

(2)

B O R O U G H O F R O S S E N D A L E

I N T E R D E P A R T M E N T A L M E M O R A N D U M

My ref RWL/SS/Z.12/155 Your ref
 Mr. R. W. Lester

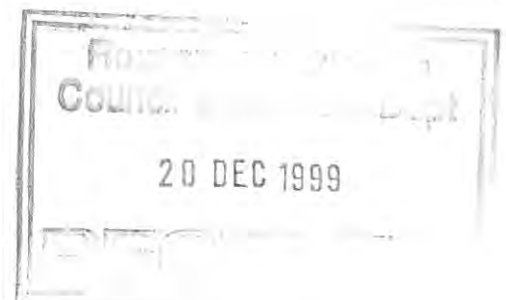
17th December 1999,

TO: BOROUGH TREASURER

TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 106.
LAND AT MARSDEN SQUARE, HASLINGDEN.
WEST PENNINE HOUSING ASSOCIATION LIMITED.

I attach for your information a copy of the completed Agreement which provides for payment of a commuted maintenance sum to be determined as therein provided.

██████████
J. K. Tradewell,
Borough Solicitor.



DATED

7th December

1999

ROSSENDALE BOROUGH COUNCIL

and

WEST PENNINE HOUSING ASSOCIATION LIMITED

A G R E E M E N T

under Section 106 of the Town and Country Planning Act 1990 re redevelopment of Marsden Square, Haslingden (Planning Application Ref No. 1999/286)

RWL/SS/Z.12/155

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

T H I S A G R E E M E N T is made the *seventh*
day of *December* One thousand nine hundred and
ninety-nine between ROSSENDALE BOROUGH COUNCIL of
the Town Hall Rawtenstall Rossendale BB4 7LZ ("the
Council") of the one part and WEST PENNINE HOUSING
ASSOCIATION LIMITED whose Registered Office is
situate at Meridian Centre King Street Oldham OL8
1EZ ("the Developer") of the other 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 19th July
1999 for permission to
develop the Property
- (iii) the "Commuted
Maintenance sum" means the sum calculated in
accordance with the
provisions of the Third
Schedule and which shall be
applied by the Council to
the future maintenance of
the Orange Land
- (iv) "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
- (v) "the Orange Land" means that part of the
Property which is shown
edged orange on the Plan
- (vi) "the Permission" means the draft planning
permission contained in the
Fourth Schedule
- (vii) "the Plan" means the plan annexed to
this Agreement
- (viii) "the Property" means the property
described in the First
Schedule

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 Council is the owner in fee simple in
possession of the Property free from
incumbrances save for a Lease in respect of
the land shown edged blue on the Plan
- (iii) The Developer is desirous of acquiring the
whole of the Council's interest in the
Property
- (iv) By the Application the Developer has applied
to the Council for planning permission to
carry out the Development
- (v) 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

- (vi) 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 to all other enabling 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 himself and the Developer's successors in title hereby covenants with the Council that the Developer will:

- (i) observe and comply with those provisions of the Third Schedule which the Developer is to

observe or comply with;

- (ii) forthwith upon receipt of a notice from the Council in accordance with the provisions of paragraph 2.1 of the Third Schedule, dedicate that part of the Orange Land on which the works the subject of such notice have been carried out for use by the public as public open space and give written notice of such dedication to the Council;
- (iii) within 12 months of giving a notice to the Council of the completion of all or part of the works described at paragraph 1.1 of the Third Schedule pay to the Council so much of the Commuted Maintenance Sum as relates to the works comprised in such notice.

4. The Council hereby covenants with the Developer that the Council will:

- (i) grant the Permission forthwith upon the execution and completion of this Agreement;
- (ii) observe and comply with those provisions of the Third Schedule which the Council are to observe or comply with;
- (iii) upon receipt of any part of the Commuted Maintenance Sum accept forthwith all responsibility for the repair and maintenance of that part of the Orange Land to which it relates and indemnify and keep indemnified the Developer from and against all actions costs claims demands and proceedings in

respect of any future breach non-observance
or non-performance of this obligation.

5. 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

6.1 Any disputes or differences arising between any of the parties hereto as to their respective rights duties or obligations or as to the failure of the Council to give or confirm its consent where required under this agreement or as to any other matter or thing arising out of or connected with the subject matter of this agreement or any failure to agree upon any matter may be referred in accordance with the provisions of this clause to the determination of an independent landscape architect.

6.2 Any reference to an independent landscape architect in accordance with clause 6.1 shall be to a reputable landscape architect based in Greater Manchester or Lancashire unconnected with any of the parties hereto who shall be agreed between the parties to the dispute or appointed on the application of any party to the dispute made at any time by the President for the time being of the Institution of Landscape Architects or his duly appointed deputy and the decision of such independent landscape architect shall be final and

binding upon the parties to the dispute (save for manifest error) and, if the parties to the dispute shall agree in writing, such reference shall be deemed to be a reference to an expert (and not an arbitrator) but shall otherwise be deemed to be a reference to an arbitrator pursuant to the Arbitration Acts 1950 and 1979 and if any landscape architect shall act as an expert pursuant to the terms of this clause then each of the parties to the dispute shall be entitled to submit to him representations and cross-representations with such supporting evidence as they shall consider necessary and he shall have regard thereto in making his decision which he shall deliver in writing as expeditiously as possible and the reference to him shall include authority to determine in what manner all the costs of the referral shall be paid.

6.3 Where the dispute referred for determination under clause 6.2 shall be or include a dispute as to whether or not the consent or approval of the Council should properly be given as required by this agreement and the independent landscape architect determines that such consent or approval should have been given then, for all the purposes of this agreement, the consent of the Council shall be deemed to have been given on the date the independent landscape architect advises the parties to the dispute of his determination.

7. In this agreement the expressions "the Council" and the "the Developer" shall where the context so admits be deemed to include their respective successors in title and assigns.

8. 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

9.(i) References to clauses and to Schedules shall be deemed to be references to the clauses of and Schedules to this agreement and unless otherwise stated references to paragraphs and sub-paragraphs shall be deemed to be references to paragraphs and sub-paragraphs of the Schedule in which such reference appears.

(ii) Any reference herein to any statute or to any provision of the same shall be construed as including reference to any statutory modification or re-enactment thereof from time to time in force.

10. The Developer shall make a contribution of £151.00 towards the Council's costs for the

preparation and engrossment of this Agreement and shall reimburse the Council for any disbursements to H.M. Land Registry in connection therewith IN WITNESS whereof the Council and the Developer have caused their respective Common Seals to be hereunto affixed the day and year first before written

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

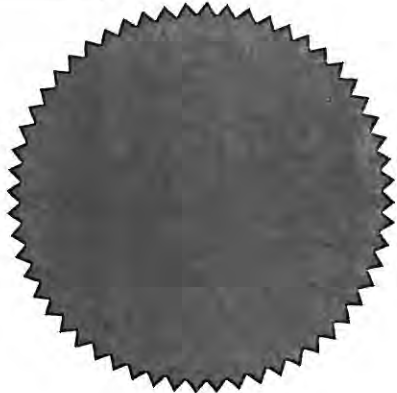
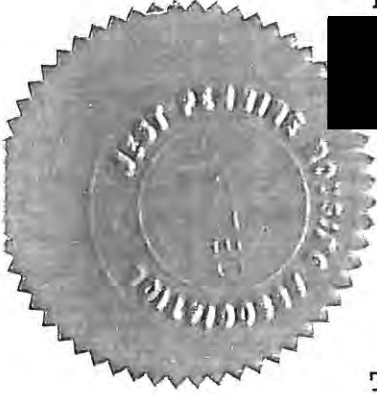


NO. 113125
REGISTER



MAYOR

THE COMMON SEAL of West Pennine)
Housing Association Limited)
was hereunto affixed in the)
presence of:-)



FIRST SCHEDULE

The Property

The Land at Marsden Square, Haslingden, Rossendale aforesaid which is more particularly delineated and shown edged red on the Plan

SECOND SCHEDULE

The Development

The demolition of existing flats and erection of eleven two-storey houses, seven bungalows and five split-level houses (twenty-three dwellings in total)

THIRD SCHEDULE

Details of Provision of Public Open Space and Payment of Commuted Maintenance Sum

- 1 The Developer shall:
 - 1.1 Construct, lay out and landscape the Orange Land in accordance with details which shall have been approved by the Council under condition 2 attached to the Permission for the purpose of enabling it to be used as public open space.
 - 1.2 Upon completion of the works referred to in paragraph 1.1 give notice of the completion of such works to the Council.
 - 1.3 Upon receipt of any notice under sub-paragraph 2.2 and subject to the provisions of clause 6, remedy any defect specified in such notice served by the Council.
 - 1.4 Upon completion of the works referred to in a notice served under sub-paragraph 2.2, give notice to the Council of the completion of such works.
2. The Council shall within fourteen days after receipt of a notice served by the Developer under either sub-paragraph 1.2 or sub-paragraph 1.4 inspect such works and within seven days after such inspection give notice to the Developer that -
 - 2.1 the works have been completed to its satisfaction; or

2.2 the works have not been completed to its satisfaction and such notice shall specify and give full particulars of the reasons why the work is not completed to its satisfaction.

PROVIDED ALWAYS that if the Council shall fail to serve a notice in accordance with the provisions of this paragraph the Council shall be deemed to have served a notice under sub-paragraph 2.1 on the Developer on the twenty-second day after the receipt by the Council of the notice served by the Developer under sub-paragraph 1.2 or 1.4 as the case may be.

3. A notice served or deemed to have been served by the Council under sub-paragraph 2.1 shall contain or shall be deemed to contain a request by the Council to the Developer to dedicate the Orange Land or the part to which it relates to the Council for public open space provided that the Council shall not be obliged to accept the dedication of any part of the Orange Land unless it has first received payment of the Commuted Maintenance Sum relating to that part.

4. The Commuted Maintenance Sum shall be such a sum as shall be reasonably agreed by the parties after approval for such works has been obtained in accordance with condition 2 attached to the Permission and shall be calculated by reference to the annual

estimated maintenance sum multiplied by ten
with allowance for inflation and advance
payment on a discounted cash flow basis.

ROSSENDALE BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

PLANNING PERMISSION

PART 1 - PARTICULARS OF APPLICATION:

Application number: 14/1999/286 Date received: 19th July 1999

Particulars and location of development:

Demolition of existing flats and erection of 11 no 2 storey dwellings, 7 no bungalows and 5 no split level dwellings creating 23 dwellings in total
Marsden Square, Haslingden, Rossendale

Name and address of applicant: Name and address of agent:

West Pennine Housing Assocn
Meridian Centre
King Street
Oldham
Lancs

Croft Goode Partnership
6 Progress Business Park
Orders Lane
Kirkham
Lancs

PART 2 PARTICULARS OF DECISION

The Rossendale Borough Council hereby give notice that 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 Stubbylee Hall, Bacup,
Lancs, OL13 ODE

(See separate page for general information and guidance on post-decision procedures).

CONDITIONS, REASONS & NOTES

2 Before any development is commenced a fully detailed scheme of landscaping (as such including tree and shrub planting, the provision of any grassed areas, hard landscaping features and the erection of any screen or boundary walls, fences or other means of enclosure) shall be submitted to and approved by the local planning authority, and such scheme shall thereafter be fully implemented before any building hereby permitted is first occupied for the purposes hereof, or at such other time as may subsequently be agreed in writing with that authority. Any trees or shrubs dying/becoming diseased or otherwise being removed within two years of planting shall be replaced by the applicant/developer by species of a similar type and size. Reason: In order to assist in the provision of a satisfactory standard of visual amenity within the locality and to screen the development.

3. No development shall take place until samples of the proposed natural stone, artificial stone and reconstituted slate 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.

4. ^(permitted) 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 Classes A, B, C, D and E of Part 1 of Schedule 2 to ~~Article 3 of~~ the Order shall be carried out anywhere within the application site without the grant of formal express planning permission in that behalf by the local planning authority. Reason: The proposed development is of tight-built form and/or makes provision for only a minimal amount of private open space/amenity space within the site curtilage, and the reduction of such areas by the carrying out of the class(es) of development which would normally be permitted would result in a totally unsatisfactory and cramped form of development, lacking in private open space/amenity space, and/or adversely affecting the privacy and amenities enjoyed by the occupiers of adjoining property.

5 Before the access is used for vehicular purposes, that part of the access extending from the highway boundary for a minimum distance of 5m into the site shall be appropriately paved in tarmacadam, concrete, block pavements, or other approved materials. Reason: To prevent loose surface material from being carried onto the public highway thus causing a potential source of danger to other road users.

6 There shall be no direct vehicular access along the Rake Foot frontage except that to the car parking area. Reason: To limit number of access points to the highway network as an aid to road safety.

7 The car park must be laid out (surfaced and parking bays marked) in accordance with the approved plan before the use of the premises hereby permitted becomes operative. Reason: To allow for effective use of the parking area and enable vehicles access and egress in a forward gear.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 there shall not at any time in connection with the development hereby permitted be erected or planted or allowed to remain upon the land hereinafter defined any building, wall, fence, hedge, tree, shrub or other device. The visibility splay to be the subject of this condition shall be the front gardens of plots 19 to 23 which face Rake Foot. Reason: To ensure adequate visibility at the car park access.

1. Note: For the avoidance of doubt it is hereby declared that this permission relates to the amended plans received by the local planning authority on 10 September¹⁹⁹⁴ being site layout drwg.99-219 - PO1 Rev A..

2. NOTE: For the avoidance of doubt it is hereby declared that this permission relates also to the additional plans received by the local planning authority on 10 September¹⁹⁹⁴ being street scene drwg.99-219- P13

3. NOTE: The applicant/developer should note that the Rossendale Borough Council has adopted a "wheelie-bin" system for the collection of domestic refuse. Wheelie-bins are higher than normal dustbins, and developers should take appropriate account in their designs both of the need to provide satisfactorily for wheelie-bin storage, and to cater for their increased size when issues of screening etc. are being addressed. This is particularly relevant in housing developments where individual or shared driveway accesses are not provided, and/or where there may be no individual pedestrian access to the rear of properties.

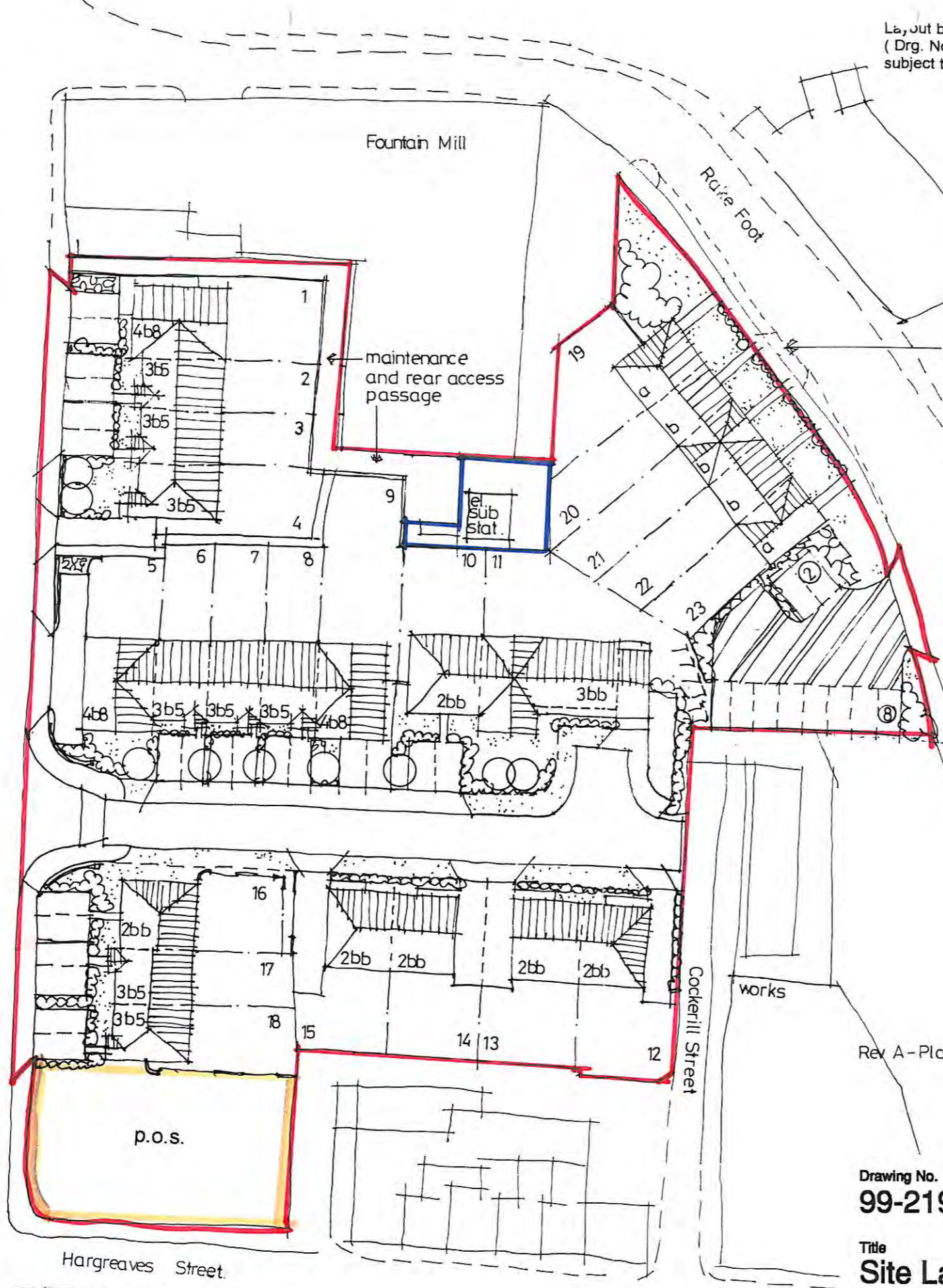
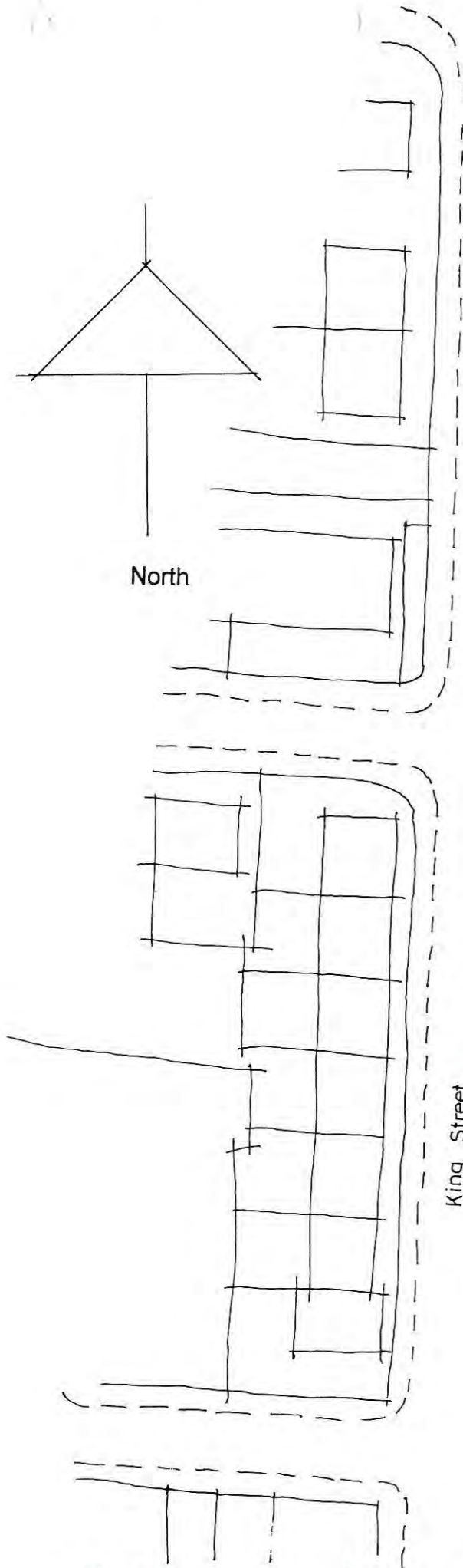
4. NOTE: THE PARTY WALL etc ACT 1996

If you intend to carry out building work on a wall shared with another property, or build on the boundary with a neighbouring property, or excavate near a neighbouring building you must find out whether that work falls within the scope of the Act. If it does, you must serve the statutory notice on all affected owners. An explanatory leaflet is available from the Engineering and Planning Department if required.

5. A copy of the report from the Environment Agency is attached for information and compliance.

6. NOTE: A copy of the report from North West Water is attached for information and compliance.

Layout based upon Survey Operations Topographical Survey of October 1998 (Drg. No. 981108). Any variations in existing site arrangements since that time subject to further survey.



Accommodation	
Type	No.
WPHA—	
4b8	3
3b5	8
3bb	1
2bb	6
	<hr/> 18
Brackenlea—	
a 3b	2
b 2b	3
	<hr/> 5
	total 23

Rev A - Planning and Highways comments 8-9-99

Drawing No.
99-219-P01

Revision
A -

Title
Site Layout

Date:
July 1999

Scale:
1:500

Drawn:
MAG



Marsden Square, Haslingden

Marsden Square, Haslingden