

16 TH JAN 2001

2001
2000 by H.A.R.

THIS AGREEMENT is made the sixteenth day of January

(1) MAR CITY DEVELOPMENTS LIMITED (formerly Solihull Contractors Limited) (registered number 1813280) whose Registered Office is at 365/369 Olton Boulevard East Olton Solihull West Midlands B27 7DP ("the Owner")

(2) THE METROPOLITAN BOROUGH OF SOLIHULL whose principal office is at P O Box 18 The Council House Solihull West Midlands B91 3QS ("the Council")

DEFINITIONS

1. Wherever the context so permits the following words and phrases shall have the meanings herein attributed to them:-

"The Act" the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991

"the Application" the application made on 17th February 2000 by or on behalf of the Owner (bearing the Local Authority reference number 00/577) for detailed planning permission for the Development

"Commencement Date" the date upon which development shall be begun on the Land pursuant to the Planning Permission

the Development" 27 No. 2 bed 3 person cottages and 10 No. 2 bed 3 person flats for elderly people over 55 years of age

"Dwellinghouse" any unit of residential accommodation forming part of the Development for the sole use as a private residence of the occupier

"Qualifying Person" a person being either :- (i) a single resident who has either attained the age of ~~fifty~~ ^{five} years or who is the survivor of those persons

mentioned in (ii) or (ii) being one of two joint residents of whom one has attained the age of ~~fifty~~ ^{five} years ~~and the other the age of fifty~~

~~five years~~

WIDNMAN

"the Land"

the Land situate at and known as Widney Manor goods Yard, Widney Lane, Solihull which land is registered at H M Land Registry under Title Number WM435389 and is shown edged red on the plan annexed hereto

2. Where the context so admits:

2.1 words of the masculine gender shall incorporate the feminine gender and words of the singular shall include the plural and vice versa

2.2 any reference herein to any statute or section of a statute includes any statutory re-enactment or modification thereof

2.3 any reference to a clause or a schedule is unless the context otherwise requires a reference to a clause or a schedule of this Agreement and any reference to a subclause is a reference to a subclause of the clause in which the reference appears

2.4 references in this Agreement to "material operation" shall have the meaning given by Section 56(4) of the Act

WHEREAS

1. The Council is the appropriate Local Planning Authority for the purposes of the Act in respect of the area which includes the Land and is responsible for the enforcement of the obligations contained herein

2. The Owner is the beneficial owner of the Land for an estate in fee simple in possession

3 The Council has resolved to grant Planning Permission to the Development subject to conditions and subject to the Owner entering into this agreement regulating the use of the Land upon the terms and subject to the conditions hereinafter contained

NOW THEREFORE IT IS HEREBY AGREED

1. The obligations herein contained and entered into by the Owner with intent to bind the Land are planning obligations for the purposes of Section 106 of the Town and Country Planning Act 1990 as amended by Section 12 (1) of the Planning and Compensation Act 1991 and are enforceable by the Council
2. This Agreement will take effect on the date it is entered into
3. No person shall be liable for any breach of this Agreement occurring after he shall have parted with his interest in the Land or the part in respect of which such breach occurs
4. The Owner covenants to observe and perform the restrictions and obligations set out in the Schedule hereto
5. The Council undertakes to issue the Planning Permission within seven days after the date hereof
6. The expression "the Owner" and "the Council" shall except where the context otherwise requires include their respective successors in title and assigns
7. A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed but this does not affect any right or remedy of a third party which exists or is available apart from that Act

EXECUTED by the parties hereto as a Deed but not delivered until the day and year first before written

THE SCHEDULE

(Restrictions and Obligations)

1. No Dwellinghouse erected or to be erected on the Land pursuant to the Planning Permission shall be used for any purpose other than as a private residence for the occupation of one or more qualifying persons
2. Prior to the Commencement Date the Owner shall submit to the Council a scheme for the management and protection of the embankment and the spinney (shown edged and hatched in green

on the plan annexed hereto) on the Land ("the Scheme") to be prepared by a suitably qualified environmental consultant approved in advance by the Council. The objects of the Scheme to be :-

- a) to retain the embankment and spinney in their current state;
- b) to protect and enhance the visual amenities of existing and future residential dwelling houses;
- c) to safeguard the existing feeding and foraging areas and habitat of badgers being a statutorily protected species;
- d) to protect and provide an important wildlife corridor;
- e) to retain the landscape character of the area and to integrate the proposed development with its existing surroundings

4. Prior to commencement of any works on the Land subsequent to the issue of Planning Permission no work of any kind shall be carried out in on over or under the said embankment and spinney otherwise than in accordance with the Scheme and (without prejudice to the foregoing) the following activities will be expressly prohibited in relation thereto :-

- 3.1 the cutting down topping lopping pruning uprooting damage or destruction of trees or shrubs;
- 3.2 the tipping of material waste soil or debris;
- 3.3 the excavation of any material or soil from the embankment;
- 3.4 the disturbance of any protected fauna and/or flora.

5. The Scheme shall be implemented to the reasonable satisfaction of the Council prior to the commencement of the Development

5. The Council shall not unreasonably withhold or delay its approval to the Scheme and shall upon request from the Owner provide its certificate that such approval has been given

H.M. LAND REGISTRY

TITLE NUMBER

WM435389

ORDNANCE SURVEY
PLAN REFERENCE

COUNTY

SHEET

NATIONAL GRID

SECTION

WEST MIDLANDS

SP1577

Scale: 1/1250 Enlarged from 1/2500

SOLIHULL DISTRICT

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SIGNED as a Deed by the Owner
acting by

)
)

Director

Secretary



THE COMMON SEAL of
THE METROPOLITAN BOROUGH
OF SOLIHULL was hereunto affixed in the
presence of:-

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)
)
)



Solicitor to the Council



16/01