

8007
DATED 19th May 2003

ROSSENDALE BOROUGH COUNCIL

and

BEELEY WOOD PROPERTIES LIMITED

AGREEMENT

Under Section 106 of the Town and Country Planning Act 1990
Re: Construction of 45 dwelling-houses at Fell View, Bacup.
(Planning Permission 2002/183)

RWL/SS/Z.12/194

Mark Weston
Director of Corporate Support
Rossendale Borough Council
Town Hall
Rawtenstall
Rossendale
BB4 7LZ

THIS AGREEMENT is made the 19th day of May Two thousand and three between ROSSENDALE BOROUGH COUNCIL of the Town Hall Rawtenstall Rossendale BB4 7LZ ("the Council") of the one part and BEELEY WOOD PROPERTIES LIMITED whose Registered Office is situate at St. George's Lodge 33 Oldfield Road BATH BA2 3NE ("the Owner") 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 on behalf of the Owner and received by the Council on 17th April 2002 for permission for the Development
- (iii) "the Development" means the development referred to in the Second Schedule to this Agreement of the Property in the manner and for the uses set out in the plans, specifications and particulars deposited with the Council pursuant to the Application
- (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

- (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 Owner holds the freehold interest in the Property of which with other land he is the registered proprietor at H.M. Land Registry under title number LA641758
- (iii) By the Application the Owner has applied to the Council for planning permission to carry out the Development
- (iv) The Council is of the opinion that in the event of the Property being developed in accordance with the Application it is desirable that there be provision for enhancement of the playing field at Heald Lane Bacup and that the Owner should contribute thereto

- (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 Owner to enter into the covenants hereinafter contained

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 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 Owner with the intent to bind himself and the Owner's successors in title hereby covenants with the Council that the Owner shall prior to the first residential occupation of the dwelling-houses referred to in the Second Schedule to this Agreement or any of them pay to the Council the sum of THIRTY-FIVE THOUSAND FIVE HUNDRED AND SEVENTY POUNDS (£35,570.00) ("the Contribution") which shall be applied by the Council to the provision of a multi-use ball sport court at the playing field at Heald Lane aforesaid ("the Intended Purpose")
4. The Council hereby covenants that it will grant planning permission in the form of the Permission forthwith upon the execution and completion of this Agreement
5. The Parties agree that the Contribution under the provisions of Clause 3 hereof is made strictly on the basis that the Council shall apply all sums received solely for the Intended Purpose and will account to the party making the payment for the expenditure of such sum within a period of five years of receiving the same and will refund to the party making the payment any part or parts thereof not so expended solely for the Intended Purpose for which such payment is provided within that period together with simple interest thereon calculated at base rate from time to time

6. The expressions "the Council" and "the Owner" 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 Owner" comprises two or more persons, firms or companies the Owner's obligation shall be construed as joint and several
8. The obligations hereby entered into by the Owner 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 Owner shall make a contribution of £700.00 towards the Council's costs for the preparation and engrossment of this Agreement and shall reimburse the Council for any search fees in or other disbursements to H.M. Land Registry in connection therewith

FIRST SCHEDULE

The Property

Land at Fell View Bacup more particularly delineated and shown edged red on the Plan

SECOND SCHEDULE

The Development

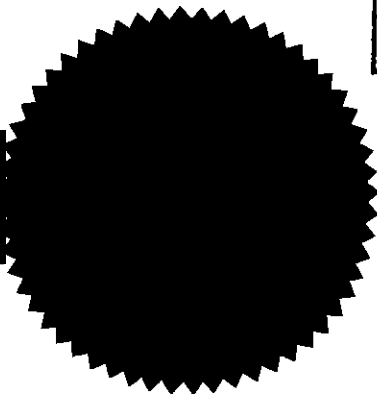
Construction of forty-five dwelling-houses

IN WITNESS whereof the Council and the Owner 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:-



Mayor



Rossendale Borough Council

Town and Country Planning Act 1990

Planning Permission

Applicants Name : Beeley Wood Properties

PLA96

Name & Address of Applicant / Agent :
 G W Nash Bldg Consultants
 13 Lime Grove
 Lowton
 Warrington
 Cheshire
 WA3 1HL

DRAFT

Part 1 - Particulars of Application

Date Received : 05 April 2002 **Application No :** 2002/183
Proposed works : Development of remaining land at Fell View, Weir, Bacup for 45 private dwelling houses
Location : MOORLANDS ROAD BACUP
Grid Reference : (E)85600000(N)21200000

Part 2 - Particulars of Decision

The Rossendale Borough Council hereby give notice that **planning permission has been granted** for the execution of works referred to in Part I hereof in accordance with the application and plans submitted **subject to the following conditions:**

- 1 The development permitted shall be begun before the expiration of five years from the date of this permission.

Reason : Required by Section 91 of the Town & Country Planning Act 1990.

- 2 No development shall take place until full details, including samples, of the materials to be used in the construction of the external surfaces of the roof and walls of the development have been submitted to and first approved in writing by the Local Planning Authority. Thereafter development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development.

- 3 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason : In the interests of visual amenity.

Application No :2002/183 (continued...)

- 4 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season 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 the interests of visual amenity.

- 5 No development shall be commenced until a detailed site investigation report to assess the degree and nature of any land contamination has been submitted to and first approved in writing by the Local Planning Authority. The method and extent of the investigation shall be agreed by the Local Planning Authority in consultation with the Environment Agency and the report shall contain details of appropriate measures to prevent pollution of groundwater and surface water, including provisions for monitoring. The development shall thereafter be carried out in full accordance with the agreed measures and details.

Reason : To prevent pollution of water environment.

Date: 2003

Stubbylee Hall, Bacup
Lancs OL13 0DE

Development Control Manager

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Notes

N.B. This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation, but under the provisions of The Planning (Listed Buildings and Conservation Areas) Act 1990 it will operate as listed building consent in respect of any work described in the permission for the alteration or extension of a listed building.

A) Appeals to the Secretary of State

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he or she may appeal to the Secretary of State for Transport, Local Government and the Regions in accordance with sections 78 and 79 of the Town and Country Planning Act 1990 within six months of the date of this notice. (Appeals must be made on a form which is obtainable from The Planning Inspectorate, 3/02 Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN). The Secretary of State has the power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements.

B) Purchase Notices

If either the Local Planning Authority or the Secretary of State for Transport, Local Government and the Regions refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.



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