

DATED 12th February 2001

- (1) WIGGETT HOMES LIMITED
- (2) ROSSENDALE BOROUGH COUNCIL

AGREEMENT

under Section 106 of the Town and Country Planning Act 1990

relating to a residential development at

Cockhall Lane, Whitworth, Lancashire

EVERSHEDS

London Scottish House
24 Mount Street
Manchester M2 3DB
Tel: 0161 832 6666
Fax: 0161 832 5337

BETWEEN:-

- (1) The Council namely **ROSSENDALE BOROUGH COUNCIL** of Town Hall Rawtenstall Rossendale Lancashire BB4 7LZ
- (2) The Landowner namely **WIGGETT HOMES LIMITED** whose registered office is at Viking House 449 Middleton Road Chadderton Oldham Lancashire OL9 9LB

1. RECITALS

- 1.1 The Council is the local planning authority for the purposes of the Act for the area within which the Site is located
- 1.2 The Landowner is the freehold owner of the whole of the Site free from incumbrances
- 1.3 The Landowner has submitted the Application to the Council and the Council is concerned to ensure that any development of the Site is carried out in a proper manner and that the Landowner will make appropriate provision in relation to landscaping along the site boundary and will make proper financial contributions towards the maintenance of the landscaped area.
- 1.4 The parties have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the Council against the Landowner or any person or persons deriving title from him

2. DEFINITIONS AND INTERPRETATION

- 2.1 In this Agreement unless the context requires otherwise the following words and expressions have the respective meanings as set out opposite to them:-

“the Act” the Town and Country Planning Act 1990

“the Application” an application for detailed planning permission for the carrying out of the Development made by the Landowner on 14th February 2000 and carrying the reference 2000/056 further details of which are contained in Part B of the First Schedule

“Commencement Date” the date upon which the Development shall be commenced by the carrying out on the Site pursuant to the Planning Permission of a material



operation as specified in Section 56(4) of the Act (but not including any operations relating to site investigations or surveys or the demolition of any existing buildings or clearance of the Site)

“Development”

the development of the Site in accordance with the Planning Permission

“Landscaping Works”

means those landscaping works to be carried out by the Landowner on the Landscaped Open Space in accordance with the attached drawing number 4207/SK1E

“a New Permission”

a planning permission authorising the redevelopment of the Site or any part or parts thereof in a manner which would if such redevelopment were completed cause the Landowner to be in breach of any or all of the provisions contained herein

“the Plan”

the plan attached to this Agreement

“Planning Permission”

the planning permission which may be granted in pursuance of the Application in the form contained in the Fourth Schedule

“Site”

the freehold land shown for the purpose of identification only edged red on the Plan and described in Part A of the First Schedule

“Landscaped Open Space”

the area to be landscaped by the Landowner shown shaded green on the Plan

“Landscaped Open Space Transfer”

the transfer of the Landscaped Open Space to the Council in accordance with the terms set out in clause 3.8 hereto subject to such amendments or variations as may be agreed by the Landowner and the Council

- 2.2 The masculine feminine and neuter genders include each of the other genders and the singular includes the plural and vice versa
- 2.3 A reference to an Act of Parliament refers to the Act as it applies at the date of this Agreement
- 2.4 A reference to a clause or schedule is a reference to a clause or schedule contained in this Agreement
- 2.5 References to any party in this Agreement shall include the successors in title of that party

3. OPERATIVE PROVISIONS

- 3.1 This Agreement is made pursuant to Section 106 of the Act and the obligations contained in this Agreement are planning obligations for the purposes of that section in so far as they fall within the terms of sub-section 106(1)
- 3.2 In so far as any of the covenants contained in this Agreement are not planning obligations within the meaning of the Act they are entered into pursuant to the powers contained in Section 111 of the Local Government Act 1972 and all other enabling powers
- 3.3 The Council is the local authority by which the planning obligations contained in this Agreement are enforceable
- 3.4 The covenants contained in this Agreement shall only come into effect on the Commencement Date unless otherwise specifically indicated in this Agreement
- 3.5 No person shall be liable for any breach of the covenants restrictions or obligations contained in this Agreement occurring after he has parted with his interest in the Site or the part of the Site in respect of which such breach occurs
- 3.6 This Agreement shall cease to have effect if:-
- 3.6.1 the Planning Permission shall be quashed revoked or otherwise withdrawn or modified (save as to any minor modifications to the Development as shall be agreed from time to time by the Council and the Landowner) prior to the Commencement Date; or
- 3.6.2 the Planning Permission shall expire prior to the Commencement Date; or

- 3.6.3 The Council or any other competent authority shall at any time after the date hereof grant a New Permission under which development is initiated for the purposes of Section 56 of the Act
- 3.7 The Landowner covenants with the Council to observe and perform the covenants set out in the Second Schedule in relation to the Development
- 3.8 Where under section 111 of the Local Government Act 1972 or any other relevant statutory powers under which this agreement is made which may not include section 106 of the Act any transfer of land is to be made by the Landowner pursuant to the provisions of the Second Schedule the following provisions shall apply:
- 3.8.1 The consideration payable shall be One Pound (£1.00) and the Landowner shall pay the Council's costs of £150 in relation to the preparation and completion of the transfer
- 3.8.2 The Landowner shall save as expressly disclosed transfer the fee simple estate free from encumbrances
- 3.8.3 Title shall be deduced in accordance with section 110 of the Land Registration Act 1925
- 3.8.4 The Transfer shall contain:
- 3.8.4.1 The grant to the Transferee of easements and rights in relation to access drainage and services over other parts of the Site so far as may be reasonably necessary with such ancillary rights as may be necessary for the purposes of inspection maintenance repair and renewal of any sewers or service systems
- 3.8.4.2 An exception and reservation for the benefit of the remaining parts of the Site of the same easements and rights as are referred to in paragraph 3.8.4.1 above so far as may be reasonably necessary
- 3.8.4.3 A restrictive covenant on the part of the Transferee framed so as to bind the land transferred and to benefit and protect the remainder of the Site that the property transferred shall not (save with the prior written consent of the Landowner) at any time be used otherwise than as a landscaped open space

- 3.9 The Council covenants with the Landowner to observe and perform the covenants set out in the Third Schedule hereto
- 3.10 This Agreement shall be registered as a local land charge
- 3.11 Where any consent approval or licence is required under the terms of this Agreement such consent approval or licence shall not be unreasonably withheld or delayed upon an application being duly made therefor

THE FIRST SCHEDULE

PART A

Particulars of the Site

The land off Cockhall Lane, Whitworth, Lancashire shown for identification purposes only edged red on the Plan.

PART B

Description of the Development

The construction of 13 detached dwellings

THE SECOND SCHEDULE

The Planning Obligations

1. The Landowner covenants that it will within 9 months of the Commencement Date carry out and complete the approved landscaping scheme shown on the attached plan number 4207/SK1E and shall notify the Council in writing of the fact that the said works have been completed AND the Council may (acting reasonably) refuse to accept such notification unless and until the Landowner has in the Council's reasonable opinion fully complied in all material respects with the approved scheme AND IN SUCH EVENT the Landowner shall carry out any reasonable remedial works specified by the Council and thereafter serve a further such notification on the Council and if in the Council's reasonable opinion the said works have been completed fully in accordance with the approved scheme the Council shall thereafter accept such notification in writing
2. The Landowner shall maintain the Landscaped Open Space in accordance with the approved scheme to the Council's reasonable satisfaction for a period of 12 months

from the date of the written notification served by the Landowner and accepted by the Council under paragraph 1 above

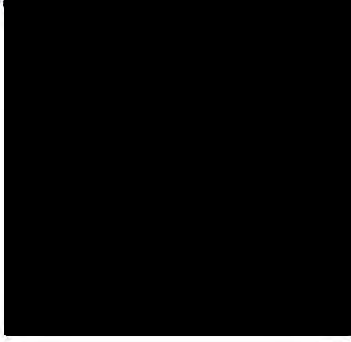
3. As soon as is reasonably practicable after the expiry of the 12 month period described in paragraph 2 above the Landowner shall execute and (subject to the Council being ready to comply with its obligation under paragraph 1 of the Third Schedule) complete the Landscaped Open Space Transfer
4. The Landowner covenants that prior to the first occupation of the first dwelling constructed on the Site as part of the Development it will pay to the Council the sum of £1,845 (one thousand eight hundred and forty five pounds) as a commuted sum to be used for the future maintenance of the Landscaped Open Space

THE THIRD SCHEDULE

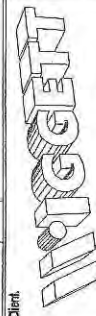
1. The Council covenants to execute and complete the Landscaped Open Space Transfer as soon as is reasonably practicable after being requested to do so by the Landowner pursuant to paragraph 3 of the Second Schedule PROVIDED THAT at the time of such request the Landowner shall have performed its obligations set out in paragraphs 1,2 and 4 of the Second Schedule
2. The Council covenants that the sum paid by the Landowner shall be used solely for the purposes of maintaining the Landscaped Open Space and upon reasonable request being made therefor the Council will account to the Landowner as to how the sum has been expended.

THE FOURTH SCHEDULE

The Planning Permission



Revisions			
24/5/00	D	ramp size revised from 1m to 2m	
		width of road at entrance to site changed from 4.2m to 5.5m	
		landscape design revised	
		turning head revised	
2/6/00	E	landscape design revised	



Client: **hainneham**

Project: **Cockhall Lane, Whitworth.**

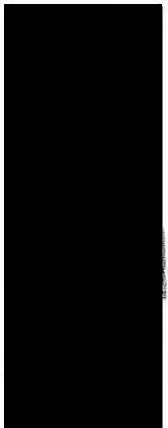
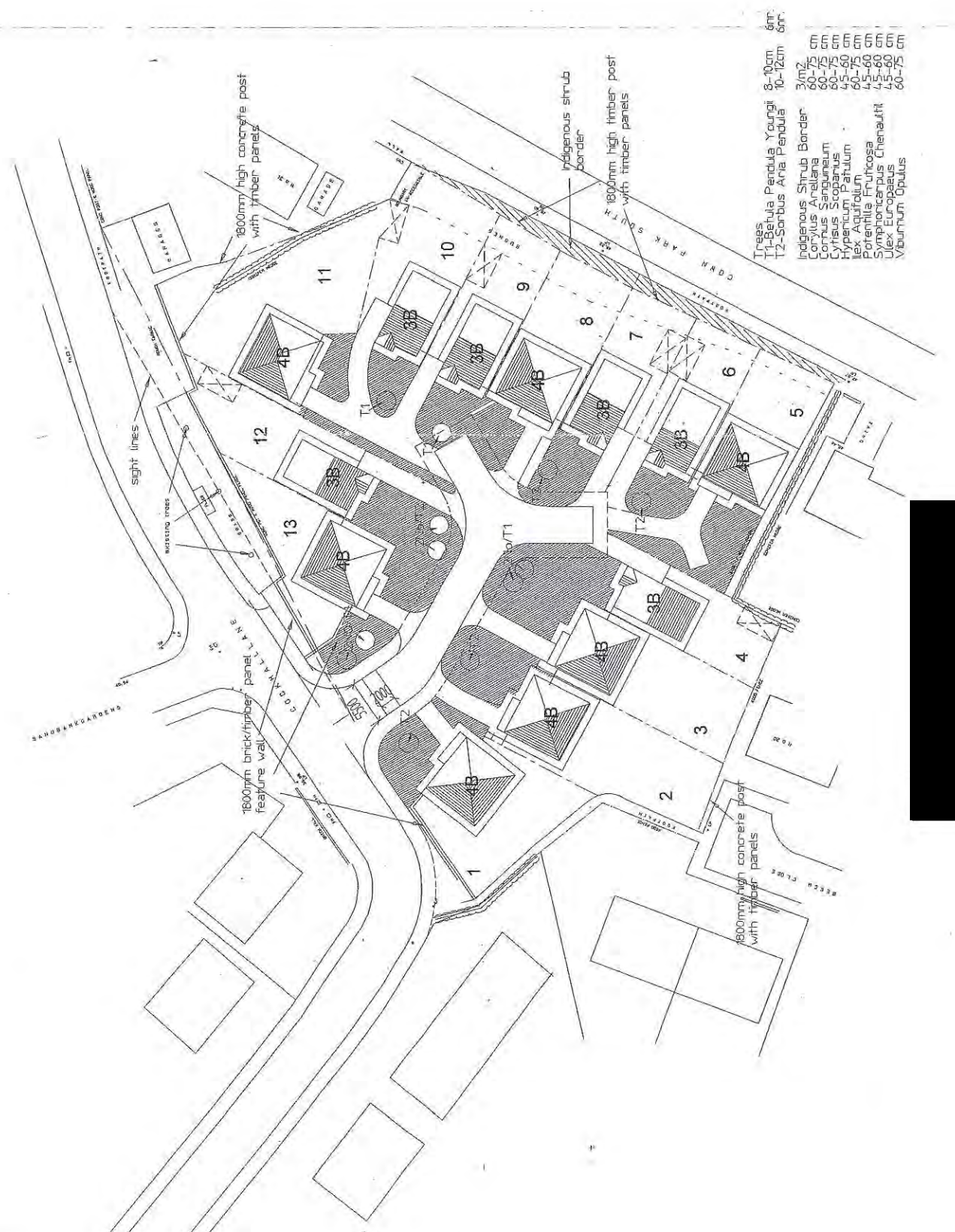
Drawing: **Site Layout**

Date: **Oct. 99.**

Scale: **1:500th @ A3**

Dwg. No.: **4207/sk1**

Rev: **E**



ROSSENDALE BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

PLANNING PERMISSION

PART 1 - PARTICULARS OF APPLICATION:

Application number: 14/2000/056 Date received: 15th February 2000

Particulars and location of development:

Construction of 13 no detached dwellings
Cote Farm Garage, Cockhall Lane, Whitworth, Nr Rochdale

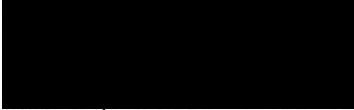
Name and address of applicant:

Wiggett Homes Limited



Name and address of agent:

Hall Needham Associates



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 hereby permitted shall be begun before the expiration of FIVE YEARS from the date of this permission. Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.
2. No development shall take place until samples of the proposed bricks and tiles 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.
3. No development approved by this permission shall be commenced until:-

(a) The application site has been subjected to a detailed scheme for the investigation and recording of contamination and its potential to pollute the water environment, and a report has been submitted to and approved by the Local Planning Authority.

continued

CONDITIONS, REASONS & NOTES

(b) Detailed proposals to prevent pollution of groundwater and surface waters in line with current best practice for the contaminant monitoring protocols and for the remediation of such contamination and the confirmatory testing (the "Contamination Proposals") have been submitted to and approved by the Local Planning Authority.

For each part of the development contamination proposals relevant to the part (or any part that would be affected by the development) shall be carried out either before or during such development as appropriate.

If during development works, any contamination should be encountered which was not previously identified or is derived from a different source or is of a different type to those included in the 'Contamination Proposals' then development shall not proceed until revised 'Contamination Proposals' shall be submitted to and approved by the Local Planning Authority. Reason: To prevent pollution and to assess the risks to the water environment.

4. Prior to the first occupation of any of the dwellings hereby approved, or at such other times as may be agreed in writing with the local planning authority, the proposed access road shall be constructed to base course level. Reason: In the interests of highway safety.

5. 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.
continued

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 no material change of elevation, change of use or alteration to form a habitable room of any integral or other garage constructed concurrently with or subsequent to the original dwellinghouse, which would otherwise be permitted by virtue of the provisions of Class A of Part 1 of Schedule 2 to 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: In order to ensure that the subsisting standard of garage accommodation is not materially affected to the detriment of both visual amenity and more particularly with a view to retaining the existing standard of car parking provision within the application site.
continued

Notes:

1. For the avoidance of doubt it is hereby declared that this permission relates to the amended plans received by the local planning authority on 5th June, 2000.
2. For the avoidance of doubt it is hereby declared that this permission relates to the additional plans received by the local planning authority on 8th May, 2000.
3. The approved details of landscaping referred to in condition 5 are shown on the site layout plan (drawing number 4207/SK1)
4. Development on the site should be drained on separate foul and surface systems. All foul drainage must be connected to the foul sewer and only uncontaminated surface water should be connected to the surface water system.
5. All downspouts should be sealed directly into the ground ensuring the only open grids present around each dwelling are connected to the foul sewage systems. No rainwater contaminated with silt/soil from disturbed ground during construction must drain to the surface water sewer or watercourse without sufficient settlement.
6. 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-bins 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.

Date

Borough Engineer and Planning Officer, Stubblelee Hall, Bacup. (See separate page for general information and guidance on post-decision procedures).

Executed as a Deed on the date specified at the commencement of this Agreement

THE COMMON SEAL of

WIGGETT HOMES LIMITED

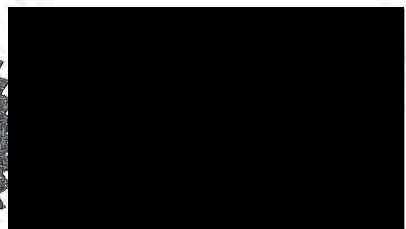
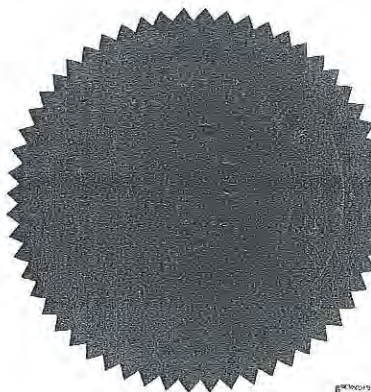
was affixed in the presence of:-



THE COMMON SEAL of

ROSSENDALE BOROUGH COUNCIL

was affixed in the presence of:-



Mayor

