:1000	Quantity: 0.00

Dated 22 January

2024

Blackwell Grange JV Limited

and

Darlington Borough Council

Legal Charge

Dated

22 January

2024

BETWEEN:

- (1) **BLACKWELL GRANGE JV LIMITED** whose registered office is at Esh House, Bowburn North Industrial Estate, Bowburn, Durham, County Durham, DH6 5PF and whose company registration number is 14423023 (the Borrower); and
- (2) **DARLINGTON BOROUGH COUNCIL** of Town Hall, Feethams, Darlington, DL1 5QT (the Lender).

BACKGROUND

(A) The Lender has agreed, under the Loan Agreement, to provide the Borrower with loan facilities on a secured basis.

(B) The Borrower owns the Property.

(C) Under this deed, the Borrower provides first security to the Lender for the loan facilities made or to be made available under the Loan Agreement.

1. INTERPRETATION

1.1 In this Deed the following words and expressions have the following meanings:-

"Act" the Law of Property Act 1925;

"Development" the development so defined in the Loan Agreement;

"Event of Default" any of the events mentioned in clause 7;

"Insurance Policy" means each contract or policy of insurance effected or maintained by the Borrower from time to time in respect of the Property.

"Insured Risks" fire, explosion, lightning, earthquake, storm, flood, bursting and overflowing of water tanks, apparatus or pipes, impact by aircraft and articles dropped from them, impact by vehicles, riot, civil commotion and any other risks against which the Borrower decides to insure from time to time;

"Loan Agreement" the deed relating to the payment of further sums dated on the date hereof relating to the loan to support the Development as between the Lender (1) and the Borrower (2);

"Property" all that freehold property known as land on the north west side of Grange Road, Darlington as shown edged red on the plan annexed at Schedule A and being part of the land registered at the Land Registry under title number DU306166 as at the date of this contract in accordance with planning permission 23/00782/FUL

"Receiver" includes any person appointed as receiver by the Lender under this Deed;

"Secured Amounts" all the Borrower's liabilities to the Lender pursuant to the Loan Agreement and all costs, expenses and interest thereon including without limitation all interest commission fees and legal and other costs charges and expenses which the Lender or any Receiver may charge or incur in relation to the Borrower or this Charge and/or in relation to the Property and/or breach of any

provision of, and the protection realisation or enforcement of, this Charge in each case on a full indemnity basis; and

"Security Interest" any mortgage, charge, pledge, lien, right of set off or any security interest (whether fixed or floating) or any arrangement in relation to the Property which has substantially the same commercial or substantive effect as the creation of security.

1.2 In this Deed:

1.2.1 references to the Borrower and the Lender include persons deriving title under them respectively;

1.2.2 references to the Property include all rights and interests in the same and all buildings, structures, fixtures (including trade fixtures), and all fixed plant and equipment for the time being thereon;

1.2.3 references to any document (including this Deed) shall be construed as a reference to that document as from time to time supplemented or varied; and

1.2.4 references to any statute shall include any statutory modification or re-enactment thereof.

2. COVENANT FOR REPAYMENT

The Borrower covenants with the Lender to pay the Secured Amounts when due and payable in accordance with the Loan Agreement and this Deed provided that if the Secured Amounts are paid in full the Lender will, at the request of the Borrower promptly discharge the security created by this Deed.

3. GRANT OF SECURITY

3.1 Legal mortgage and fixed charges

As a continuing security for the payment and discharge of the Secured Amounts, the Borrower with full title guarantee charges to the Lender:

3.1.1 by way of first legal mortgage, the Property; and

3.1.2 by way of first fixed charge:

3.1.2.1 all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy,

3.1.2.2 the benefit of all other contracts, guarantees, appointments and warranties relating to the Property and other documents to which the Borrower is a party or which are in its favour or of which it has the benefit relating to any letting, development, sale, purchase, use or the operation of the Property or otherwise relating to the Property (including, in each case, but without limitation, the right to demand and receive all monies whatever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatever accruing to or for its benefit arising from any of them);

3.1.2.3 all authorisations (statutory or otherwise) held or required in connection with the Borrower's business carried on at the Property or the use of any Charged Property, and all rights in connection with them.

3.2 Assignment

As a continuing security for the payment and discharge of the Secured Amounts, the Borrower with full title guarantee assigns to the Lender absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Amounts all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy provided that nothing in this clause 3.2 shall constitute the Lender as mortgagee in possession.

4. PERFECTION OF SECURITY

4.1 Registration of legal mortgage at the Land Registry.

The Borrower consents to an application being made by the Lender to the Land Registrar for the following restriction in Form P to be registered against its title to the Property:

"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [DATE] in favour of [NAME OF PARTY] referred to in the charges register or their conveyancer.

4.2 Further advances

The Lender covenants with the Borrower that it shall perform its obligations to make advances under the Facility Agreement (including any obligation to make available further advances).

4.3 Cautions against first registration and notices

Whether or not title to the Property is registered at the Land Registry, if any caution against first registration or any notice (whether agreed or unilateral) is registered against the Borrower's title to the Property, the Borrower shall immediately provide the Lender with full particulars of the circumstances relating to such caution or notice. If such caution or notice was registered to protect a purported interest the creation of which is not permitted under this deed, the Borrower shall immediately, and at its own expense, take such steps as the Lender may require to ensure that the caution or notice, as applicable, is withdrawn or cancelled.

5. LIABILITY OF THE BORROWER

5.1 Liability not discharged

The Borrower's liability under this deed in respect of any of the Secured Amounts shall not be discharged, prejudiced or affected by:

5.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;

5.1.2 the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or

5.1.3 any other act or omission that, but for this clause 5 might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

5.2 Immediate recourse

The Borrower waives any right it may have to require the Lender to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against the Borrower.

6. REPRESENTATIONS AND WARRANTIES

6.1 Times for making representations and warranties

The Borrower makes the representations and warranties set out in this *clause 6* to the Lender on the date of this deed.

6.2 Ownership of Property

The Borrower is the sole legal and beneficial owner of the Property and has good and marketable title to the Property.

6.3 No Security

The Property is free from any Security Interest other than the Security Interest created by this deed.

6.4 No adverse claims

The Borrower has not received, or acknowledged notice of, any adverse claim by any person in respect of the Property or any interest in it.

6.5 Avoidance of security

No Security Interest expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Borrower or otherwise.

6.6 Enforceable security

This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Borrower and is and will continue to be effective security over all and every part of the Property in accordance with its terms.

7. GENERAL COVENANTS

7.1 Negative pledge and disposal restrictions

The Borrower shall not at any time, except with the prior written consent of the Lender:

7.1.1 create, purport to create or permit to subsist any Security on, or in relation to the Property other than any Security created by this deed;

7.1.2 sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Property; or

7.1.3 create or grant (or purport to create or grant) any interest in the Property in favour of a third party.

7.2 Preservation of Property

The Borrower shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender or materially diminish the value of any of the Property or the effectiveness of the security created by this deed.

7.3 Compliance with laws and regulations

The Borrower shall not, without the Lender's prior written consent, use or permit the Property to be used in any way contrary to law.

7.3.1 The Borrower shall:

7.3.1.1 comply with the requirements of any law or regulation relating to or affecting the Property or the use of it or any part of it;

7.3.1.2 obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Charged Property or its use or that are necessary to preserve, maintain or renew any Charged Property; and

7.3.1.3 promptly effect any maintenance, modifications, alterations or repairs to be effected on or in connection with the Charged Property that are required to be made by it under any law or regulation.

7.4 Enforcement of rights

The Borrower shall use its best endeavours to:

7.4.1 procure the prompt observance and performance by the relevant counterparty to any agreement or arrangement with the Borrower and forming part of the Property of the covenants and other obligations imposed on such counterparty; and

7.4.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Property that the Lender may require from time to time.

7.5 Notice of misrepresentations and breaches

The Borrower shall, promptly on becoming aware of any of the same, give the Lender notice in writing of:

7.5.1 any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and

7.5.2 any breach of any covenant set out in this deed.

7.6 Title documents

The Borrower shall, on the execution of this deed, deposit with the Lender and the Lender shall, for the duration of this deed, be entitled to hold:

7.6.1 all deeds and documents of title relating to the Property that are in the possession or control of the Borrower (and if these are not within the possession and/or control of the Borrower, the Borrower undertakes to obtain possession of all these deeds and documents of title);

7.6.2 each Insurance Policy;

7.7 Notices to be given by the Borrower

7.7.1 The Borrower shall within five days of the execution of this deed:

7.7.1.1 give notice to the relevant insurers of the assignment of the Borrower's rights and interest in and under each Insurance Policy (including the proceeds of any claims under that Insurance Policy) under clause 3.2; and

7.7.1.2 the Borrower shall obtain the Lender's prior approval of the form of any notice or acknowledgement to be used under this clause 7.

8. CONTINUANCE OF SECURITY

The charge contained in this Security is a charge for the Secured Amounts and provisions hereof shall remain in force until the execution by the Lender of an unconditional release or a receipt for all (and not part only) of the Secured Amounts.

9. GENERAL COVENANTS

9.1. The Borrower covenants with the Lender:

9.1.1 not without the prior written consent of the Lender (such consent not to be unreasonably withheld or delayed) to create or allow any Security Interest which ranks in priority to or *pari passu* with the charge in this Deed or any Security Interest which will rank after the charge detailed in this Deed;

9.1.2 following completion of the construction of the Dwellings to insure and keep insured the Property in its full reinstatement value against the Insured Risks;

9.1.3 punctually to pay all sums due by the Borrower in respect of the said insurance and following the occurrence of an Event of Default to hold any insurance moneys received upon trust for the Lender and to apply them in reinstating the damage suffered;

9.1.4 to comply with all obligations under any present or future statute, regulation, order or instrument or under bye laws regulations or requirements of any competent authority or approvals licences or consents relative to the Property or its uses of enjoyment and to punctually pay all governmental, municipal or other taxes, duties, rates and outgoings payable with reference to the Property; and

9.1.5 not do or allow anything to be done on the Property which shall be treated as a development within the meaning of the Town and Country Planning Acts unless prior written consent of the Lender has been obtained and for the avoidance of doubt the Lender has consented to the development authorised pursuant to planning permission 23/00782/FUL.

9.2 If the Borrower fails to comply with any obligation to the Lender, whether under this Deed or otherwise, the Lender shall have the power but shall not be obliged, on behalf of the Borrower or

otherwise, to take such action as it considers appropriate to remedy or mitigate the consequences of such failure without thereby becoming liable as a mortgagee in possession. For the avoidance of doubt, any expenditure incurred by the Lender in acting under this clause 5.2 shall be deemed to be a part of the Secured Amounts.

10. THE LENDER'S POWERS

10.1 Section 103 of the Act shall not apply to this Deed which shall be immediately enforceable and all statutory powers of mortgagees shall arise on execution of this Deed and be exercisable at any time after an Event of Default.

10.2 The powers conferred by the Act are hereby extended to authorise the Lender to do anything which the Borrower could do in relation to the Property.

11. EVENTS OF DEFAULT

An Event of Default shall have occurred if:

11.1 the Borrower fails to pay any of the Secured Amounts to the Lender under the Loan Agreement unless its failure to pay is caused by administrative or technical error and payment is made within 5 days of its due date;

11.2 any default occurs under any Security Interest granted by the Borrower or any encumbrancer takes possession of or a trustee or administrative or other receiver or similar officer is appointed over all or any part of the assets of the Borrower or distress or any form of execution is levied or enforced upon any such assets or any Security Interest created by the Borrower becomes enforceable; or

11.3 the Borrower is, or is deemed for the purposes of any law to be, unable to pay its debts as they fall due or to be insolvent, or admits inability to pay its debts as they fall due; or

11.4 proceedings are initiated against the Borrower which in the reasonable opinion of the Lender are not frivolous or vexatious under any applicable insolvency laws or any step is taken by any person to appoint an administrator or receiver or an administrator or receiver is appointed in relation to it or in relation to the whole or any substantial part of its undertaking or assets; or

11.5 any event or series of events whether related or not occurs which would be likely to materially and adversely affect the value of the Property or the ability of the Borrower to perform its obligations to the Lender under this Deed and/or pursuant to the Loan Agreement.

12. RECEIVER

12.1 The Lender may by writing or by deed appoint (and thereafter remove or substitute) any person or persons to be receiver of the Property at any time after an Event of Default if the Lender has properly demanded payment of the Secured Amounts or if so requested by the Borrower. If more than one person is appointed they may act and exercise all their powers together or separately.

12.2 The Receiver shall be the agent of the Borrower who alone shall be responsible for his acts and defaults and liable on any contracts entered into or adopted by him. His remuneration may be fixed by the Lender but shall be payable by the Borrower alone, and shall form part of the Secured Amounts.

12.3 Insofar as statute permits, any Receiver (even though not an "administrative receiver" as defined in the Insolvency Act 1986) shall have the following powers:

12.3.1 all powers specified in Schedule 1 to the Insolvency Act 1986;

12.3.2 all powers conferred on a mortgagee in possession or receiver by the Act;

12.3.3 to grant or surrender any lease of the Property on any terms without being subject to the limitations in sections 99 and 100 of the Act;

12.3.4 to maintain, alter, improve or develop the Property and sever one part from any other;

12.3.5 on such terms as he may think fit, to acquire any property, assets or rights which he considers desirable for the improvement or realisation of the Property;

12.3.6 to redeem or compromise any Security Interest ranking prior to or *pari passu* with this Deed; and

12.3.7 generally to do anything in relation to the Property which he may consider expedient as if he were the sole legal and beneficial owner of it.

13. APPLICATION OF PROCEEDS

All moneys arising from the exercise of the powers of the Receiver or the Lender (subject to any prior claims) shall be applied in the following order and sections 109(6) and (8) of the Act shall not apply:

13.1 all moneys raised or borrowed and all costs, charges, expenses and liabilities paid or incurred by the Receiver in the exercise of his powers;

13.2 the remuneration of the Receiver;

13.3 the Secured Amounts; and

13.4 the claims of those entitled to any surplus.

14. PROTECTION OF THIRD PARTIES

14.1 No purchaser for value dealing with the Lender or the Receiver shall be concerned to enquire whether any power has arisen, become exercisable or is being validly exercised.

14.2 The receipt of the Lender or the Receiver shall be an absolute discharge and the payer shall not be obliged to see to the application of moneys paid to them.

15. PROTECTION OF THE SECURITY TRUSTEES AND RECEIVER

15.1 Neither the Lender nor the Receiver shall be liable to the Borrower in respect of any loss or damage arising out of the exercise or the attempted, purported or failure to exercise any of their respective powers so long as the exercise of these powers are properly conceived.

15.2 Entry into possession of the Property shall not render the Lender or the Receiver liable to account as mortgagee in possession nor prevent the Lender at any time going out of such possession.

15.3 The Borrower further covenants with the Lender upon demand to execute any document or do any act or thing which may perfect the charge intended to be created by this Deed or facilitate the exercise of any of the powers of the Lender or the Receiver.

16. EXPENSES AND INDEMNITY

The Borrower further covenants with the Lender to reimburse or pay and indemnify the Lender and the Receiver against all reasonable and proper costs, charges, expenses, losses and liabilities (together with VAT payable thereon) incurred by the Lender or the Receiver in connection with the exercise of any of their powers under or the enforcement or preservation of this Deed or because of any breach by the Borrower of its obligations to the Lender.

17. FURTHER ASSURANCE

The Borrower will undertake all acts and/or execute all documents that the Lender may reasonably specify in order to perfect the security created or intended to be created under this Deed and enable the Lender to exercise its rights, power and remedies under this Deed or law.

18. POWER OF ATTORNEY

The Borrower irrevocably appoints the Lender and the Receiver jointly and also severally to be its attorney (with full power of substitution) on behalf of the Borrower and in its name or otherwise, to execute any document or do any act or thing which the Lender or the Receiver may, in their absolute discretion, consider appropriate in the exercise of any of their powers or which the Borrower is obliged to the Lender to execute or do, whether under this Deed or otherwise.

19. EXAMINATION OF PROPERTY

The Borrower shall permit and shall ensure that any occupier of the Property shall permit the Lender and any persons appointed by them to enter the Property at all reasonable times to view its state and condition and to enable the Lender to exercise its rights under clause 5.2.

20. OTHER SECURITY

20.1 This Deed is in addition to any other Security Interest which the Lender may have in respect of the Secured Amounts. Such charges and other Security Interests can be enforced in whatever order the Lender decides.

20.2 Section 93 of the Act (relating to consolidation) shall not apply.

20.3 If there are any Security Interests having priority to the charges in this Deed and any powers or remedies conferred by them are being exercised or enforced against the Property, the Lender or any Receiver may redeem or take a transfer of such prior Security Interest and all monies paid or costs incurred in such redemption or transfer shall be paid to the Lender on demand and, until payment, added to the Secured Amounts.

21. FURTHER PROVISIONS

21.1 If any provisions of this Deed become invalid or unenforceable under any law, the validity and enforceability of the remaining provisions shall not be affected in any way.

21.2 Neither the Borrower nor the Lender may assign, transfer, novate, dispose of, sub-contract or deal in any manner with any one or more of its rights and/or obligations under this Deed.

21.3 All notices shall be delivered by hand or sent by first-class post or facsimile to the recipient's address as set out in this Deed or to such other address in England and Wales as may be substituted.

21.4 Notices shall be deemed to have been received on the next business day after posting and if delivered or sent by facsimile, on the day of delivery if a business day or, if not, the next business day.

21.5 This Deed is governed by, and shall be construed in accordance with the law of England and Wales.

IN WITNESS whereof this document has been executed as a deed by the parties hereto but is not intended to have legal effect until it has been unconditionally delivered and dated

SIGNED as a DEED by
Blackwell Grange JV Limited

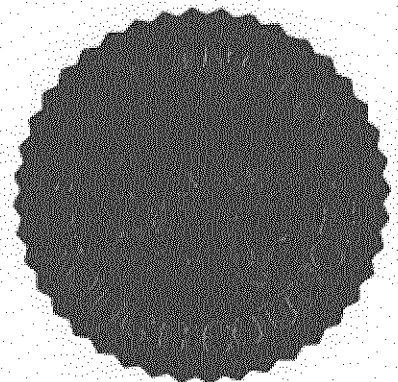
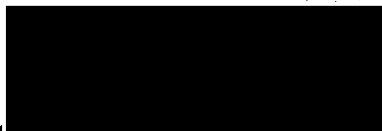
acting by a Director or its Secretary
or two Directors:-

Director

Director/Secretary

THE COMMON SEAL OF
Darlington Borough Council
was hereunto affixed in the presence of:

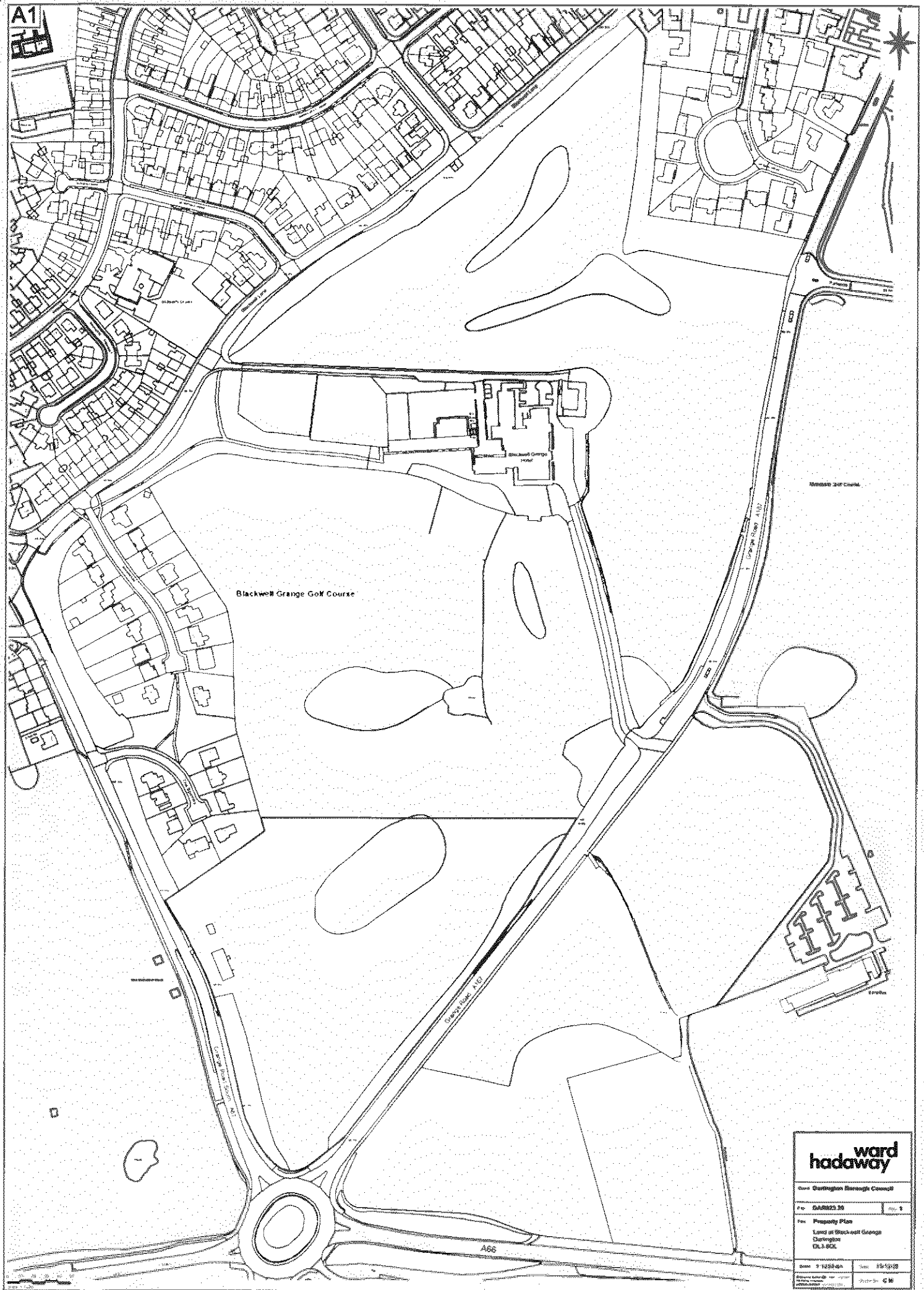
Authorised Signatory



19924

**Schedule A
Plan**

Inserted overleaf.



ward hadaway	
Client: Darlington Borough Council	
File: DA00023 30	Page: 1
File: Property Plan	
Land at Blackwell Grange Darlington DL1 4JL	
Date: 11/05/04	Date: 05/10/08
Drawn: [signature]	Checked: [signature]