

6/2006/1154

MEMORANDUM

FROM: LEGAL SERVICES Matthew Page		TO: DEVELOPMENT CONTROL
COPIES TO: LAND CHARGES		
YOUR REF:	OUR REF: MCP/CC/DBC/9/1(192)	DATE: 12.6.09
SUBJECT: S106 Agreement – Land at The Steppes, Langton Matravers		

I attach a copy of the completed S106 Agreement dated 12th June 2009.

Please issue the planning consent at your earliest convenience.

.....



Dated

12th June

2009

**Planning Obligation by Deed of Agreement
under Section 106 of the Town and
Country Planning Act 1990**
relating to Land at The Steppes Langton
Matravers Dorset

Purbeck District Council (1)

Raglan Housing Association Limited (2)

 (3)

"Dwelling"	means a dwelling unit within the Development
"Application"	the application for outline planning permission dated 22 nd December 2006 submitted to the Council for the Development and allocated reference number 6/2006/1154
"Commencement of Development"	the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly.
"Development"	the Development of the Site to erect eight dwellings as described in the Application
"Plan"	the plan attached to this Deed
"Planning Permission"	the outline planning permission subject to conditions to be granted by the Council pursuant to the Application
"Registered Social Landlord"	a registered social landlord as defined in Part 1 of the Housing Act 1996 who is registered with the Housing Corporation pursuant to Section 3 of that Act and has not been removed from the register pursuant to Section 4 of that Act and who is approved by the Council (such approval not to be unreasonably withheld or delayed).
"Site"	means the site of the Development (being the land against which this Deed may be enforced) as shown edged red and blue on the Plan and includes any part or parts of the Site.
"Owners"	the First Owner and the Second Owners

2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.

X(MHM)

X(TMCD)

X 7-5-08



Steppes, Langton Matravers

Sketch Scheme

CH Design Partnership
11 Church Street, Bournemouth, Dorset, BH1 1RT
Tel: 01202 500000
Email: info@chdesignpartnership.co.uk

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- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner.
- 2.4 Where a party to this Deed comprises more than one person, the obligations of that party shall be joint and several obligations of such persons.
- 2.5 Wherever more than one party undertakes an obligation, that obligation can be enforced against all of them jointly or against each individually unless there is an express provision otherwise.
- 2.6 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, regulations, and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.7 References to any party to this Deed shall include the successors in title to that party and to any persons deriving title through or under that party and in the case of the Council the successors to its statutory functions.

3 LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000.
- 3.2 The covenants, restrictions and requirements imposed upon the First Owner and the Second Owner under this Deed create planning obligations pursuant to Section 106 of the Act which are enforceable by the Council as local planning authority against the Owners and persons deriving title from the Owners.

4 CONDITIONALITY

This Deed is conditional upon:

- (i) the grant of the Planning Permission; and
- (ii) the Commencement of Development

5 THE OWNERS' COVENANTS

The First Owner and the Second Owner covenant with the Council as set out in the Second Schedule.

6 MISCELLANEOUS

- 6.1 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 6.2 This Deed shall be registrable as a local land charge by the Council.
- 6.3 Where the agreement, approval, consent or expression of satisfaction is required by either Owner from the Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Council by the Head of Development and Building Control and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.

6.4 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

6.5 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

6.6 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owners) it is modified by any statutory procedure or expires prior to the Commencement of Development.

6.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

6.8 This Deed shall not be enforceable against owner-occupiers or tenants of dwellings constructed pursuant to the Planning Permission nor against those deriving title from them.

6.9 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

6.10 The First Owner is a Registered Social Landlord

7 WAIVER

No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

8 CHANGE IN OWNERSHIP

The First Owner and the Second Owner respectively agree with the Council to give the Council immediate written notice of any change in ownership of any of their interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan.

9 VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

10 JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and Wales.

11 DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

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

FIRST SCHEDULE

Details of the Owners' Titles and description of the Site

The First Owner's Land being the freehold land at the Steppes Langton Matravers, Dorset edged red on the Plan and registered at HM Land Registry with absolute freehold title under Title Number DT200786

The Second Owner's Land being the freehold land adjoining the First Owner's Land at the Steppes Langton Matravers Dorset edged blue on the Plan and registered at HM Land Registry with absolute freehold title under Title Number DT249298

SECOND SCHEDULE

The Owners' Covenants with the Council

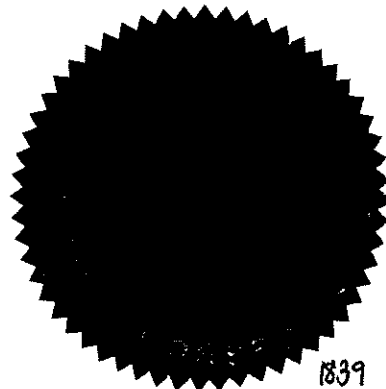
1. No development shall be commenced until that part of the Affordable Housing Land within the title of the Second Owner has been transferred to the First Owner
2. The First Owner will not permit the occupation of any Dwelling otherwise than strictly in accordance with the requirements of the following clauses.
3. The First Owner will not create any lease or tenancy of, or other interest in, or right to occupy any Dwelling except for a periodic tenancy in the First Owner's standard format, granted by the First Owner to a person or persons who are nominated for that purpose by the Council or who are considered by the First Owner (in accordance with their allocation procedures adopted from time to time) to be in need of such accommodation and who:
 - 3.1 has throughout a period of three years immediately prior to such allocation had their principal place of residence and/or place of employment within the Parish of Langton Matravers; or
 - 3.2 has a strong local connection with the said Parish (**AND** in seeking to allocate any such unit of accommodation under this sub-clause the First Owner shall consider:-
 - 3.2.1 whether the applicant has any close family member (parent, grandparent or child) resident in the said Parish; and/or
 - 3.2.2 any periods of ordinary residence of at least three years in total in the said Parish not immediately prior to such allocation; and/or
 - 3.2.3 whether such person has been permanently employed in the said parish throughout a period of at least three years not immediately prior to such allocation).
4. If no such person or persons meet the criteria of 3.1 or 3.2 then the Dwelling shall be next offered to a person or persons who meet the following criteria, to be considered and offered in the following order of priority:
 - 4.1 if upon a Dwelling within the Development becoming available for occupation whether on practical completion of the Development or at any time subsequently the First Owner is unable to fill any vacancy arising in accordance with the terms hereinbefore mentioned then the First Owner shall let the Dwelling to a persons or persons who is considered by the First Owner to be in need of such accommodation and who has throughout a period of three years immediately prior to such letting had their principal place of residence and/or had their place of employment within the parishes of Worth Matravers Corfe Castle Swanage Studland Arne Church Knowle or Kimmeridge
 - 4.2 If no such person or persons meet the criteria of 4.1 above then the Dwelling shall next be offered to a person or persons who has throughout a period of three years immediately prior to such letting had their principal place of residence and/or place of employment in the administrative District of Purbeck in the County of Dorset

- 4.3 If no such person or person meets the criteria of 4.1 or 4.2 above then the Dwelling shall next be offered to a person or persons who has throughout a period of three years immediately prior to such letting had their principal place of residence and/or place of employment in the administrative County of Dorset
- 4.4 If within four weeks of a Dwelling becoming available for letting whether on practical completion of the Development or at any time subsequently the First Owner is unable to fill any vacancy arising in accordance with clauses 4.1 to 4.3 above then the First Owner shall give written notice of that fact to the Council together with a statement of the steps taken by the First Owner to find a suitable tenant for the property in question and on the expiry of two weeks from service of such notice on the Council the First Owner may let the vacant Dwelling to any person or persons who is considered by the First Owner to be in need of such accommodation
- 5.1 The First Owner shall require applicants for Dwellings to provide documentary evidence to demonstrate that they meet the criteria set out in Clause 3 or clause 4 above (as the case may be) and on acceptance of an applicant the First Owner shall supply copies of such documentary evidence to the Council
- 5.2 The First Owner shall give notice in writing to the Council on each occasion after first letting of a Dwelling when
- 5.2.1 the Dwelling has become vacant and is available for re-letting;
- 5.2.2 the First Owner has received a request from a tenant of the Dwelling for the First Owner's consent (as landlord) to an exchange by the tenant of the Dwelling with another tenant of a rented property.
6. A mortgagee in possession shall not dispose of its interest in the Site or in any Dwelling prior to any sale on the open market without first
- 6.1 offering to sell the Site or Dwelling to the Council at open market value to be agreed between the parties or in default of such agreement as may be determined by an independent Valuer acting as an expert appointed by agreement between the parties or failing agreement on appointment to be appointed by the President of the Royal Institution of Chartered Surveyors or his duly appointed deputy on the application of either party and whose determination shall be binding upon both ("the initial offer") such offer to remain open for a period of eight weeks from the date of offer and if not accepted by the Council in writing within that time the initial offer will then lapse
- 6.2 if the Council does not wish to accept the initial offer within eight weeks from the date of offer they may nominate in writing within the said eight week period any Registered Social Landlord to receive the same offer before the initial offer lapses in which case the Site or Dwelling shall be offered for sale to the Registered Housing Association so nominated for the same consideration and on the same terms referred to in clause 6.1 above for a further period of four weeks from expiry of the initial offer but
- 6.3 in the event that the Registered Social Landlord does not wish or is unable to purchase the same within the further four week period then the covenants contained in this Agreement shall cease to bind the mortgagee in possession with effect from the expiry of the said four week period, and the mortgagee in possession or its successors in title shall be free to sell the Site or any Dwelling (as the case may be) on the open market free of the restrictions set out in this Agreement and within 14 days of request following such sale the Council shall remove all entries protecting

this Agreement from the land charges register or any other register so far as the entry affects the said Site or Dwelling (as the case may be) sold by the mortgagee in possession7. Clauses 2, 3 and 4 of this Schedule (and all their sub-clauses) shall apply to the giving of consent by the First Owner to the assignment or exchange of the lease or tenancy of any Dwelling, as they apply to the creation of any lease or tenancy of, or other interest in, or right to occupy any Dwelling (so that an assignment or exchange will only be permitted in cases where the incoming tenant satisfies the criteria in Clauses 3.1, 3.2 and 4 of this Schedule)

THE COMMON SEAL OF
PURBECK DISTRICT COUNCIL
was affixed in the presence of

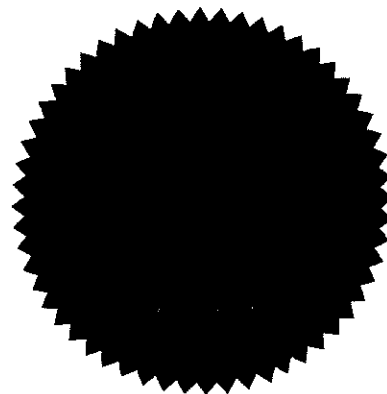
Head of Legal and Democratic Services



EXECUTED as a Deed by
RAGLAN HOUSING ASSOCIATION
LIMITED by affixing its Common Seal
in the presence of:-

Company Secretary/Assistant Secretary

Chief Officer/Board Member



SIGNED as a Deed by
the said

in the presence of:-

X (NMM)

Witness: ✓

Address: ✓

Occupation: ✓

SIGNED as a Deed by the
said [REDACTED] in the
presence of:-

[REDACTED]

7-5-08.

Witness: X

[REDACTED]

Address: X

[REDACTED]

Occupation: X

[REDACTED]

SIGNED as a Deed by the
said [REDACTED] in
the presence of:-

[REDACTED]

Witness:

[REDACTED]

Address:

[REDACTED]

Occupation:

[REDACTED]

Dated

2011

**Deed of Variation of an Agreement under
Section 106 of the Town and Country
Planning Act 1990**

relating to Land at The Steppes, Langton
Matravers, Dorset

Purbeck District Council (1)

Raglan Housing Association Limited (2)

[REDACTED]

DATE

2011

PARTIES

- (1) Purbeck District Council of Westport House Worgret Road Wareham Dorset BH20 4PP ("Council")
- (2) Raglan Housing Association Limited (a Charitable Industrial and Provident Society No. IP20558R) whose registered office is Wright House 12-14 Castle Street Poole Dorset BH15 1BQ ("the First Owner")
- (3) [REDACTED] ("the Second Owners")

INTRODUCTION

- 1 The Council is the Local Planning Authority for the purposes of the Act for the area in which the Site is situated.
- 2 By an Agreement ("the Principal Agreement") between the Council and the First and Second Owners made pursuant to Section 106 of the Act and dated 12th June 2009 the First Owner and the Second Owner entered into planning obligations with the Council in respect of the Development on the Site.
- 3 The First Owner is the freehold owner of that part of the site edged red on the plan attached to the Principal Agreement.
- 4 The Second Owners are the freehold owners of that part of the site edged blue on the plan attached to the Principal Agreement.
- 5 The First Owner has submitted to the Council a further planning application under reference 6/2011/0192 for the purpose of the variation of condition 1 of PP 6/2010/0751 to allow an amended layout of dwellings approved under outline application 6/2006/1154 and the Council has resolved to grant planning permission pursuant to the further application, subject to the making of this Agreement.
- 6 The parties have agreed to enter into this Agreement for the purpose of amending the Principal Agreement.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

Terms defined in Clause 1 of the Principal Agreement shall bear the same meaning where used in this Deed.

"Nature Conservation Contribution" the sum of Eleven thousand two hundred and fifty two pounds and sixty four pence (£11,252.64) (including an administration fee of £220.64) being a contribution towards measures to avoid, prevent or mitigate against any adverse

effects of development upon the Dorset Heathlands, in accordance with the Dorset Heathlands Interim Planning Framework 2010/2011

2. AMENDMENTS TO THE PRINCIPAL AGREEMENT

The Principal Agreement shall be amended as follows:

- (a) The Third Fourth and Fifth Schedules set out below shall be inserted after the Second Schedule.
- (b) There shall be inserted a new Clause 12 which shall read as follows:

“The Council covenants with the First and Second Owner as set out in the Fourth Schedule
- (c) Clause 5 of the Principal Agreement shall be amended to read as follows;

“The First Owner and the Second Owner covenant with the Council as set out in the Second and Third Schedules”

3. LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000.
- 3.2 The obligations imposed upon the First and Second Owners by this Deed are planning obligations for the purposes of Section 106 of the Act which are enforceable by the Council as local planning authority against the First and Second Owners and any person deriving title from the First and Second Owners.

4. CONTINUATION OF THE PRINCIPAL AGREEMENT

The Principal Agreement shall continue in full force and effect as amended by this Deed.

5 COUNCILS LEGAL COSTS

The First and Second Owner shall pay to the Council the sum of £300.00 on the execution hereof by way of a contribution to the Council's legal costs in the preparation of this Agreement

6. UNSPENT CONTRIBUTION

If any part of the Nature Conservation Contribution has not been spent within six (6) years of receipt by the Council in accordance with the Council's covenant in the Fourth Schedule then any unspent sum will be repaid by the Council together with such interest as has accrued to the party making such payment

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

THIRD SCHEDULE
Nature Conservation Contributions

The Owner covenants with the Council:

1. To pay the Nature Conservation Contribution (index linked in accordance with the Fifth Schedule) to the Council no later than the date of Commencement of Development
2. Not to cause or permit Commencement of Development on the Site until the Nature Conservation Contribution has been paid to the Council

FOURTH SCHEDULE
Council's Covenants

1. The Council covenants with the Owner that the Nature Conservation Contribution will be spent on measures to avoid, prevent or mitigate against any adverse effect of development on the Dorset Heathlands as determined in accordance with paragraph 6 of the Dorset Heathlands Interim Planning Framework 2010/2011

FIFTH SCHEDULE
Index linking of the Nature Conservation Contribution

1. Definitions:

The following terms have the meaning specified below:

"the Index" means the "all items" Index figure of the Index of Retail Prices published by or on behalf of HM Government

"the payment date" means the date on which the Nature Conservation Contribution is paid in accordance with paragraph 1 of the Second Schedule

"the Base Figure" means the Index figure for the month in which planning permission pursuant to application 6/2011/0192 is granted by the Council

"the New Figure" means the Index figure for the month preceding the payment date

2. Payment:

The payment to be made in accordance with paragraph 1 of the Second Schedule shall be the Nature Conservation Contribution plus the amount which bears the same proportion to the Nature Conservation Contribution as the New Figure bears to the Base Figure

THE COMMON SEAL OF
PURBECK DISTRICT COUNCIL
was affixed in the presence of:

Authorised Signatory

EXECUTED as a Deed by
RAGLAN HOUSING ASSOCIATION
LIMITED by affixing its Common Seal
in the presence of:

Company Secretary/Assistant Secretary

Director/Board member

SIGNED as a Deed by

A thick black horizontal bar used to redact a signature.

in the presence of:

SIGNED as a Deed by

A thick black horizontal bar used to redact a signature.

in the presence of:

SIGNED as a Deed by

[REDACTED]

presence of: