

DATED

08 April.

2013

THE RYEDALE DISTRICT COUNCIL

and

THOMAS NORCLIFFE HOWARD-VYSE

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 Langton Malton in
the County of North Yorkshire

K A Winship
Council Solicitor
M A L T O N

THIS DEED is made the 08 day of April 2013

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 **THOMAS NORCLIFFE HOWARD-VYSE** of 32 Ormiston Grove London W12 0JT ("the Owner")

DEFINITIONS

In this Agreement the following words and expressions shall have the following meanings:-

- 1.1.1 "the Act": The Town and Country Planning Act 1990
- 1.1.2 "the Affordable Housing Contribution": the sum of £180,000.00 (One Hundred and Eighty Thousand Pounds)
- 1.1.3 "the Application": the planning application made by or on behalf of the Owner and bearing the Local Authority reference number 08/00596/FUL
- 1.1.4 "Commencement of Development": the carrying out on the Land of a material operation pursuant to the Planning Permission as defined in Section 56 (4) of the Act save for the purpose of determining whether or not a material operation has been carried out there shall be disregarded all preliminary operations including (but not limited to) marking out surveying ground investigations archaeological investigations demolition site clearance site preparation remedial work in respect of any contamination or other adverse ground conditions diversion and laying of services and the erection of a site hut/compound and "commence" and "commencement" shall be construed accordingly

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- 1.1.5 “the Development”:
The erection of 1no. five bedroom dwelling with detached garage, 1no. four bedroom dwelling with detached garage and 2no four bedroom dwellings with detached cycle store/shed and alteration to existing vehicular access
- 1.1.6 “Dwellinghouse”:
any residential dwelling to be constructed as part of the Development
- 1.1.7 “First Occupation”:
the first occupation of a Dwellinghouse at the Development but excluding any use of a Dwellinghouse for the purposes of marketing or display or occupation in relation to security operations
- 1.1.8 “the Land”:
The land as described in the First Schedule to this Agreement
- 1.1.9 “the Plan”:
the plan annexed to this Deed
- 1.1.10 “the Planning Permission”:
the permission granted pursuant to the Application in the form of the draft annexed to this Agreement

RECITALS

- (1) The Council is the Local Planning Authority for the purposes of this Agreement for the area within which the Land is situated
- (2) The Owner is the Registered Proprietor of the Land free from any legal charges or mortgages
- (3) The Owner has applied to the Council for permission to carry out the Development on the Land
- (4) 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
- (5) The Owner has agreed to enter into this Agreement with the Council and the parties have agreed to be bound by and observe and perform the covenants agreements

conditions and stipulations hereinafter contained and on their respective parts 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 hereto 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** covenants in this Agreement shall only come into effect upon the Commencement of the Development

3 **THE** Owner covenants with the Council so as to bind the Land into whosoever hands the same may come to observe and perform the covenant on his part contained in the Second Schedule hereto

4 **THE** Council covenants with the Owner to observe and perform the covenants on its part contained in the Third Schedule hereto

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

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

5.2 The Owner shall on execution of this Agreement pay to the Council a fee of £200 to cover the Council's legal costs in connection with the negotiation and completion of this Agreement

5.3 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

5.4 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

5.5 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

5.6 For the purpose of avoidance of doubt and subject to clause 5.8 hereof the requirements of this Agreement shall bind the Land and remain in full force and effect unless and 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

5.7 This Agreement is a local land charge and shall be registered as such and shall come into full force and effect on commencement of Development and not otherwise

5.8 Neither the Owner nor any successors in title to the Owner shall be liable for the performance or observance of the covenants on his its or their part contained in this Agreement after he she or they shall have parted with all interest in his her or their part of the Land

5.9 Without prejudice to the terms of this Agreement and the obligations imposed on the Owner herein nothing in this Agreement shall be construed as prohibiting or limiting any right to develop any part of the Land in accordance with any planning permission (other than the Planning Permission) granted by the Council or by the Secretary of State on appeal or reference to him after the date of this Agreement

5.10 If it is satisfied that the covenant on the part of the Owner contained in this Agreement has been performed or discharged the Council shall upon the written request of the Owner at any time after such performance or discharge issue written confirmation thereof and thereafter forthwith effect the cancellation of any entry made in the register of local land charges in respect of this Agreement

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

THE FIRST SCHEDULE

The Land

ALL THAT piece of land TOGETHER WITH buildings erected thereon situate at and known as Langton Walled Garden, Main Street, Langton, Malton, North Yorkshire shown for the purposes of identification edged in red on the Plan

THE SECOND SCHEDULE
Negative Obligation

The Owner covenants with the Council not to permit the First Occupation to occur unless and until the Affordable Housing Contribution has been paid in full to the Council

THE THIRD SCHEDULE
(The Council's Covenants)

Affordable Housing Provision

The Council covenants with the Owner as follows:-

- 1 That the Affordable Housing Contribution will be used on a broad range of schemes and initiatives, linked to housing needs which may include but not be limited to the following
 - 1.1 Support for housing associations for both the development and acquisition of affordable housing including facilitating any necessary works of improvement or repair
 - 1.2 Support for specific initiatives to regenerate the existing housing stock eg. Empty Property Grants and Houses in Multiple Occupation Grants which give the Council tenancy nomination rights for qualifying individuals; grants to address fuel poverty and grant assistance to carry out essential repairs for vulnerable households and those on limited incomes
 - 1.3 Support for specific schemes which are developed to meet an identified need eg. the lack of suitable temporary accommodation for homeless families or a scheme to meet the accommodation needs of young single people
 - 1.4 Support for the Rural Housing Enabler function at the Council
2. That in the event that all or part of the Affordable Housing Contribution has not been committed by the Council as detailed above within 5 years from the date on which it is received by the Housing Services Manager the Council will re-pay to the Owner the amount (if any) of the Affordable Housing Contribution which has not been committed together with interest earned on such returned sum
3. To provide such evidence as the Owner may reasonably request in order to verify that the Council has committed the Affordable Housing Contribution in accordance with the covenants on its part contained in paragraph 1 of this Schedule and to establish if and when any repayment is due to the Owner in accordance with paragraph 2 of this Schedule

EXECUTED AS A DEED BY
AFFIXING
THE COMMON SEAL of THE)
RYEDALE DISTRICT COUNCIL)
is authenticated by:)



Chairman

A handwritten signature in black ink, appearing to read 'K. Howard-Vyse'.

Council Solicitor

EXECUTED as a DEED by the said)
THOMAS NORCLIFFE HOWARD-VYSE)
in the presence of:-)

A handwritten signature in blue ink, reading 'Thomas Norcliffe Howard-Vyse'.

Witness:
Signature

A handwritten signature in black ink, reading 'J. Dunne'.

Name

11 Boscambe Road

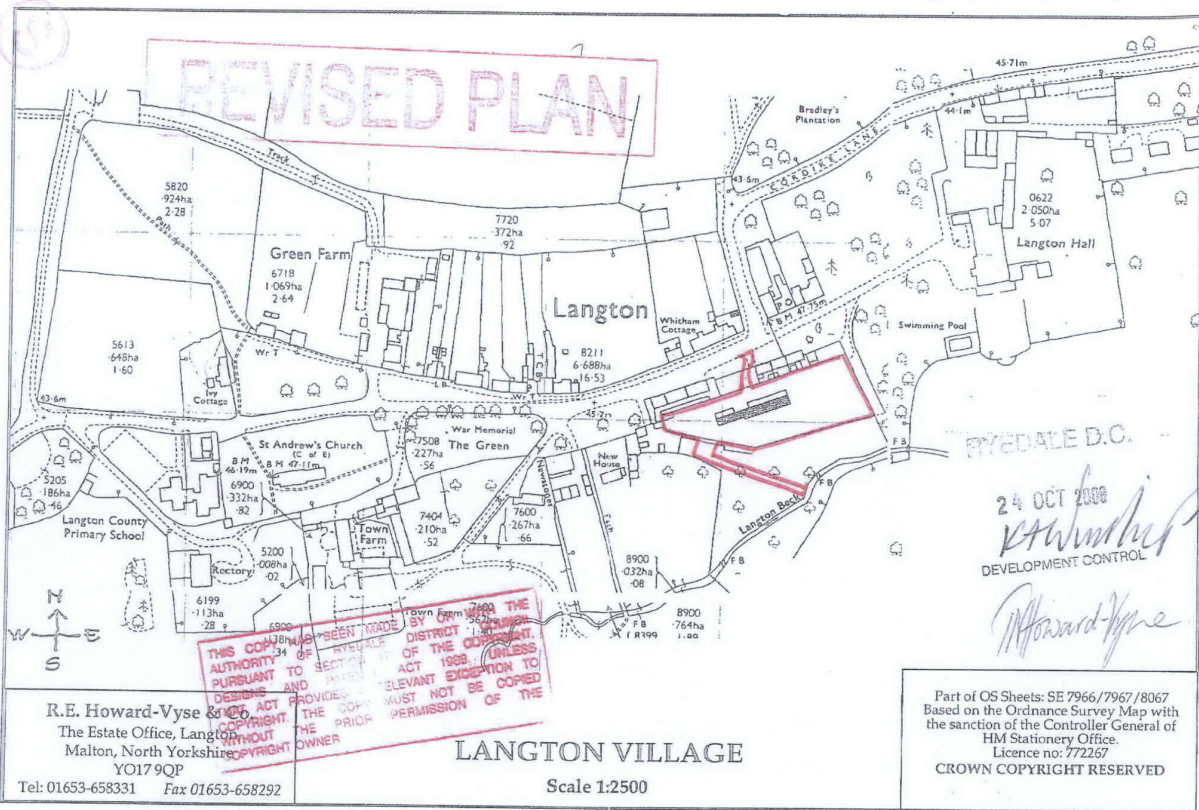
Address

London

Occupation

W 11 9HS
Homemaker

08/10/05/16/Full



REVISED PLAN

RYE DALE D.C.

24 OCT 2000
R.E. Howard-Vyse
 DEVELOPMENT CONTROL

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R.E. Howard-Vyse & Co.
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LANGTON VILLAGE

Scale 1:2500

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