

THIS AGREEMENT is made the 5th day of October 2001 between ROSSENDALE BOROUGH COUNCIL of Town Hall Rawtenstall Rossendale Lancashire BB4 7LZ ("the Council") of the one part and KENNETH AINSWORTH ROBERT KILLELEA and PATRICK JAMES KILLELEA of Stone Holme Road Crawshawbooth Rossendale Lancashire BB4 8BA ("the Owners") of the other part

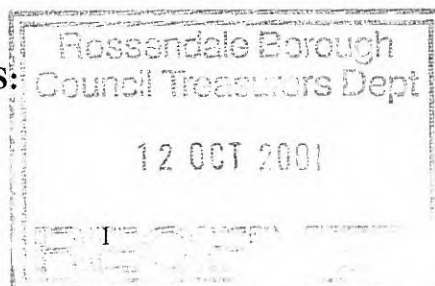
DEFINITIONS:

- (i) "the Act" means the Town And Country Planning Act 1990 as amended
- (ii) "the Application" means the written application made and received by the Council on 29 May 2001 for permission to develop the Property
- (iii) "the Development" means the development of the Property in the manner and for the use is set out in the plans, specifications and particulars deposited with the Council had 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" means the plan annexed to this Agreement
- (vi) "the Property" means the property described in the First Schedule to this Agreement

WHEREAS:

- (a) The Council is the Local Planning Authority for the purposes of the Act for the District within which the Property is situated
- (b) The Owners are registered with Freehold Title Absolute of the land registered under Title Numbers LA757881 and LA819241, and with Title Good Leasehold of the land registered under Title Number LA819242 at H.M. Land Registry for Lancashire free from encumbrances
- (c) Application has been made to the Council for planning permission to carry out the Development
- (d) The Council has no objection in principle to the Development and is prepared to approve the same subject to appropriate conditions but requires the Owners to enter into the covenants hereinafter contained in this Agreement
- (e) 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 WITNESSES:



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 Developmentand 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 Owners with the intent to bind their successors in title hereby covenant with the Council that they will pay to the Council:
 - (i) the sum of £6,350 as a commuted figure towards the cost of maintenance of the landscape areas proposed to be created by the Development and shown crosshatched on the Plan such payment to be made within 12 months of the completion of the landscaped areas
 - (ii) the sum of £14,821 as a contribution towards the cost of the Council's play areas in the vicinity of the Development such payment to be made upon first occupation of any dwelling comprised in the Development
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 thereof shall be conclusive and binding on the parties hereto.

6. The expressions "the Council" and "the Owners" 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 or "the Owner" comprises two or more persons, firms or companies the obligation of such owner shall be construed as joint and several
8. The obligations hereby entered into by the Owners 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. For the avoidance of doubt it is hereby agreed that the obligations herein contained on the part of Kenneth Ainsworth Robert Killelea and Patrick James Killelea shall not bind them after they have parted with their estate and interest in the Property
10. The Owner shall be liable to make a contribution of £170.00 towards the Council's costs for the preparation and engrossment of this Agreement and to reimburse the Council any fees paid to H.M. Land Registry in connection herewith

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owners have executed this Agreement as a deed the day and year first before written

FIRST SCHEDULE

The Property

All those plots of land situated on the west side of Burnley Road East Whitewell Bottom Waterfoot Rossendale Lancashire part of which was formerly known as Rossendale Works registered with freehold title absolute under Title Numbers LA757881, LA819241 and LA819242 at the District Land Registry for Lancashire.

SECOND SCHEDULE

The Development

The construction of 18 detached houses and 10 terraced houses.

THIRD SCHEDULE

The Draft Planning Permission
Application Number 14/2001/184

ROSSENDALE BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

PLANNING PERMISSION

PART 1 - PARTICULARS OF APPLICATION:

Application number: 14/2001/184 Date received: 29th May 2001

Particulars and location of development:

Proposed residential development comprising 18 detached dwellings,
and 10 terraced dwellings
Land at Burnley Road East, Whitewell Bottom, Rossendale

Name and address of applicant:

Glengarth Construction Ltd
Piercy Works
Piercy Road
Waterfoot
Rossendale

Name and address of agent:

Michael Pooler Assocs
310 Newchurch Road
Stacksleads
Bacup
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 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. Before any house construction begins the new estate/access roads shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level. Reason: to ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative.
3. The existing access(es) shall be physically and permanently closed and the existing verge/footway and kerbing of the vehicular crossing shall be reinstated in accordance with the Lancashire County Council Specification for Construction of Estate Roads concurrent with the formation of the new access(es). Reason: To limit the number of access points to, and to maintain the proper construction of, the highway.

CONDITIONS, REASONS & NOTES

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 there shall not be erected, planted or allowed to remain upon the land hereinafter defined any building, wall, fence, tree or shrub which will obstruct the view of drivers of vehicles emerging from the site access on to the adjoining highway from any point 1 metre or more above the ground level of that adjoining highway. The piece of land affected by this condition shall be that lying between the back of footway to Burnley Road East and lines drawn from a point on the centre line of the proposed road no. 1, 4.5m back from the nearside channel of Burnley Road East, to meet the nearside channel of Burnley Road East at positions 60m from the centre line of the proposed road no. 1 in both northerly and southerly directions. Reason: In order to ensure satisfactory visibility for drivers of vehicles emerging from the access in question in the interests of highway safety.
5. No dwellings shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved plans. Reason: In order to ensure that the development is properly served by a vehicular access (or accesses) which meet the highway authority's minimum requirements in terms of design and construction in the interests of highway safety.
6. No building/none of the buildings hereby permitted shall be occupied until car parking, servicing and manoeuvring space as indicated on the submitted plans has been provided, laid out and surfaced in accordance with those plans. Reason: In order to ensure that sufficient car parking and servicing space is provided within the application site thus ensuring that visiting vehicles are not encouraged to park on the carriageway of adjoining highways thereby causing obstruction to same.
7. 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.

CONDITIONS, REASONS & NOTES

8. None of the buildings hereby permitted shall be occupied until the walling/fencing to the Whitewell Brook has been fully implemented. Reason: In the interests of public safety.
9. Before the development hereby permitted is commenced a detailed site investigation shall be carried out to establish if the site is contaminated, to assess the degree and nature of contamination present, and to determine its potential for pollution of the water environment. The method and extent of this investigation shall be agreed by the Planning Authority prior to the commencement of the work. Details of appropriate measures to prevent pollution of groundwater and surface water, including provisions for monitoring, shall then be submitted to and approved in writing by the Planning Authority before development commences. The development shall then proceed in strict accordance with the measures approved. Reason: To prevent pollution of the water environment.
10. No development whatsoever shall be begun until such time as details of all on-site and any necessary off-site drainage works (both foul and surface water) have been submitted to and approved by the local planning authority. Reason: In order to ensure that the application site is capable of being satisfactorily drained, both in relation to foul sewage and surface water run-off, and that any necessary drainage works are properly provided including, where appropriate, off-site drainage infrastructure, in the interests of public health and the avoidance of any potential nuisance and threat to public health which inadequate on-or off-site drainage provision and infrastructure would represent, to the detriment of orderly and well-planned development.
11. 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.

CONDITIONS, REASONS & NOTES

12. No development shall take place until samples of the proposed artificial stone quoins 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.

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 31st July, 2001.

2. This permission shall only be read in conjunction with, and not separately from, the letter from the applicant/agent dated 1st August, 2001 in respect of house types and 6th August, 2001 in respect of garages.

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

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

5. NOTE: The applicant is advised that he/she must contact the Highways Section of this Department (01706 874333) BEFORE ANY WORK IS COMMENCED IN RESPECT OF THE CONSTRUCTION OF A NEW FOOTWAY CROSSING, OR ALTERATION TO ANY EXISTING FOOTWAY CROSSING, in view of the fact that:
 - (1) the crossing will require to be constructed by, or under the supervision, of the Highways Section and
 - (2) in order to ascertain whether any cables, pipes, drains or other services within the highway are likely to be affected, and to determine the measures which may be required to be taken to protect them or, as appropriate, divert them.

6. 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.

CONDITIONS, REASONS & NOTES

7. The site contains trees covered by a Tree Preservation Order. Those trees shall be protected from any works, storage of materials etc. within the plan area of the canopy of those trees.
8. The applicant is requested to carry out hydraulic calculations to assess the existing channel capacity including School Street Bridge, which may restrict flows due to its size. The Environment Agency cannot provide details of the predicted flood level but the estimated flood flow considered needs to be 32 cubic metres/second. It is recommended that floor levels should be a minimum of 600mm above the estimated 1 in 100 year level in the channel.
Reason: In the interests of public health and safety.

Date 1st October 2001

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

THE COMMON SEAL of
ROSSENDALE BOROUGH
COUNCIL was hereunto
affixed in the presence of:-



113517

SIGNED as a DEED by
KENNETH AINSWORTH
in the presence of:

SIGNED as a DEED by
ROBERT KILLELEA in the
presence of:

SIGNED as a DEED by
PATRICK JAMES
KILLELEA in the presence
of: