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010007630351

Memorandum

From: Carole Watson, Legal Services
To: Paul Simpson, Planning Department
Jo Dodgson, Land Charges
RE: S106 Agreement: Land off Town End Close, Pickering
Dated: 22 July 2003
Date: 23 July 2003

The above Section 106 Agreement has been completed and I attach a copy for your records.

Regards,

Carole

Ryedale District Council	
Electoral/Local Land Charges	
23 JUL 2003	
Copy to-	
Reply Sent-	

THIS DEED is made the 22nd day of JULY 2003

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 **PETER RICHARD HOLMES** of Town End Farm Eastfield Road Pickering YO18 7HU ("the Owner")

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 Application Site means the area outlined in red on the Plan
- (4) The Plan means the Plan annexed to this Agreement
- (5) 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")
- (6) 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
- (7) 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

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 covenants 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 covenants 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" 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 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

4.7 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

DATED 22 July

2003

THE RYEDALE DISTRICT COUNCIL

and

PETER RICHARD HOLMES

AGREEMENT

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 Land off Town End Close Pickering in
the County of North Yorkshire

K A Winship
Council Solicitor
MALTON

4.8 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

4.9 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 Land off Town End Close Pickering North Yorkshire shown edged in red on the Plan.

THE SECOND SCHEDULE

[Particulars of the Proposed Development]

Residential development (site area 0.32 hectares)

THE THIRD SCHEDULE

[Negative Obligations]

The Owner covenants that he will not commence development on the site as defined in Section 56 of the Town and Country Planning Act 1990 until:

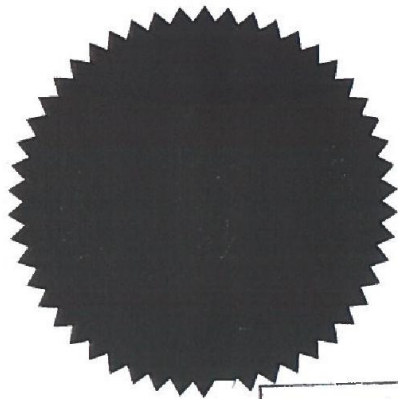
- (a) the obligations in the Fourth Schedule have been complied with; and
- (b) the Council has given approval in writing to the proposals submitted by the Owner in accordance with the Fourth Schedule; and
- (c) the replacement pond has been constructed in accordance with the proposals approved in (b) above and apparatus have been put in place for the translocation of flora and fauna in accordance with the Method Statement approved by the Council

THE FOURTH SCHEDULE
[Positive Obligations]

The Owner covenants that on submission of his application for approval of the reserved matters in respect of the proposed agreement he will simultaneously submit to the Council for approval details of an off-site pond to replace the pond which is situated within the Property the approximate position of which is shown on the Plan in green. The details shall include the following:-

- (a) The size depth and profile of the proposed replacement pond;
- (b) A Method Statement to show the method of translocation of flora and fauna from the existing pond to the replacement pond;
- (c) A Management Strategy for the ongoing care and maintenance of the replacement pond.

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

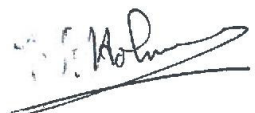




Chairman


Council Solicitor

Minute No. 28(12)/02
Reg No. 4973
Initials *CUW*

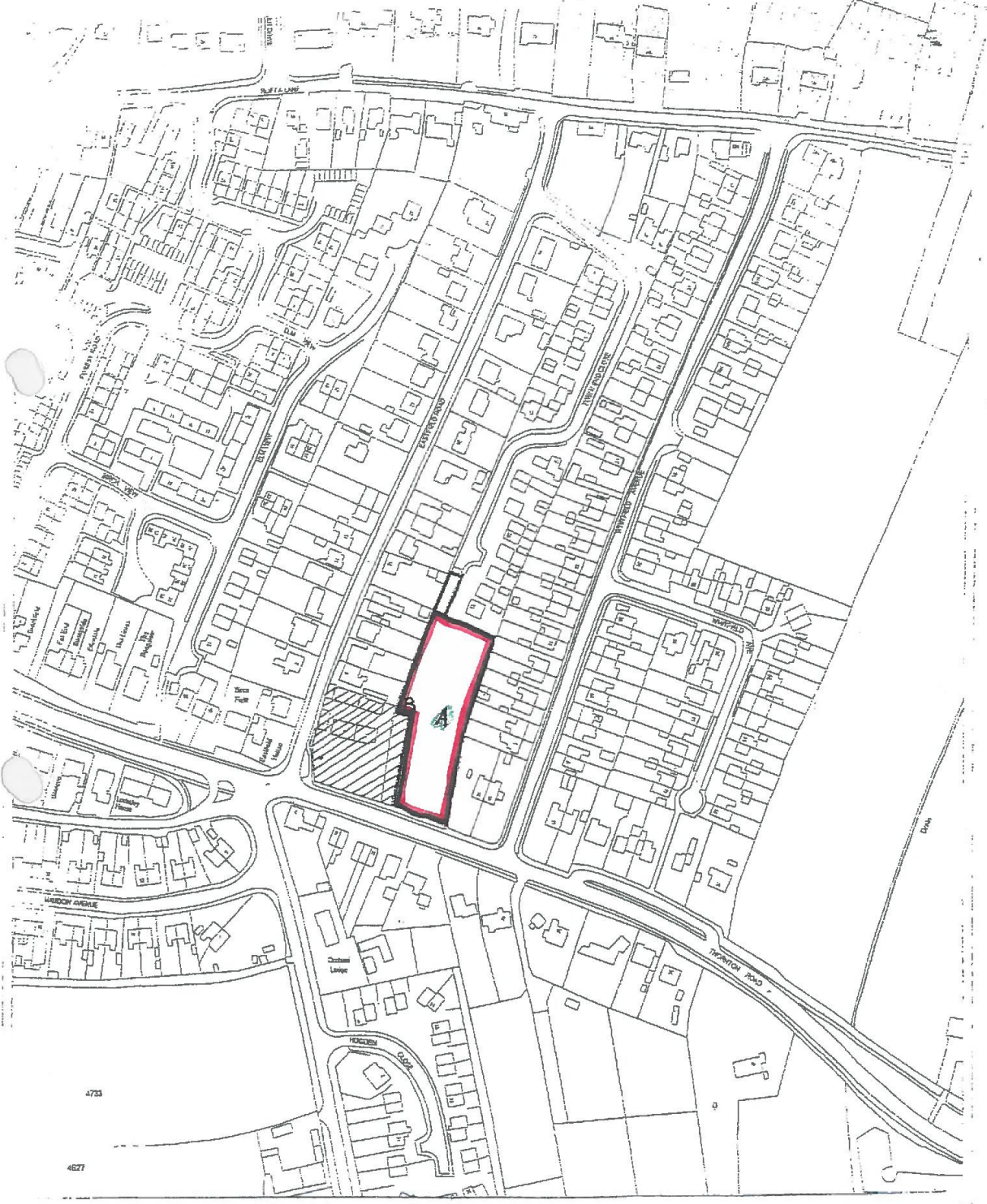
SIGNED as a Deed by the said)
PETER RICHARD HOLMES)
in the presence of:)




Solicitor.
P. C. ...

M
A

Land off Thornton Road/Town End Close, Pickering



Land off Town End Close Pickering



Ryedale House, Miskin

SCALE 1:3500

DRAWN BY

DATE 28th June 2002

Department

Planning Services

Drawing No