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DATED

3rd February

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 detached four-bedroomed dwellings on land at Hapton Way and Goodshaw Lane, Rossendale (Planning Application Ref. No. 14/97/365)

RWL/SS/Z.12/134

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 *third*
day of *February* One thousand nine hundred and
ninety-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 21st August
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 title number LA472174 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

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

(i) the sum of seven thousand eight hundred pounds as a commuted figure towards the cost of maintenance of the landscaped areas proposed to be created by the Development and shown edged red on the Plan such payment to be made within twelve months of the completion of the first such substantial landscaped area; and

(ii) the sum of three thousand pounds as a commuted figure towards the maintenance of a non-retaining wall to be constructed as part of the Development adjacent to Goodshaw Lane in the position indicated on the Plan

such payment to be made within twelve months of the substantial completion of such wall

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 or the substantial completion of the said wall 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

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

DIRECTOR

SECRETARY

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

SHARON LOUISE RISLEY

FIRST SCHEDULE

The Property

The land at Hapton Way and Goodshaw Lane Rossendale aforesaid which is more particularly delineated and shown edged blue on the Plan

SECOND SCHEDULE

The Development

The erection of thirty detached four-bedroomed dwellings