

Dated *2nd July*

2003

THE DISTRICT COUNCIL OF SHEPWAY

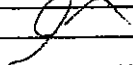
- and -

ENGLISH VILLAGES HOUSING ASSOCIATION LIMITED

PLANNING OBLIGATION AGREEMENT

SECTION 106 TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
RELATING TO
LAND ADJACENT LINKSFIELD COTTAGES NEWCHURCH KENT

P J Wignall
Solicitor to the Council
Shepway District Council
Civic Centre
Castle Hill Avenue
Folkestone
Kent CT20 2QY

Checked	
and	

POA DOC 802/104
S106 English Villages

PLANNING OBLIGATION AGREEMENT

THIS DEED is made the 2nd day of July 2003

BETWEEN (1) THE DISTRICT COUNCIL OF SHEPWAY of the Civic Centre Castle Hill Avenue Folkestone Kent CT20 2QY ("the Council ")

(2) ENGLISH VILLAGES HOUSING ASSOCIATION LIMITED whose registered office is at 9 Clarendon Place Leamington Spa Warwickshire CV32 5QP

DEFINITIONS AND INTERPRETATION

1. "the Plan" means the Plan annexed to this Agreement
2. "the Land" means the land known as land adjacent Linksfield Cottages Newchurch Kent more particularly delineated on the Plan and edged red
3. "the Planning Application" means the Planning Application made under reference number Y02/1094/SH
4. "the Development" means the development more particularly described and specified in the Planning Application consisting of erection of 2 two-bedroomed semi-detached houses and a terrace of 4 houses with parking spaces (as amended by Drawing numbers 02/52/01A and 02/52/06 date-stamped 12 February 2003) and shall also be deemed to refer to
 - 4.1 Any application for renewal of permission for the Development in the same terms
 - 4.2 Any application to carry out the Development without complying with a condition imposed on the permission for the Development
 - 4.3 Where the permission for the Development is an outline planning permission any reserved matters granted under that outline permission
5. "the Act" means the Town and Country Planning Act 1990 (as amended)

6. "the Council" and "the Owner" and "the Mortgagee" shall include their respective successors in title and assigns and "the Owner" shall also include any person deriving title under that person

7. "the Parish" means the civil parish of Newchurch

8. "the Adjoining Parishes" means the civil parishes of Brenzett Burmarsh Ivychurch St Mary-in-the-Marsh Dymchurch Old Romney Ruckinge Bilsington Aldington and Bonnington

9. A Covenant on behalf of the Owner not to do an act or thing shall be deemed to include an obligation not to permit nor cause nor suffer such act or thing to be done by another person

10. Words importing one gender include all other genders and words importing the singular shall also include the plural and vice versa

11. Any reference to an enactment (whether generally or specifically) shall be construed as a reference to that enactment as amended extended or re-enacted or applied by or under any other enactment and shall include all instruments orders plans regulations permissions and directions made or issued thereunder or deriving validity therefrom

12. Whenever the expression "the Owner" shall include more than one person whether or not original parties to this Agreement then the covenants contained in this Agreement expressed to be made by the Owner shall be deemed to be made by such persons jointly and severally

13. Where any approval consent agreement or the like is required to be given pursuant to the terms of this Agreement no party shall unreasonably withhold or delay such approval consent agreement or the like

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 Owner with full title guarantee (free from encumbrances) of the land the title of which is registered at HM Land Registry with Title Absolute under Title Number K
 3. The Owner has applied to the Council by the Planning Application to carry out the Development
 4. The Council has decided to grant Planning Permission for the Development in accordance with the Planning Application subject to the making of this Agreement without which Planning Permission for the Development would not have been granted
 5. The Owner has agreed to enter into this Agreement and to enter the obligations in respect of the Land which are set out in the schedules
- NOW THIS DEED is made in pursuance of Section 106 of the Act and Section 111 of the Local Government Act 1972 and all other enabling powers

WITNESSES as follows:

1. The Owner covenants with the Council that the Land shall from the date of this Agreement be permanently subject to the restrictions regulating the development or use of the Land specified in the Schedule
2. It is agreed and declared as follows:
 - 2.1 The obligations referred to in Clauses 1 2 3 and 4 above and set out in the corresponding Schedule are planning obligations for the purposes of Section 106 of the Act
 - 2.2 The Council is the Local Planning Authority by whom the planning obligations are enforceable
 - 2.3 The Owner's interest in the Land is as described in recital 2 above

2.4 This Agreement is executed as a Deed

2.5 Nothing contained or implied in this Agreement shall prejudice or affect the rights powers duties and obligations of the Council the exercise of its functions as a Local Authority and the rights powers duties and obligations of a council under all public and private statutes byelaws and regulations may be fully and effectually exercised in relation to the Land and any works executed thereon and the Development as if this Agreement had not been executed by the Council

2.6 No approval given by the Council under this Agreement for the purposes of this Agreement shall be deemed to be approval for any other purposes whatsoever

2.7 The provisions of this Agreement shall be enforceable by the Council against the Owner and all persons who shall have derived title through or under the Owner in respect of the Land (but so that no person shall be liable to the Council for any breach of this Agreement committed after such person has parted with all of its interest in the Land)

2.8 The provisions of the Contracts (Rights of Third Parties) Act 1999 are excluded from the terms of this Agreement

2.9 The Owner will pay the Council's legal costs of £200 on completion of this Agreement

2.10 This Agreement is a local land charge and should be registered as such

IN WITNESS WHEREOF this Deed was duly executed on the date stated above

THE SCHEDULE

(Restrictions on the Development or use of the Land)

1. Not to permit the occupation of any of the dwellings comprised in the Development otherwise than with the procedures set out in the following paragraphs.

Attu: Elizabeth

2. The Owner shall upon completion of the Development and at all times subsequently allocate each of the dwellings comprised in the Development to a person who is considered by the Owner to be in need of such accommodation and unable to compete in the normal open market for property in the Parish and
 - 2.1 who has lived in the Parish for at least 5 years or
 - 2.2 who has lived in the Parish in the past or
 - 2.3 who has close family in the Parish or ✓
 - 2.4 who has employment in the Parish or
 - 2.5 who has been forced to move away from the Parish due to lack of suitable accommodation
 - 2.6 if there are no persons who qualify under clause 2 above the Owner shall upon completion of the Development and at all times subsequently allocate each of the dwellings comprising the Development to a person who is considered by the Owner to be in need of such accommodation and unable to compete in the normal open market for property in one of the Adjoining Parishes and
 - 2.7 has lived in one of the Adjoining Parishes for at least 5 years or
 - 2.8 has lived in one of the Adjoining Parishes in the past or
 - 2.9 has close family in one of the Adjoining Parishes or
 - 2.10 has employment in one of the Adjoining Parishes or
 - 2.11 has been forced to move away from the Adjoining Parishes due to lack of suitable accommodation
 - 2.12 PROVIDED THAT
 - 2.12.1 If there are no persons who qualify under the foregoing the Council shall have the right to nominate an applicant from its housing waiting list seeking accommodation in the Parish who falls within sub-paragraphs 2.1 - 2.5 above

or if there is no such person for the time being on the said list any other applicant seeking accommodation in the Parish and a person so nominated in accordance with this sub-paragraph shall for the purposes of this agreement be deemed to have been appointed by the Owner and the vacancy shall be deemed to have been filled by the Owner

2.12.2 If there are no persons who qualify under the foregoing the Council shall have the right to nominate an applicant from its housing waiting list seeking accommodation in one of the Adjoining Parishes who falls within sub paragraph 2.7 - 2.11 above or if there is no person for the time being on the said list any other applicant seeking accommodation in one of the Adjoining Parishes and a person so nominated in accordance with this sub paragraph shall for the purposes of this Agreement be deemed to have been appointed by the Owner and the vacancy shall be deemed to have been filled by the Owner

2.12.3 If within six weeks of any of the dwellings comprised in the Development becoming available for sale or letting (whether on practical completion of the Development or at any time subsequently) the Owner is unable to fill any vacancy arising in accordance with the foregoing provisions then the Owner may allocate such dwelling to any person who is considered by the Owner to be in need of such accommodation

3. Not to dispose of any interest

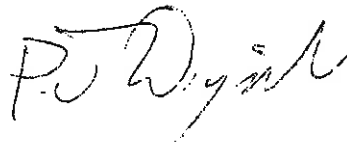
3.1 in four of the dwellings to be constructed (which shall be identified to the Council prior to the commencement of the Development) other than by way of an assured tenancy or an assured shorthold tenancy under the Housing Act 1988 or by way of such other tenancy agreement that the Council may first approve

3.2 in the remaining two dwellings comprised in the Development other than by way of a Shared Ownership Lease the terms of which prohibit the tenant from acquiring more than 80% of the value of the dwelling

PROVIDED THAT

Nothing in this paragraph shall be deemed to prohibit the sale of the Land as one transaction (whether or not subject to any tenancy or Shared Ownership Lease) to a registered social landlord under the Housing Act 1996



THE COMMON SEAL of THE DISTRICT COUNCIL OF SHEPWAY was hereunto affixed in the presence of:-)
)
)



Solicitor to the Council



THE COMMON SEAL of ENGLISH VILLAGES HOUSING ASSOCIATION LIMITED was hereunto affixed in the presence of:-)
)
)
)

Committee Member)
)

Secretary)
)



3816/1

605400 000

Plan referred to in Section 106 Agreement
Land adjacent Links Field Cottages, Newchurch.

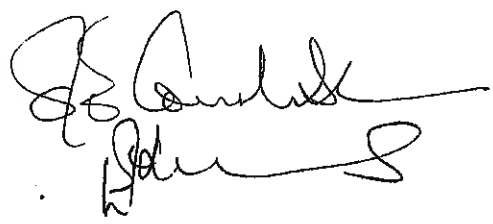
Application Y02/1094/SH

Play Area

Drain

Playing Field

Village Hall



Brookside
Farm

Linkfield

131200 000

Upper
New Rents

Lower
New Rents

131100 000

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Proceedings
Shepway District Council LA 079316

Elmhurst

Drain

605400 000

605500 000

THE COMMON SEAL OF
THE DISTRICT OF SHEPWAY
was here unto affixed in the presence of:-

