



Memorandum

From: Carole Watson, Legal Services
To: Gary Housden
RE: The Events Office - O S Field 0032/0027/0038 Malton Road Pickering
Date: 30 April 2004

The above Section 106 Agreement was completed on the 29 April 2004 and I attach a copy for your records.

Please could you issue a decision notice as soon as possible.

Regards.

Carole
.....

RYEDALE D.C.
- 4 MAY 2004
DEVELOPMENT CONTROL

DATED 29th April

2004

THE RYEDALE DISTRICT COUNCIL

and

SIMON PURSTON BOAK

and

BRISTOL & WEST INVESTMENTS PLC

A G R E E M E N T

pursuant to Section 106 of the
Town and Country Planning Act 1990 as amended
and Section 111 of the Local Government Act 1972
in respect of OS Field 0032/0027/0038 Malton Road, Pickering in
North Yorkshire

K A Winship
Council Solicitor
MALTON

THIS DEED is made the 29 day of April 2004

BETWEEN

- 1 **THE RYEDALE DISTRICT COUNCIL** whose principal office is at Ryedale House Malton in the County of North Yorkshire YO17 7HH ("the Council")
- 2 **SIMON PURSTON BOAK** of PO Box 1 Pickering, North Yorkshire. YO18 7YG ("the Owner")
- 3 **BRISTOL & WEST INVESTMENTS PLC** whose Registered Office is at 12 Eclipse Office Park, Staple Hill, Bristol BS 16 5EL ("the Mortgagee")

RECITALS

- (1) The Council is the Local Planning Authority for the purposes of this Agreement for the area within which the property described in the First Schedule ("the Property") is situated
- (2) The Owner is the owner in fee simple in possession of the Property (subject as hereinafter mentioned but otherwise) free from encumbrances
- (3) The Mortgagee is mortgagee of the Property under a Legal Charge/Mortgage dated the 7th APRIL 2004 ~~21 day of August 2001~~ and made between the Owner of the one part and the Mortgagee of the other part
- (4) The Owner has applied to the Council for permission to develop the Property in the manner and for the uses set out in Second Schedule hereto ("the Proposed Development")
- (5) The Council is satisfied that the performance by the Owner of the covenants herein will remove certain arguments against or objections to the Proposed Development which would without the execution of this Agreement have led to the refusal of consent for the Planning Application
- (6) The Owner has agreed to enter into this Agreement with the Council and be bound by and observe and perform the covenants agreements conditions and stipulations hereinafter contained and on his part to be observed and performed
- (7) The Mortgagee has agreed to join herein in manner hereinafter appearing

NOW THIS DEED WITNESSES as follows:-

- 1 **THIS** Agreement is made pursuant to Section 106 of the Town & Country Planning Act 1990 as amended ("the 1990 Act") Section 111 of the Local Government Act 1972 and all other powers the parties hereunto enabling

and the covenants in this Agreement are planning obligations for the purpose of the 1990 Act which are enforceable by the Council

2 **THE** Owner and the Mortgagee covenant with the Council that the Property shall be permanently subject to the restrictions and provisions regulating the Proposed Development and use thereof specified in the Third Schedule hereto

3 **THE** Owner and the Mortgagee covenant with the Council that in relations to the Property the works and other matters specified in the Fourth Schedule shall be carried out in accordance with that Schedule

4 **IT** is agreed and declared as follows:-

4.1 The expressions "the Council" and "the Owner" and "the Mortgagee" shall include their respective successors in title and assigns


4.2 The Owner hereby agrees to carry out the Proposed Development in strict conformity with the plans and specifications and particulars submitted in connection with the Planning Application and to use the Property and all erections to be made thereon in strict accordance with this Agreement and not otherwise

4.3 For the purpose of such parts of this Agreement as may be subject to the Rule Against Perpetuities that part of the Agreement shall remain in force for the period of eighty years from the date hereof

4.4 The Owner shall on execution of this Agreement pay to the Council a fee to cover the Council's legal costs

4.5 The Owner shall indemnify and keep indemnified the Council against all damages costs charges losses demands expenses or action sustained by the Council arising from any breach of this Agreement by the Owner

4.6 The Mortgagee consents to the Owner entering into this Agreement to the intent that the Property shall hereafter always be subject to the terms of the Agreement PROVIDED THAT the Mortgagee shall only be liable for any breach occurring by reason of any act default or omission in respect of any provisions of this Agreement during such period (if any) as the Mortgagee is a mortgagee in possession of the Property PROVIDED ALWAYS that the successors in title to the Mortgagee shall become fully liable for any breach of this Agreement



4.7 In this Agreement words importing the masculine gender shall include the feminine gender and vice versa and words importing the singular number shall include the plural number and where there are two or more persons included in the expression "the Owner" covenants expressed to be made by or with the Owner shall be deemed joint and several

4.8 A person who is not a party to this Deed shall have no right under the Contracts (Rights of Third Parties) Act 1999 ("the Act") to enforce any of its terms but for the avoidance of doubt it is agreed that the exclusion of the application of the Act shall not prevent all or any future successors in title to any of the parties to this Deed from being able to benefit from or to enforce any of the obligations in this Deed

4.9 For the purpose of avoidance of doubt and subject to clause 4.10 hereof the requirements of this Agreement shall bind the Property and remain in full force and effect until formally varied by agreement of the parties or by the Secretary of State notwithstanding that the Planning Application and any plans submitted with the same shall have lapsed or shall have been amended superseded renewed or resubmitted

4.10 This Agreement is a local land charge and shall be registered as such and shall come into full force and effect when the Proposed Development is commenced and not otherwise

IN WITNESS whereof the parties hereto have executed this Deed the day and year first before written

THE FIRST SCHEDULE
[the Property]

ALL THAT piece of land TOGETHER WITH buildings erected thereon situate at and known as

OS Field 0032/0027/0038 Malton Road, Pickering, North Yorkshire, shown edged in blue on the Plan

THE SECOND SCHEDULE
[Particulars of the Proposed Development]

Erection of events arena and associated landscaping and parking.

THE THIRD SCHEDULE
[Negative Obligations]

For the purposes of this Schedule and the Fourth Schedule below the following definitions apply:

The 'Access' means the access to the Proposed Development shown coloured red on the Plan

The 'Alternative Access' means the alternative access to the Proposed Development shown coloured green on the Plan

The 'Plan' means the plan annexed to this agreement

The 'Planning Permission' means Application Number 03/00183/MFUL

The 'Railway' means the currently disused rail-link between Malton and Pickering shown cross-hatched black on the Plan.

The Owner covenants:

- a) not to construct any building or other structure on or over the Access
- b) until such time as it is required to facilitate the re-opening of the Railway not to use the Access other than as an access road for the Proposed Development in accordance with the Planning Permission,
- c) not to use the Access land to gain access to the Proposed Development within 6 months from receiving written notice from the Chief Executive of the Council that the land comprising the Access will be required to reinstate the Railway
- d) not to construct any building or other structure on or over the Alternative Access
- e) until such time as it is required as an access road for the Proposed Development to facilitate the re-opening of the Railway not to use the Alternative Access other than as car parking and landscaping in accordance with the Planning Permission.
- f) not to use the Alternative Access as an access road to the Proposed Development until the land comprising the Access has been transferred to the company operating the Railway on terms which are acceptable to the parties to the Transfer.
- g) not do or allow anything to be done on the Property that would hinder or interfere with or be inconsistent in any way whatsoever with the possible future development of the Access as the Railway.

THE FOURTH SCHEDULE

[Positive Obligations]

The Owner covenants

That in the event that the Access is required to facilitate the re-opening of the Railway and the Owner has received written notice of this from the Chief Executive of the Council

He will at his own expense :

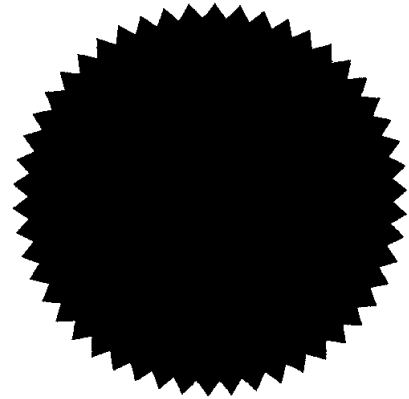
- a) submit, within 2 months of the date of the notice referred to above, to the Council for approval a scheme showing details of the Alternative Access, including roadway surfacing, landscaping and alterations to parking, layout and manoeuvring areas.
- b) following the issue of written approval by the Council of the scheme to relocate the Access to the Alternative Access and undertake all necessary works to remove the existing access from the land comprising the Access and cease use of the Access within 3 months, in accordance with the approved scheme.
- e) do all that he legally can in relation to the Property to facilitate re-opening of Railway.

THE COMMON SEAL of THE)
RYEDALE DISTRICT COUNCIL)
was hereunto affixed and)
is authenticated by:)

Chairman

/s/

Council Solicitor



Minute P41 (6)/2003
Reg No. 5009
Initials EW

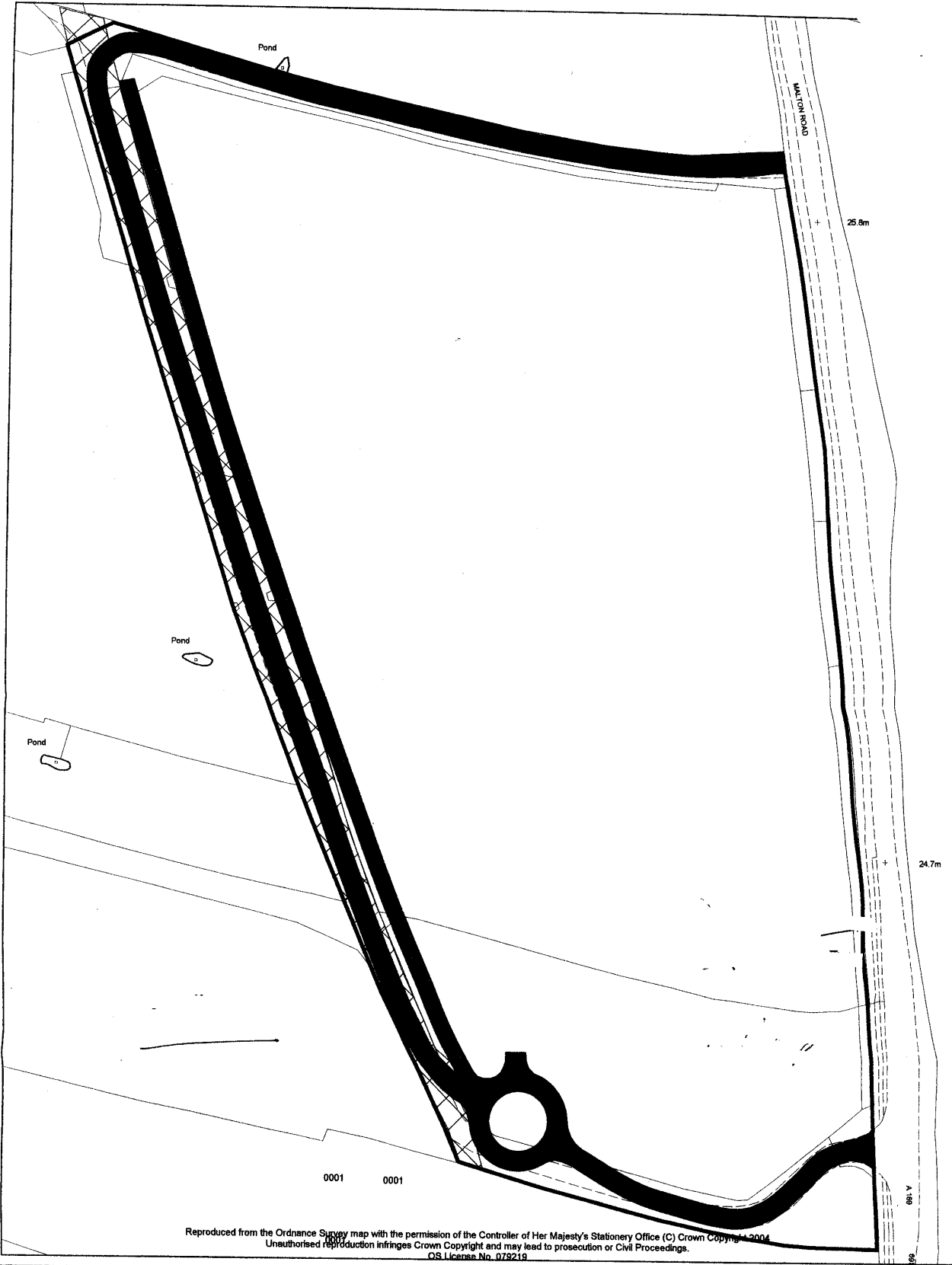
THE COMMON SEAL of the)
BRISTOL & WEST)
INVESTMENTS plc was affixed)
and is authenticated by)

Director

Secretary

SIGNED as a Deed by the said)
Simon Purston Boak in the)
presence of:)

John Kraft
Legal Executive
Simon Purston Boak
Simon Purston Boak



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**SECTION 106 AGREEMENT OS FIELD NO 0032/0027/0038
 MALTON ROAD, PICKERING**

SCALE 1:1250

bramhallblenkharn

Architecture Design Landscape The Maltings Malton YO17 7DP tel 01653 693333 fax 01653 693605 e-mail mail@brable.com

*Copy to legal.
R.A.C. Fura.*

12 December 2003

Mr G Housden
Ryedale District Council
Ryedale House
Malton
North Yorkshire
YO17 0HH

Dear Gary

Northern Events Arena

I have been given the following details by Simon Boak regarding the 106 agreement. If you have not heard from Robin Lakin already please give me a call and I will put things in motion.

Yours sincerely

PP Mark Bramhall
Ref 627W-031212 Housden-RDC

RYEDALE D.C.

15 DEC 2003

DEVELOPMENT CONTROL

RIBA 

Directors Ric Blenkharn BA(Hons) DiplArch RIBA Mark Bramhall BA(Hons) MA RCA RIBA **Administrator** Sharon Bone B Ed
Bramhall Blenkharn is a Company limited by guarantee and registered in England Company Number 3063430 VAT Number 647422434 Website www.brable.com

INSTRUCTIONS TO HEAD OF LEGAL SERVICES:
SECTION 106 AGREEMENT

Authorised by Area Planning Committee on: 16 September 2003
Action Requested by: Gary Housden
Date Submitted: 24 October 2003
Completion Date Required: 21 November 2003

Action Required: Negotiate and complete an agreement pursuant to Section 106 Town & Country Planning Act 1990 as amended in respect of the following:

APPLICATION NO: 03/00183/MFUL

APPLICANT: The Events Office
ADDRESS: PO Box 1
Pickering
North Yorkshire
YO18 7YG

AGENT: Bramhall Blenkham
ADDRESS: The Maltings
MALTON
YO17 7DP

Tel:

Tel: 01653 693333

PROPOSAL: Erection of events arena with associated landscaping and parking

APPLICATION SITE: OS Field 0032/0027/0038, Malton Road, Pickering, North Yorkshire,

Approx Area:(A/Ha)

SUMMARY OF TERMS TO BE INCLUDED IN AGREEMENT:

Restriction/Obligation: see attached letter to Bramhall
..... Blenkham dated 24th October 2003
..... - Area of land required to be 'protected' for the relocation of
..... the accessway is shown on Site Plan No. 122 attached.
..... * Please let me know if you require any areas
..... marked in particular colours on the O.S. Plan
..... - the only ones that spring to mind are the current route
..... of the former railway line and the alternative accessway
..... shown on the attached plans

SOLICITOR FOR APPLICANT:

Name: *NOT YET KNOWN*

Address:

.....

.....

Tel:

THIRD PARTIES (if any) who need to be consulted about and/or be party to an agreement:

Name(s): *—*

Address:

.....

.....

Tel:

DETAILS OF ADJOINING LAND if known to be owned/occupied by applicant:

..... *— see attached plan - Drawing No. 121*

.....

.....

.....

.....

Plans submitted with this request:



1 plan showing the application site edged in red and the adjoining land in blue



5 unmarked OS site plans

Legal Section File Reference:

Officer Responsible: