



# Memorandum

From: Mr K A Winship, Head of Legal Services

To: Senior Elections and Land Charges Officer ✓  
cc Head of Planning Services - FAO Paul Simpson

RE: See Below

Date: 27 April 2000

Our Ref: AH/APR00/LF761

**Planning Application Number: 98/00814/FUL**  
**Section 106 Agreement Town & Country Planning Act 1990**  
**Development at Temperance Inn Farm, Welburn, York**

A Section 106 Agreement dated the 18th April 2000 has been made between the Council (1), Castle Howard Estate Limited (2), Ian Thompson (3) and AMC Bank Limited (4).

A copy of the Agreement is attached for your records.

Notice of planning permission can therefore now be issued to the applicants, owners of the above property, for the development.

K A Winship  
Solicitor  
Head of Legal Services

Rec'd - Reg'd  
3.5.2000 SK

Ryedale District Council Electoral/ Land Charges	
- 3 MAY 2000	
Copy to-	
Copy Sent-	

**THIS DEED** is made the *Eighteenth* day of *April* 2000

**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 **CASTLE HOWARD ESTATE LIMITED** of the Estate Office Castle Howard York YO60 7DA ("the Owner")
- 3 **IAN THOMPSON** of Temperance Inn Farm Welburn York ("the Tenant")
- 4 **AMC BANK LIMITED** whose registered office is at AMC House Chantry Street Andover in the County of Hampshire SP10 1PE ("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 Part I of the First Schedule ("the Property") is situated and the piece of land described in Part II of the First Schedule ("the Development Site") is situated
- (2) The Owner is the owner in fee simple in possession of (i) the Property subject as hereinafter mentioned but otherwise free from encumbrances and (ii) the Development Site free from encumbrances
- (3) The Tenant is tenant of the Property by virtue of a Lease/Tenancy Agreement made between the Owner of the one part and the Tenant of the other part and dated the 14th day of September 1989
- (4) The Mortgagee is mortgagee of the Property under a Legal Charge dated the 12th day of August 1954 and Further Charges dated the 28th day of November 1968 the 9th day of October 1972 the 13th day of June 1977 and the 27th day of November 1991 all made between the Owner of the one part and the Mortgagee of the other part
- (5) The Owner has applied to the Council for permission to develop the Property in the manner set out in Second Schedule hereto ("the Proposed Development")
- (6) The Council is satisfied that the performance by the Owner and the Tenant 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 and the Tenant have 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 their parts to be observed and performed

(8) 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 the Tenant and the Mortgagee covenant with the Council that the Property shall be permanently subject to the restriction specified in the Third Schedule hereto

3 **THE** Owner the Tenant and the Mortgagee covenant with the Council that in relation 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" "the Owner" "the Tenant" 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 or the Tenant

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 For the purpose of avoidance of doubt and subject to clause 4.9 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**

**Part I**

[the Property]

ALL THAT piece of land TOGETHER WITH the buildings erected thereon situate at and known as Temperance Inn Farm Welburn York and for the purpose of identification only shown edged green on Plan No. 1 and Plan No. 2 annexed hereto

**Part II**  
[the Development Site]

ALL THAT piece of land situate at Welburn York and for the purpose of identification only shown edged red on Plan No. 1

**THE SECOND SCHEDULE**  
[Particulars of the Proposed Development]

Erection of a farm workers dwelling with attached garage ("the New Dwelling") on the Development Site

**THE THIRD SCHEDULE**  
[Negative Obligation]

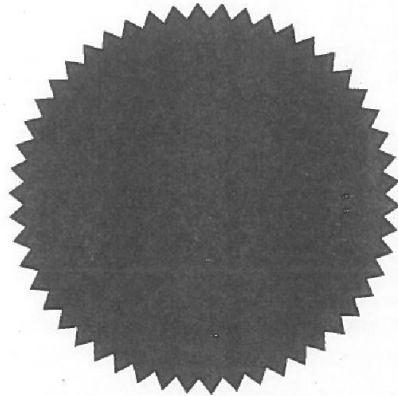
The Owner and the Tenant covenant that as from the date of completion of the New Dwelling on the Development Site the Property will not be used for agricultural purposes SAVE THAT nothing in this obligation shall prevent the New Dwelling being used as a dwelling for an agricultural worker and from preventing normal garden produce being grown on the Development Site

**THE FOURTH SCHEDULE**  
[Positive Obligations]

The Owner and the Tenant covenant that

1. all the modern agricultural buildings on the Property shown hatched brown on Plan No. 2 annexed hereto shall be removed therefrom within two months of completion of the New Dwelling on the Development Site
2. the entire curtilage of Rose Cottage shall be defined within one month of the date hereof to the reasonable satisfaction of the Council

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



*[Signature]*  
Chairman

*[Signature]*  
Head of Legal Services

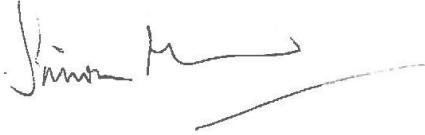
Minute CP 39/98

Reg No. 4722

Initials *AKH*

THE COMMON SEAL of )  
CASTLE HOWARD ESTATE )  
LIMITED was hereunto affixed )  
in the presence of: )

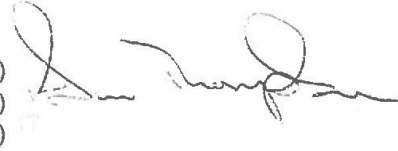
Director



Director/Secretary



SIGNED as a Deed by the )  
said IAN THOMPSON )  
in the presence of: )



*D. Hodgeson*

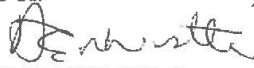
*Fox-Hounds Farm  
Western York  
Y060 7NE*

*Retired Farmer*

SIGNED as a Deed )  
by Marcus Henry Bowes Carr )  
as Attorney for an on behalf of )  
AMC BANK LIMITED )  
in the presence of: )



1205



ANN ENTWISTLE  
4110 Main  
Creston, IA 50821  
ARCA  
Residence - CR10 10D





PLAN No. 2



SCALE 1:500

DRAWN BY

DATE 22nd September 1999

Department Planning Services

Drawing No.

Ryedale House, Malton  
North Yorkshire, YO17 7HH

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22nd September 1999



DATED

18<sup>th</sup> April

2000

THE RYEDALE DISTRICT COUNCIL

-and-

CASTLE HOWARD ESTATE LIMITED

-and-

MR I THOMPSON

-and-

AMC BANK LIMITED

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 Temperance Inn Farm Welburn in  
the County of North Yorkshire

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K A Winship  
Solicitor  
Head of Legal Services  
MALTON