



06/00963/matt

Memorandum

From: Carole Watson, Legal Services

To: Rachel Smith – Development Control
Karen Hood – Development Control
Shirley Wilson/Jane Hall – Enforcement Officers
Jo Dodgson/Kerry Clements - Land Charges
David Wiseman – Financial Services Manager
Julian Rudd – Forward Planning
Jill Thompson – Forward Planning

RYEDALE D.C.

30 OCT 2007

DEVELOPMENT CONTROL

RE: Section 106 Agreement - NOTON GROVE
Ryedale District Council (1) (2) MINSTER PROPERTIES LTD (3) CRYEDALE BANK

Date: 29 October 2007

The above Section 106 Agreement was completed on the 29 October 2007 and I attach a copy for your records.

Please could the Planning Department monitor the development and ensure that the covenants relating to the Highway Improvements Contribution are complied with. The trigger points are contained in the Third Schedule of the Agreement.

Please could either myself or Fiona be advised when the Signage Commuted Sum and the Junction Commuted Sum have been recovered.

Thank you.

Regards,

Carole

THIS DEED is made the 20th day of October 2007

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 **MINSTER INDUSTRIAL PROPERTIES LIMITED** Registered Office Betton Business Park, Racecourse Road, East Ayton, Scarborough, North Yorkshire. YO13 9HT ("the Owner")
- 3 **CLYDESDALE BANK PLC** Yorkshire Bank, 20 Merrion Way, Leeds LS2 8NQ ("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 28th day of February 2006 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:-

DEFINITIONS

“Commencement of Development” means the date of commencement of development by the carrying out of a material operation as defined in Section 56(4) of the Town and Country Planning Act 1990

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(s) 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 **IT** is agreed and declared as follows:-

3.1 The expressions “the Council” and “the Owner” (and “the Mortgagee”) shall include their respective successors in title and assigns

3.2 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

3.3 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

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

3.5 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

3.6 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

3.7 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

3.8 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

3.9 For the purpose of avoidance of doubt and subject to clause 3.10 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

3.10 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 Land at Norton Grove, Westfield Way, Norton, Malton, North Yorkshire shown for the purposes of identification edged in red on the Plan

THE SECOND SCHEDULE
[Particulars of the Proposed Development]

Industrial Development – Use Classes B1, B2, B8 and D1(site area 3.285ha)
AND HAULAGE DEPOT USE

THE THIRD SCHEDULE
[Positive Obligations]

KAW

6 Highway Improvements Contribution

6.1 The Developer covenants

6.1.1 To pay to the Council within 28 days of Commencement of Development of that part of the Property shown cross-hatched in yellow on the Plan a commuted sum of £18,000 (Eighteen thousand Pounds)(the Signage Commuted Sum) for improved highway signage for Heavy Goods Vehicles (the Signage Improvements) and:

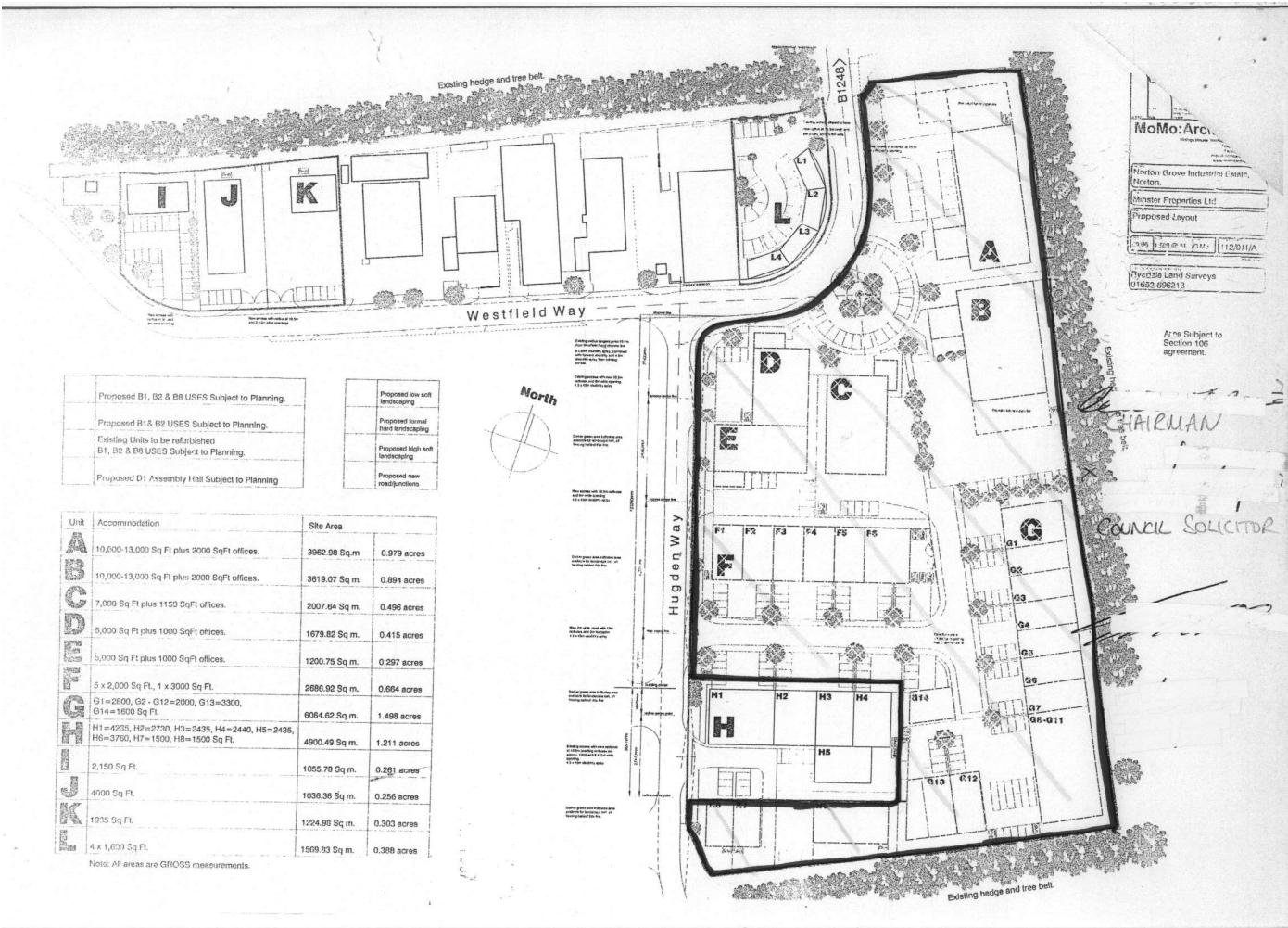
6.1.2 To pay to the Council either on or by 31 December 2009 or on occupation of the first new build unit constructed in accordance with the Planning Permission whichever event occurs later a commuted sum of £57,000 (Fifty Seven Thousand Pounds) (the Junction Commuted Sum) for improvements to the Brambling Fields junction of the A64 trunk road (the Junction Improvements)

6.2 The Council covenants that if the Signage Commuted Sum and or Junction Commuted Sum has not been committed to the Signage Improvements or the Junction Improvements (as appropriate) after the expiration of five years from the date on which it is certified by the Council's Financial Services Manager that the Council has received the Signage Commuted Sum and the Junction Commuted Sum the Council will repay to the Developer the Signage Commuted Sum and/or the Junction Commuted Sum (as appropriate) or any unexpended part thereof PROVIDED that the Developer shall not be entitled to claim any interest on the Signage Commuted Sum and/or the Junction Commuted Sum.

MoMo: Arc
 Newton Grove Industrial Estate,
 Newton,
 Minister Properties Ltd
 Proposed Layout
 1:500 1:500 A1 1:100 1:120 1:11A
 Pevsley Land Surveys
 01653 696213

As per Subject to Section 106 agreement.

CHAIRMAN
 COUNCIL SOLICITOR



Proposed B1, B2 & B8 USES Subject to Planning.
 Proposed B15, B2 USES Subject to Planning.
 Existing Units to be refurbished
 B1, B2 & D9 USES Subject to Planning.
 Proposed D1 Assembly Hall Subject to Planning

Proposed low salt landscaping
 Proposed formal hard landscaping
 Proposed high salt landscaping
 Proposed new road junctions

Unit	Accommodation	Site Area	
A	10,000-13,000 Sq Ft plus 2000 Sq Ft offices.	3962.98 Sq m	0.979 acres
B	10,000-13,000 Sq Ft plus 2000 Sq Ft offices.	3919.07 Sq m	0.894 acres
C	7,000 Sq Ft plus 1150 Sq Ft offices.	2007.64 Sq m	0.496 acres
D	5,000 Sq Ft plus 1000 Sq Ft offices.	1679.82 Sq m	0.415 acres
E	5,000 Sq Ft plus 1000 Sq Ft offices.	1200.75 Sq m	0.297 acres
F	5 x 2,000 Sq Ft, 1 x 3000 Sq Ft.	2686.92 Sq m	0.664 acres
G	G1=2900, G2=312=2000, G3=3300, G4=1600 Sq Ft.	6064.62 Sq m	1.498 acres
H	H1=4535, H2=2730, H3=2435, H4=2440, H5=2435, H6=3760, H7=1500, H8=1500 Sq Ft.	4900.49 Sq m	1.211 acres
I	2,150 Sq Ft.	1055.78 Sq m	0.261 acres
J	4000 Sq Ft.	1036.36 Sq m	0.256 acres
K	1935 Sq Ft.	1724.88 Sq m	0.303 acres
L	4 x 1,671 Sq Ft.	1509.83 Sq m	0.388 acres

Note: All areas are GROSS measurements.

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



Chaito Wan 1

Chairman

Winstrip

Council Solicitor

Minute P.59/2007

Reg No. 6119

Initials *ew*

EXECUTED as a Deed by the said)
MINSTER INDUSTRIAL PROPERTIES LIMITED)
Acting by:)

[Signature]

Director

[Signature]

Director/Secretary

EXECUTED as a Deed by)
CLYDESDALE BANK PLC)
Acting by:)

Authorised Signatory

SIGNED AS A DEED AND DELIVERED BY
Julie Paralegal 1
on behalf of Clydesdale Bank PLC
trading as Yorkshire Bank
in the presence of
Witness Signat
Full Name *DAVID CAVERS*
Ref: *[illegible]*

DATED

29th October

2007

THE RYEDALE DISTRICT COUNCIL

and

MINSTER INDUSTRIAL PROPERTIES LIMITED

and

CLYDESDALE BANK 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 Land at Norton Grove, Westfield Way, Norton, Malton,
in the County of North Yorkshire

K A Winship
Council Solicitor
M A L T O N