

2082

DATED

6th January

1998

ROSSENDALE BOROUGH COUNCIL

and

TAY HOMES (NORTH WEST) 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 thirty three dwellings at Station
Road, Helmshore (Planning Application Ref. No. 97/310)

RWL/SS/Z.12/133

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 ^{sixth}
day of ~~December~~^{January} One thousand nine hundred and
ninety-~~seven~~^{eight} between ROSSENDALE BOROUGH COUNCIL of
the Town Hall Rawtenstall Rossendale Lancashire
("the Council") of the first part and TAY HOMES
(NORTH WEST) LIMITED whose Registered Office is
situate at Tay House 55 Call Lane Leeds LS1 7BT
("the Developer") of the second part and THE
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 July
1997 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 titles numbers LA705302 and LA802797 at H. M. Land Registry free from incumbrances save for a Registered Charge and two Debentures 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 Owner 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

3805
NOTE TO MRS. L. A. CALDERBANK
SENIOR CONVEYANCER


FROM MR. R. W. LESTER
ASSISTANT SOLICITOR

5th February 1998,

My ref RWL/SS/Z.12/133

TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 106.
LAND AT STATION ROAD, HELMSHORE.
PLANNING APPLICATION NUMBER 14/97/310.
TAY HOMES (NORTH WEST) LIMITED.

I attach an engrossment of the above mentioned completed Agreement, together with a certified copy of the Power of Attorney under which it has been signed by the Bank. I should be obliged if you would kindly index these documents and place them in the Strongroom.



By this Deed of Power of Attorney given on the 28th day of August 1997, National Westminster Bank Plc, a public limited company registered in England under No. 929027 whose registered office is at 41 Lothbury, London EC2P 2BP ("the Bank") hereby appoints KEITH ANDREW ASKEW, Assistant Manager, Litigation, Technical & Securities, Credit Management, Retail Banking Services, NatWest UK, to be attorney for the Bank and in its name and on its behalf to execute any deed or sign any document:-

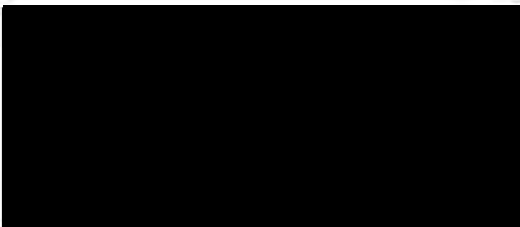
- (i) required to discharge, release, surrender, disclaim, convey, reconvey, assign, re-assign, vary, amend, consent, declare, grant, affirm, assure, postpone, defer or otherwise regulate the priority of any mortgage, charge or other type of security relating to any real or personal property (whether of a legal estate, equitable interest or otherwise) or other incorporeal hereditament comprised in any mortgage, charge or other type of security held by the Bank; or
- (ii) required to convey, assign, vest, assent, assure, transfer any real or personal property (whether of a legal estate, equitable interest or otherwise) or other incorporeal hereditament pursuant to any powers contained in any mortgage, charge or other type of security held by the Bank; or
- (iii) being a bond, guarantee or indemnity or some other similar engagement by the Bank and/or any variation or amendment thereto; or
- (iv) by which the Bank as mortgagee was required to give its consent by virtue of the terms of any mortgage, charge or other type of security held by the Bank;

and generally for all or any of the purposes aforesaid to act as the Bank's Attorney.

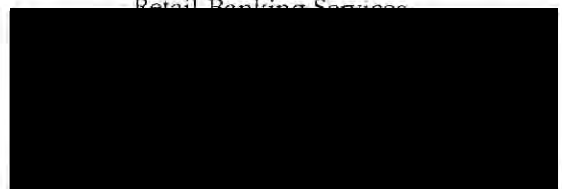
This Power of Attorney will expire on 28th day of August 1998 and shall be governed by English Law.

IN WITNESS WHEREOF the Common Seal of the Bank was hereunto affixed the day and year first above written.

The Common Seal of
National Westminster Bank Plc
was hereunto affixed in accordance
with the regulations of the Company
in the presence of:



Per Pro
National Westminster Bank Plc
NatWest UK
Retail Banking Services



I CERTIFY THIS TO BE A TRUE
AND COMPLETE COPY OF THE ORIGINAL

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 pounds (£3,000.00) 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

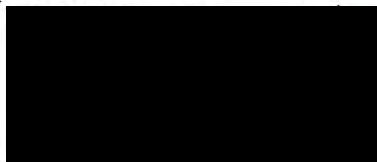
and obligations contained herein

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 £137.00 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:-)

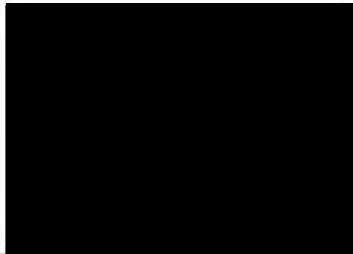


/MAYOR



112717

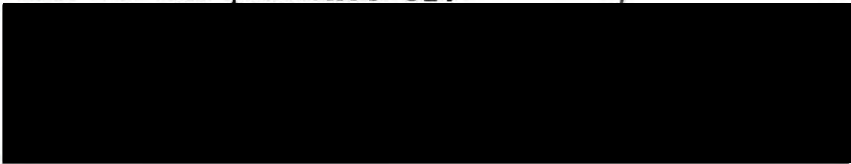
THE COMMON SEAL of Tay Homes)
(North West) Limited was)
hereunto affixed in the)
presence of:-)



DIRECTOR
SECRETARY

SIGNED as a Deed by [redacted]

as the attorney and on behalf)
of National Westminster Bank)
Plc in the presence of:-)



FIRST SCHEDULE

The Property

The land at Station Road Helmsore Rossendale
aforesaid which is more particularly delineated and
shown edged red on the Plan

SECOND SCHEDULE

The Development

The erection of thirty three dwellings (revised layout
including change of housetype on plot 33 and the re-
positioning of plots 12, 13 and 14 and method
statement for the engineering works to the embankment)

ROSENDALE BOROUGH COUNCIL

Town and Country Planning Act 1990

PLANNING PERMISSION

PART 1 - PARTICULARS OF APPLICATION:

Application number: 97/310 Date received: 10th July 1997
Location of proposed development: Land off Station Road, Helmshore, Rossendale

Particulars of proposed development:

ERECTION OF 33 No DWELLINGS. (REVISED LAYOUT INCLUDING CHANGE OF HOUSETYPE ON PLOT 33 AND THE RE-POSITIONING OF PLOTS 12, 13 & 14 AND METHOD STATEMENT FOR THE ENGINEERING WORKS TO THE EMBANKMENT).

Name and address of applicant:
Tay Homes NW Ltd
Wesley Avenue
Sandbach
Cheshire CW11 1DG

Name and address of agent
Tay Homes NW Ltd
Wesley Avenue
Sandbach
Cheshire CW11 1DG

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

2. Before any development commences in respect of the houses hereby approved, that portion of the site within the red edge between Station Road and plot 33 including Ogden Close shall be made up to adoptable standards and the remainder of the access roads made up to base course standard and thereafter adopted following occupation of all the dwelling houses.
Reason: To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative.
3. No building/none of the buildings hereby permitted shall be occupied until the landscaping scheme as shown on the submitted plans has been fully implemented in all respects (including where appropriate the provision of any landscaped areas and/or screen walls, fences or other means of enclosure). Any trees or plants which die, are removed or become seriously damaged or diseased within two years of planting 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.
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. Notwithstanding the provisions of the Town and Country Planning (General Development) Order 1995 no development which would otherwise be permitted by virtue of the provisions of Class A of Part 1 of Schedule 2 to Article 3 of the Order shall be carried out within plot 33 without the grant of formal express planning permission in that behalf by the local planning authority. Reason: The carrying out of the class(es) of development which would normally be permitted could, in this instance, result in the form, design, layout or character of the principal development being altered in an unacceptable way, to the detriment of visual amenity and harmony within the development/street scene.
6. Notwithstanding the provisions of the Town and Country Planning (General Development) Order 1995 no development which would otherwise be permitted by virtue of the provisions of Class E of Part 1 and Class A of Part 2 of Schedule 2 to Article 3 of the Order shall be carried out within plots 22 and 23, 26 to 28 without the grant of formal express planning permission in that behalf by the local planning authority.
Reason: The carrying out of the class(es) of development which would normally be permitted could, in this instance, result in the form, design, layout or character of the principal development being altered in an unacceptable way, to the detriment of visual amenity and harmony within the development/street scene.

14/97/310 conditions, reasons and notes

7. The retaining wall to plots 22 and 23, 26 to 28 shall be constructed in accordance with the Structural Engineers Methodology statement paragraph 4.0 through to paragraph 4.2.3 and in no other way unless written confirmation of a variation is agreed with the local planning authority.
Reason: To ensure the stability of the embankment having regard to the likely moisture content of the ground when this work will take place.

8. The landscaping to the rear of plots 1 to 13 shall be implemented during the first planting season following commencement of development and shall include the construction of the rear boundary wall to the above plots.
Reason: This face of the development is prominent from Holcombe Road and provides a setting for the site, the implementation of which should be completed at the earliest possible date