

3986

DATED 1st November 2002 ~~1999~~

ROSSENDALE BOROUGH COUNCIL

and

HURSTWOOD DEVELOPMENTS LIMITED

and

NATIONAL WESTMINSTER BANK PLC

A G R E E M E N T

under Section 106 of the Town and Country Planning Act 1990 re erection of fourteen dwellings at Free Lane, Helmshore (Planning Application Ref. No. 96/235)

RWL/SS/Z.12/141

J. K. Tradewell,
Borough Solicitor,
Rossendale Borough Council,
Town Hall,
Rawtenstall,
Rossendale,
Lancashire. BB4 7LZ

T H I S A G R E E M E N T is made the *first*
day of November ~~Two~~ One thousand ~~nine hundred and two~~
~~ninety-nine~~ between ROSSENDALE BOROUGH COUNCIL of
the Town Hall Rawtenstall Rossendale Lancashire
("the Council") of the first part and HURSTWOOD
DEVELOPMENTS LIMITED whose Registered Office is
situate at Hurstwood House Station Court Newhallhey
Road Rawtenstall Rossendale BB4 6AJ ("the
Developer") of the second part and NATIONAL
WESTMINSTER BANK PLC whose Registered Office is
situate at 41 Lothbury London EC2 ("the Chargee")
of the third part

DEFINITIONS

- (i) "the Act" means the Town and Country
Planning Act 1990
- (ii) "the Application" means the written
application made by the
Developer and received by
the Council on 10th June
1996 for permission to
develop the Property
- (iii) "the Development" means the development of
the Property in the manner
and for the uses set out in
the plans, specifications
and particulars deposited
with the Council and
referred to in the Second
Schedule to this Agreement
- (iv) "the Permission" means the draft planning

permission contained in the
Third Schedule to this
Agreement

- (v) "the Plan" mean the plan annexed to
this Agreement
- (vi) "the Property" means the property
described in the First
Schedule to this Agreement

WHEREAS:

- (i) The Council is the Local Planning Authority for the purposes of the Act for the District within which the Property is situated
- (ii) The Developer is the owner in fee simple in possession of the Property title to which is registered under title number LA740949 at H. M. Land Registry free from incumbrances save for a Registered Charge in favour of the Chargee
- (iii) By the Application the Developer has applied to the Council for planning permission to carry out the Development
- (iv) The Council has no objection in principle to the Development and is prepared to approve the same subject to appropriate conditions but requires the Developer to enter into the covenants hereinafter contained in this Agreement
- (v) The Council will grant planning permission in respect of the Application in the form of the Permission immediately following the execution of this Agreement

NOW THIS DEED WITNESSETH:

1. This Agreement is made pursuant to Section 106 of the Act as substituted by the Planning and Compensation Act 1991 and all other powers statutory or otherwise

2. This Agreement is conditional upon:

(a) the Permission being granted by the Council for the Development and

(b) the implementation of the Permission by the commencement of the Development

and in the event of the Development not being commenced in accordance with the provisions of Section 56 and Sections 91 to 93 of the Act so that the Permission shall lapse this Agreement shall absolutely determine and be of no effect

3. The Developer with the intent to bind the Developer's successors in title and with the consent of the Chargee hereby covenants with the Council that it will pay to the Council the sum of Three thousand eight hundred pounds (£3,800.00) as a commuted figure towards the cost of maintenance of the landscaped areas proposed to be created by the Development such payment to be made within twelve months of the completion of the first such substantial landscaped area

4. The Council hereby covenants

(i) that it will grant the Permission forthwith upon the execution and completion of this Agreement;

(ii) that it will upon the completion of the said landscaped areas by the Developer in accordance

with the Permission and to the satisfaction of the Borough Engineer and Planning Officer (or other Officer of equivalent status) for the time being of the Council thenceforth in perpetuity assume full responsibility for and undertake the maintenance of such landscaped areas in a clean and tidy condition

5. For the purposes of this Agreement the opinion of the said Borough Engineer and Planning Officer or other officer as aforesaid as to the completion of a landscaped area shall be conclusive and binding on the parties hereto

6. The expressions "the Council" and "the Developer" shall include their respective successors in title and assigns

7. In this Agreement the words importing the masculine gender shall be deemed to include the feminine and the singular to include the plural and vice versa unless the contrary as to gender or number is expressly provided or unless the same is inconsistent with the context and where the expression "the Developer" comprises two or more persons, firms or companies the Developer's obligation shall be construed as joint and several

8. The obligations hereby entered into by the Developer are planning obligations for the purposes of the said Section 106 and the Local Planning Authority by whom they are enforceable is the Council

9. The Chargee hereby consents to the completion of this Agreement and acknowledges that from the date

hereof the Property shall be bound by the restrictions and obligations contained herein

10. Notwithstanding the terms contained herein the parties hereto agree that the Chargee shall only be liable for any breach of any provisions of this Agreement during such periods (if any) as it is a mortgagee in possession of the land and then only if it shall have caused such breach to have been occasioned and provided further for the avoidance of doubt that it shall not in any event be liable for any breach of this Agreement arising prior to it becoming a mortgagee in possession of the land regardless of whether or not such pre-existing breach shall continue for any period during which it is a mortgagee in possession of the land

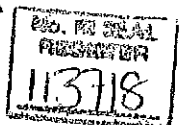
11. The Developer shall make a contribution of £144.00 towards the Council's costs for the preparation and engrossment of this Agreement and shall reimburse to the Council any fees paid to H.M. Land Registry in connection herewith and shall pay the Chargee's costs in connection herewith

IN WITNESS whereof the Council and the Developer have caused their respective Common Seals to be hereunto affixed and the Chargee has duly executed this Agreement the day and year first before written

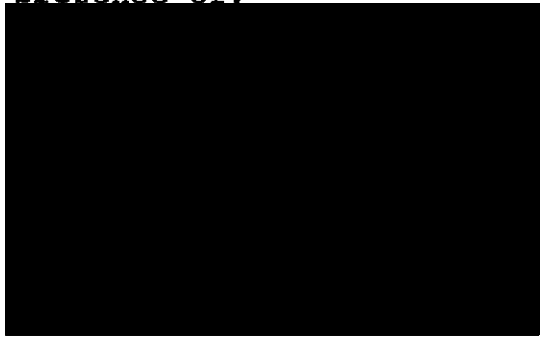
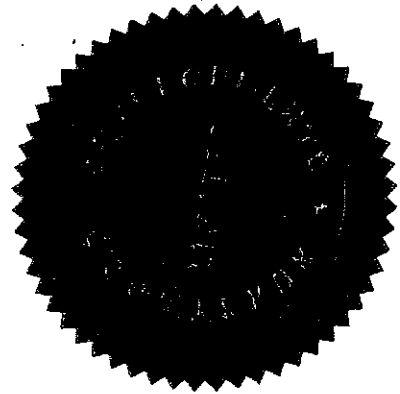
THE COMMON SEAL of Rossendale)
Borough Council was hereunto)
affixed in the presence of:-)

[REDACTED SIGNATURE]

MAYOR



THE COMMON SEAL of Hurstwood
Developments Limited was
hereunto affixed in the
presence of:-



CTOR
TARY

SIGNED as a Deed by
as the attorney and on behalf
of National Westminster Bank
Plc in the presence of:-

Witnessed by
& Mr. [illegible]
Manager of [illegible]
and on behalf of Natio



FIRST SCHEDULE

The Property

The land at Free Lane Helmshore Rossendale aforesaid
which is more particularly delineated and shown edged
red on the Plan

SECOND SCHEDULE

The Development

The erection of fourteen dwellings

MRS ESTATES
NOTE TO G. PLATT, CLERICAL ASSISTANT

FROM RICHARD LESTER, ASSISTANT SOLICITOR

REFERENCE : RWL/SS/Z.12/141

3rd January 2003

**HURSTWOOD DEVELOPMENTS LIMITED.
LAND ON NORTH WEST SIDE OF FREE LANE, HELMSHORE.
TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 106.
AGREEMENT – PLANNING APPLICATION NO. 14/1996/235**

I attach the engrossment of the Agreement herein.

Please index same and file in Strong Room.

Please take steps to prevent migration of print on to the acetate cover.

3986

THIRD SCHEDULE
The Permission

ROSENDALE BOROUGH COUNCIL

Town and Country Planning Act 1990

PLANNING PERMISSION

PART 1 - PARTICULARS OF APPLICATION:

Application number: 96/235 Date received: 10th June 1996
Location of proposed development: Land off Free Lane, Helmshore, Rossendale

Particulars of proposed development:

ERECTION OF 14 No DWELLINGS

Name and address of applicant:
Hurstwood Developments Ltd
Hurstwood House
Station Court
Rawtenstall

Name and address of agent
Fletcher Smith Architects
11 Riversway Business Village
Navigation Way
Preston PR2 2YP

PART 2: PARTICULARS OF DECISION

The Rossendale Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that PERMISSION HAS BEEN GRANTED for the carrying out of the development referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following conditions:-

1. The development must be begun not later than the expiration of five years beginning with the date of this permission.

SEE SEPARATE SHEET FOR FURTHER CONDITIONS, REASONS AND NOTES (if any).

Reason:-

1. Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

Date

Borough Engineer and Planning Officer: Stubblee Hall, Bacup, Lancs OL13 0DE
(See separate page for general information and guidance on post-decision procedures).

CONDITIONS, REASONS AND NOTES:

2. Before any development in respect of the 14 properties hereby approved commences that portion of Sunnybank road within the application site, the bridge over Alden brook and the access and turning area within the site shall be made up to base course standard and thereafter shall be made up to adoption standard on substantial completion of the dwellings.
Reason: The building shall not be occupied until a means of vehicular access has been constructed in accordance with the approved plans.
3. Before any development commences, details of the materials proposed for the surfacing of the access within the site, parking areas and footpaths shall be submitted to and approved by the local planning authority and the hard landscaped areas shall not be constructed other than with the approved materials.
Reason: In the interests of visual amenity and in order to ensure a satisfactory degree of harmony within the development, as details in this respect have not been submitted with this proposal.
4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
Reason: In order to enhance the setting and appearance of the proposed development to assist in the provision of a satisfactory standard of visual amenity within the locality, and to screen the development.
5. No development shall take place until samples of the proposed natural stone facings and artificial roof slates have been submitted to and approved by the local planning authority and the outer face of the building shall not be constructed other than with the approved materials.
Reason: In the interests of visual amenity and in order to ensure a satisfactory degree of harmony within the development, as details in this respect have not been submitted with this proposal.
6. The recommendations of the tree management report produced by J. M. Melrose and dated 20th November, 1996 shall be implemented in the first winter period following commencement of development.
Reason: In order to ensure that the amenity value afforded by the existing trees upon the site is retained.
7. No development approved by this permission shall be commenced until details of the existing and proposed floor levels have been submitted and approved by the Local Planning Authority. The scheme shall be constructed and completed in accordance with the approved details.
Reason: To ensure that the development is subject to minimum risk of flooding.
8. All floor levels shall be set at the 1 in 100 years flood level plus

600mm free board.

Reason: To reduce the risk of flooding.

9. Before any development is commenced, a hydrological and hydraulic study to determine the likely 1 in 100 year flood level in relation to the site shall be submitted to and approved by the local planning authority.
Reason: To ensure that the development is subject to a minimum risk of flooding

Notes:

1. A copy of the report from the North West Water Authority is attached for information and compliance.
2. A copy of the report from the Environment Agency is attached for information and compliance.