

DATED *31st August* 2005

PREVICULTA LIMITED

DEVON COUNTY COUNCIL

EAST DEVON DISTRICT COUNCIL

**SECTION 106 AGREEMENT
PLANNING OBLIGATION**

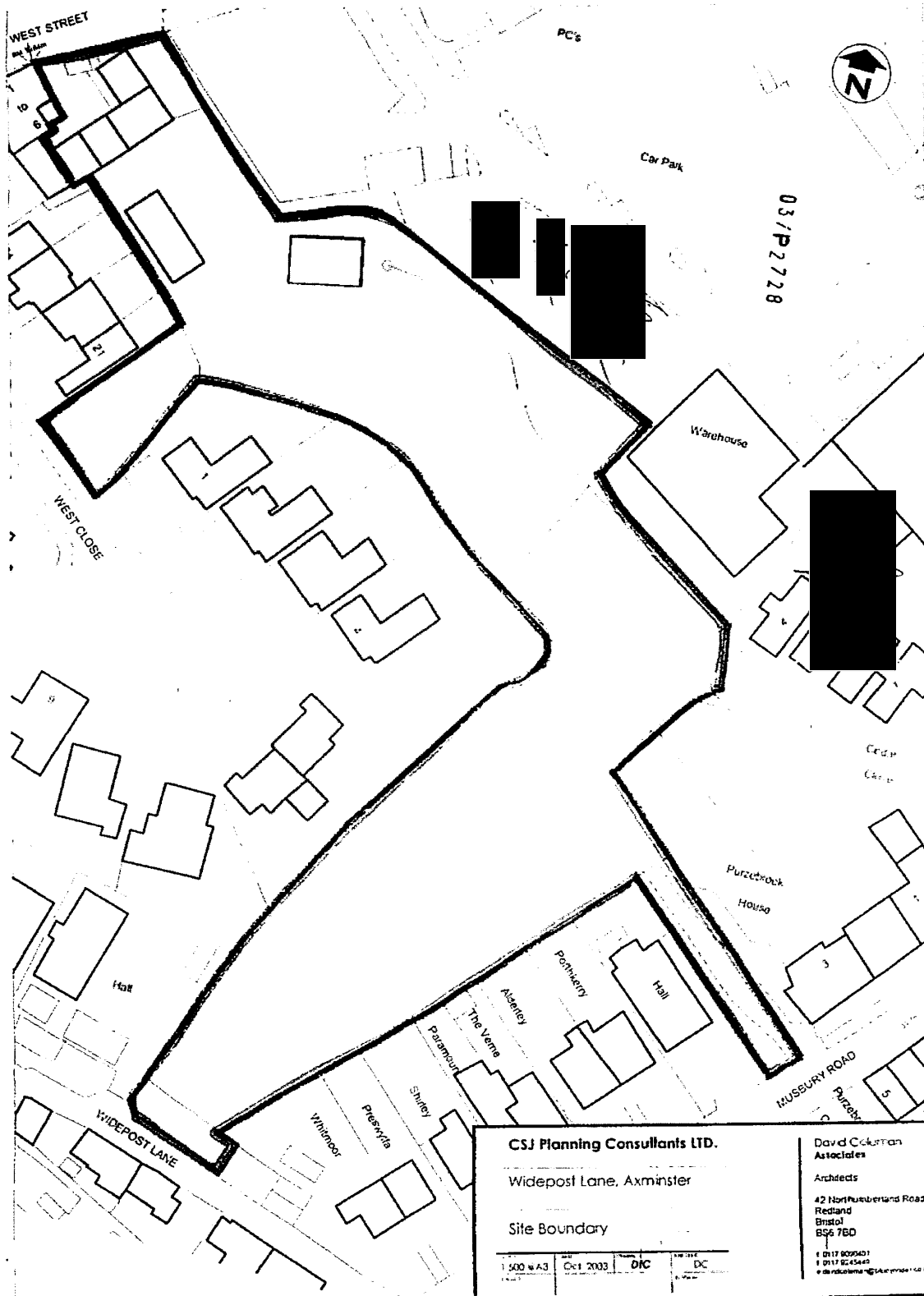
Relating to
Land between West Street
and Musbury Road
Axminster
in the County of Devon

Ref: LP4/851/AHS-10-6-05

THIS AGREEMENT is made the *Thirty first* day of *August* Two Thousand and Five BETWEEN PREVICULTA LIMITED of Gamberlake Axminster Devon EX13 5PQ (company registration number 115308) ('the Owners') and EAST DEVON DISTRICT COUNCIL ("the Council") of Council Offices Knowle Sidmouth in the County of Devon of the second part and DEVON COUNTY COUNCIL of County Hall Topsham Road Exeter Devon EX2 4QD of the third part ("the County")

WHEREAS

1. This Agreement is a planning obligation for the purposes of Section 106 of the Town and Country Planning Act 1990 ('the 1990 Act')
2. The planning obligation relates to land between West Street and Musbury Road Axminster in the County of Devon which said land is shown edged red on the attached plan (hereinafter referred to as "the Land")
3. The Owners are the freehold owners of the Land registered with the title absolute under title nos. DN 190436 DN 173990 DN 94733 and DN 85182
4. The Council is the Local Planning Authority by whom the planning obligation is enforceable
5. The County is the Local Education Authority and the Local Highway Authority within whose area the land is situated and also a Local Planning Authority for the purposes of the 1990 Act
6. The Owners wish to develop the Land for residential purposes and renovation and conversion of buildings on the Land to residential use ("the Development") and have submitted to the Council a Planning Application Reference No 7/75/03/P2728/00024 ("the Planning Application")
7. The Owners the Council and the County are willing to enter into this Agreement to mitigate the effects of the Development on the locality in which the Land is situated
8. The Council in exercise of its powers under the 1990 Act has resolved to grant Planning Permission for the Development subject to completion of this Agreement which the Council considers is necessary for the satisfactory development of the Land



CSJ Planning Consultants LTD.

Widepost Lane, Axminster

Site Boundary

1:500 w A3 Oct 2003 DIC DC

David C. C. C.
Associates

Architects
42 Northumberland Road
Redland
Bristol
BS6 7BD

T 0117 8095401
F 0117 8245440
e david.c.c.c.associates@bt.com

NOW THIS DEED WITNESETH AS FOLLOWS:

1. In this Agreement unless the context otherwise requires the following expressions shall have the following meanings:-

1990 Act	means the Town & Country Planning Act 1990
Affordable Housing Units	Each of the dwellings comprising the Affordable Housing
Affordable Housing	means housing which is let on an Affordable Rent Tenancy
Affordable Rent Tenancy	An assured tenancy (not being a shorthold tenancy) or probationary tenancy whereby an Affordable Housing Unit is let to a Designated Person at a rent which does not exceed the Maximum Weekly Rent.
Available for Occupation	In respect of any Affordable Housing Unit means that the Unit and its curtilage is complete and connected to services and fit for occupation as a residence
Commencement of Development	means the carrying out of any material operation as defined by section 56(4) of the 1990 Act in connection with the Development
Council County Owners	respectively includes their successors in title and assigns and in the case of the Council and County includes any statutory successors
Designated Person	a person who satisfies the criteria in the First Schedule
Development	means development of the Land for residential purposes and renovation and conversion of buildings on the land to residential use.

Dwelling	means a building or part of a building designed for residential occupation by a single household
Education Contribution	The sum of £694.50 per dwelling containing 2 or more bedrooms to be paid by the Owners to the County towards the provision of educational facilities in the area in which the land is situated.
Head of Housing and Social Inclusion	The officer holding that post or such post as may subsequently be designated to carry out the Council's housing functions
Highway Contribution	The sum of £10,000 to be paid by the Owners to the County towards improvements to the footway on Musbury Road Axminster
Interest Rate	The Law Society's Interest Rate calculated on a day to day basis
Land	Land situated between West Street and Musbury Road Axminster Devon shown edged red on the Plan
Maximum Weekly Rent	A rent in accordance with the Housing Corporation's target rents or such other Housing Corporation rent regime which may be in force from time to time
Open Market Housing	means the housing to be constructed on the Land other than the Affordable Housing
Open Space Contribution	The sum of £47,559.37 (index linked) to be paid by the Owners to the Council as a contribution to the Council's costs of maintaining off-site open space in the Axminster area

Perpetuity Period	the period of eighty years from the date of this Agreement
Plan	The plan appended to this agreement
Planning Permission	the planning permission granted by the Council pursuant to the Planning Application and the expression Planning Permission shall include all approvals granted under that permission
RSL or Registered Social Landlord	means a housing association registered in the register maintained by the Housing Corporation under Section 1 of the Housing Act 1996

NOW THEREFORE IT IS HEREBY AGREED between the Owners and the Council and the County as follows:-

- 2.1 This Agreement is made pursuant to Section 106 of the 1990 Act Section 111 of the Local Government Act 1972 and all other powers enabling and any enactments replacing or superseding the same with the intent to bind the Owners interests in the Land and with the intent that the obligations herein contained shall be planning obligations
- 2.2 The planning obligations contained in the First and Second Schedules to this Agreement are enforceable by the Council
- 2.3 The planning obligations contained in the Third Schedule to this Agreement are enforceable by the County
- 2.4 Nothing in this Agreement is or amounts to or shall be construed as a Planning Permission or approval
- 2.5 The Owners hereby covenant with the Council and the County to observe and perform the restrictions stipulations and requirements specified in this Agreement and the Schedules thereto

- 2.6 The Owners recognise that this planning obligation is a Local Land Charge and shall be registerable as such in the Register of Local Land Charges maintained by the Council
- 2.7 For the purposes of the Contracts (Rights of Third Parties) Act 1999 it is agreed that nothing in this Agreement shall confer on any third party any right to enforce or any benefit of any term of this Agreement
- 2.8 The obligations in the First Schedule to this Deed are entered into with the intent that save as therein provided the Affordable Housing Units as defined shall be and remain for the Perpetuity Period as Affordable Housing
- 2.9 If the Planning Permission should expire (without being renewed or extended) before the Development is commenced or shall at any time be revoked this Agreement shall forthwith determine and cease to have effect
- 2.10 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Property in accordance with a planning permission (other than the Planning Permission or any other permission granted pursuant to the Applications) granted (whether or not on appeal) after the date of this Agreement
3. Where in this Agreement the Owners are required to comply with any requirement prior to the Commencement of Development or prior to first occupation of a specified number or proportion of Dwellings the Owners shall not Commence the Development and/or (as the case may be) shall not occupy, nor permit any other person to occupy any more than that specified number or proportion of Open Market Dwellings (as the case may be) before the said requirement has been satisfied
4. The Owners shall not Commence the Development until they have complied with their obligations under paragraph 2 of the First Schedule and for the purpose of this Agreement the Owners shall be deemed to have Commenced the Development pursuant to the Planning Permission if they commence works referable to the Development amounting to a material operation as defined in Section 56(4) of the

1990 Act (not being works for which planning permission is not required) on the Land whether or not:-

- 4.1 the Planning Permission has been issued
- 4.2 the Owners have satisfied all conditions precedent to commencement set out in the Planning Permission
- 4.3 those works are in accordance with the Planning Permission
- 5. It is agreed as follows:
 - 5.1 The obligations contained in this Agreement shall take effect upon the issue of the Planning Permission by the Council or (if earlier) the Commencement of Development save for the obligation in the Education Contribution part of the Third Schedule *which shall take effect on the Commencement of Development*
 - 5.2 The County Court in whose district the Land is situate shall have full jurisdiction to hear and determine proceedings arising from or relating to this Agreement or for the enforcement of its terms or any of them
 - 5.3 No person shall be liable for breach of a covenant contained in this Agreement after he shall have parted with all interest in the Land or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest
- 6. **The Council's Rights**
 - 6.1 The Council may at any time serve notice on the Owners or any occupier of an Affordable Housing Unit requiring that person to provide information as to the ownership and occupation of that Unit and to produce any evidence reasonably required to satisfy the Council that the Unit is occupied by (and only by) Designated Persons
 - 6.2 Any request for information served under the above paragraph shall be deemed to be made under the provisions of Section 330 of the Act and the provisions of that section shall apply to any refusal to provide information so required or false statements made in reply thereto

7. General

- 7.1 Any notice served pursuant to the terms of this deed shall be in writing and shall be deemed to be sufficiently served if delivered or posted by first class post to the Chief Executive of the Council at its principal office or to the Owners at Gamberlake Axminster Devon EX13 5PQ or to the County Solicitor of the County at the address given above
- 7.2 Any notice to be served on the occupier of any Dwelling shall be deemed to be sufficiently served by posting by first class post addressed to the appropriate Dwelling
- 7.3 Any notice served by post shall be deemed to have been served on the third day after posting
- 7.4 The Owners shall notify the Council and the County in writing of the date of Commencement of Development within five working days of its occurring and shall notify the Council in writing of the date of occupation of one half of the Open Market Dwellings within ten working days of its occurring
- 7.5 Any reference in this Deed to a statute or Act of Parliament shall be deemed to include reference to any subsequent statute or act re-enacting or replacing the same
- 7.6 For the purposes of this Agreement:
- 7.6.1 the singular includes the plural and vice versa
- 7.6.2 the masculine gender includes the feminine and neuter genders and vice versa
- 7.6.3 references to persons include firms companies corporations authorities or other bodies and vice versa
- 7.7 The Owners shall pay the Council's and County's reasonable legal costs in connection with the preparation and completion of this Agreement

FIRST SCHEDULE

AFFORDABLE HOUSING

The Council and the Owners hereby agree:

1. The Affordable Housing Units shall comprise 20% of the dwellings to be constructed on the Land as part of the Development
2. The physical location layout, size and specification of the Affordable Housing Units shall be approved by the Council's Head of Housing and Social Inclusion prior to the Commencement of the Development. This approval is additional to any requirements of the Planning Permission
3. The Affordable Housing Units shall for the Perpetuity Period not be occupied or permitted to be occupied by the Owners other than as Affordable Housing and in accordance with this Agreement and shall not be let or disposed of other than to a Designated Person
4. The Owners shall not occupy or permit to be occupied more than 50% of the Open Market Housing until the Owners have:
 - 4.1 Constructed and completed and made the Affordable Housing Units Available for Occupation by Designated Persons; or
 - 4.2 Transferred the Affordable Housing Units to an RSL
5. The Owners shall give three months written notice to the Council's Head of Housing and Social Inclusion of the date when the Affordable Housing Units shall be Available for Occupation and any notice served under this paragraph shall include details of the offer made to an RSL and state whether the Owners have exchanged contracts for the sale of the Affordable Housing (or any of the Affordable Housing Units) to an RSL
 - 5.1 Head of Housing and Social Inclusion shall be invited to nominate in priority order and in writing within twenty-five working days of receipt of such notice up to four prospective Designated Persons to occupy any of the Affordable Housing Units

- 5.2 The RSL shall within ten working days have the reasonable right of interview enquiry and (on reasonable grounds) ultimate rejection of any prospective Designated Person so nominated by the Head of Housing and Social Inclusion provided that in the event of rejection of all four Designated Persons (in relation to any individual vacancy) or in the event that all four Designated Persons nominated fail to accept or refuse an offer of tenancy made by the RSL the RSL shall as soon as practicable so inform the Head of Housing and Social Inclusion and notify its reasons for rejection (if applicable) and in the case of any of the Affordable Housing Units in respect of which the Head of Housing and Social Inclusion has nominated such person in response to a notice served pursuant to paragraph 5 above the RSL shall invite further nominations and the Head of Housing and Social Inclusion shall within five working days of notification nominate to the RSL a further four prospective Designated Persons in priority order and the RSL shall within five working days of such further notification inform the Head of Housing and Social Inclusion as to the identity of the Designated Person (if any) who shall occupy the Affordable Housing Unit
6. The Owners shall upon completion of the Development and at all times subsequently let each of the Affordable Housing Units to a Designated Person
7. A Designated Person is an individual who at all material times prior to the occupation of the Affordable Housing Unit in question is either:
- (a) On the Housing Waiting List or Housing Transfer List of the Council or any RSL managing homes in East Devon and is eligible under the relevant priority band for an offer of the relevant Affordable Housing Unit under the Council's Allocation Scheme under section 167 of the Housing Act 1996 and nominated by the Council or
 - (b) nominated by the Council under paragraph 5 above
8. It is hereby agreed that the restrictions contained or referred to in this Schedule shall not apply to any mortgagee or chargee in possession of the Affordable Housing any part thereof nor to any receiver appointed by any such mortgagee or chargee to the

intent that any such mortgagee chargee or receiver may deal with or dispose of the Affordable Housing or any part thereof freed from the said restrictions and on the basis that any person deriving title through or under such mortgagee chargee or receiver shall not be bound by the restrictions contained in this Schedule and **PROVIDED FURTHER ALWAYS** that the said restrictions shall cease to apply to any tenant of any Housing Unit owned by an RSL who exercises a right to acquire such dwelling and nor to any person deriving title through or under such tenant

SECOND SCHEDULE

OPEN SPACE PROVISION

1. The Owners hereby covenants with the Council that:-
Upon occupation of 50% of the Development the Owner shall pay to the Council a financial contribution of £47,559.37 towards the enhancement of off-site open space and play provision in the Axminster area
2. In the event that the Open Space Contribution or any part of it has not been applied for the purpose for which the payment is intended within ten years from the date of this Agreement the Council shall repay to the Owner the Open Space Contribution or any relevant part of it

THIRD SCHEDULE

EDUCATION CONTRIBUTION

1. The Owners hereby covenant with the County
 - (i) Upon occupation of any part of the Development or if earlier within 18 months of the date of this Agreement the Owners shall pay to the County the Education Contribution towards the provision of additional educational facilities required as a result of the Development Provided that In the event that the Education Contribution is not paid on the date of this Agreement then at the date that it is paid in accordance with the terms of this Agreement it shall be calculated in accordance with the following formula:-

$$C = \text{£Y} \times \frac{B}{A}$$

where:

A is the value of the BCIS All in Tender Price Index ("the BCIS Index") compiled and published by the Building Cost Information Service last published before the date hereof and

B is the value of the RPI last published before the said contribution has been paid

C is the contribution to be paid

£Y is the amount of the Education Contribution

- (ii) In the event of the Owners failing to settle any account or accounts that may be properly and duly rendered to the Owners within fourteen days of despatch to the Owners the sum due shall accrue interest at the Interest Rate
 - (iii) In the event that the Education Contribution or any part of it has not been applied for the purpose for which each payment is intended within ten years from the date of this Agreement the County shall repay the Owners the Education Contribution or any relevant part of it

HIGHWAYS

1. The Owners hereby covenant with the County

- (i) Prior to the Commencement of the Development the Owners shall pay to the County the Highway Contribution towards improvements to the footway on Musbury Road Axminster**
- (ii) In the event that the Highway Contribution or any part of it has not been applied for the purpose for which the payment is intended within ten years from the date of this Agreement the County shall repay to the Owners the Highway Contribution or any relevant part of it**

FOURTH SCHEDULE

{DRAFT DECISION NOTICE}

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EAST DEVON DISTRICT COUNCIL
Council Offices, Knowle
Sidmouth, Devon EX10 8HL



TOWN AND COUNTRY PLANNING ACT 1990

GRANT OF OUTLINE PLANNING PERMISSION

Applicant:	Previculta Ltd	Application No:	03/P2728
Address:	Axminster Carpets, Gamber Lake Axminster Devon	Date of Registration:	4 November 2003
Agent:	J BLADON	Date of Decision:	
Address:	Csj Planning Consultants Ltd 1 Host Street Bristol Avon		
Proposal:	Residential Development And Conversion Of Buildings To Residential Use		
Location:	Purzebrook House Land Next To Musbury Road Axminster Devon		

The Council hereby grants permission to carry out the development described in the application and the plans attached thereto subject to the following conditions :

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
(Reason - To comply with section 92 of the Town and Country Planning Act 1990).
2. Approval of the details of the siting, design, external appearance of the buildings and landscaping, (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.
(Reason - The application is in outline with one or more matters reserved.)
3. Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted in writing to the local planning authority and shall be carried out as approved.
(Reason - The application is in outline with one or more matters reserved.)
4. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
(Reason - In accordance with the requirements of Section 92 of the Town & Country Planning Act 1990.)
5. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

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(Reason - In accordance with the requirements of Section 92 of the Town & Country Planning Act 1990.)

6. The plans and particulars submitted in accordance with conditions 1 & 2 above shall include:
 - (a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level exceeding 75mm, showing which trees are to be retained and the crown spread of each retained tree;
 - (b) details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;
 - (c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
 - (d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation within the crown spread of any retained tree or of any tree on land adjacent to the site;
 - (e) details of the specification and position of fencing [and of any other measures to be taken] for the protection of any retained tree from damage before or during the course of development.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above.

(Reason - In the interests of preserving and enhancing the character and appearance of the area.)
7. The landscaping scheme shall be implemented in accordance with the approved details and implementation programme. Any plants or trees [including those retained as part of the scheme] which, within five years from the completion of the development hereby permitted, die, or become in the opinion of the local planning authority seriously diseased or damaged or are removed, shall be replaced during the next planting season following their demise with specimens of a similar size and species unless agreed otherwise in writing by the local planning authority.
- (Reason - In the interests of preserving and enhancing the character and appearance of the area.)
8. No development shall take place until protective fencing details (which shall previously have been approved by the Local Planning Authority) is erected around those trees to be retained and thereafter retained until construction works are complete.
- (Reason - To protect the retained trees from damage.)
9. Details of all boundary treatment shall be submitted to and approved by the Local Planning Authority before development is commenced. The agreed boundary treatment shall be provided before the first occupation of the dwelling to which it relates.
- (Reason - In the interests of visual amenity.)
10. No development shall take place until the applicant, or their agent or successor in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been submitted by the applicant and approved in writing by the Local Planning Authority.
- (Reason - To protect archaeological interests.)
11. The development of the site shall be carried out in complete accordance with the approved Method Statement.
- (Reason - To ensure that the development complies with approved details in the interests of protection of Controlled Waters.)

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12. No development approved by this planning permission shall commence until:

(a) Using the information gathered during the phase 1 desk study, a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors has been produced.

(b) A site investigation has been designed for the site using the information obtained from the above-mentioned desk study and any diagrammatical representations (Conceptual Model). This should be submitted to and approved in writing by the Local Planning Authority prior to the investigation being carried out on the site. The investigation must be comprehensive enough to enable:

- a risk assessment to be undertaken relating to groundwater and surface waters associated on and off the site that may be affected, and
- refinement of the Conceptual Model, and
- the development of a Method Statement detailing the remediation requirements.

(c) The site investigation has been undertaken in accordance with details approved by the Local Planning Authority and a risk assessment has been undertaken.

(d) A Method Statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters, using the information obtained from the Site Investigation has been submitted to the Local Planning Authority. This should be approved in writing by the Local Planning Authority prior to the remediation being carried out on the site. (Reason - To ensure that the proposed site investigations and remediation will not cause pollution of Controlled Waters.)

13. If, during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for an addendum to the Method Statement. The addendum to the Method Statement must detail how unsuspected contamination shall be dealt with. (Reason - To ensure that the development complies with approved details in the interests of protection of Controlled Waters.)
14. Upon completion of the remediation detailed in the Method Statement a report shall be submitted to the Local Planning Authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved Method Statements. Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report. (Reason - To protect Controlled Waters by ensuring that the remediated site has been reclaimed to an appropriate standard.)
15. The development shall be carried out in complete accordance with the Flood Risk Assessment as approved by the Environment Agency. (Reason - To minimise the risk of flooding.)
16. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and

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sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

(Reason - To ensure that adequate information is available for the proper consideration of the detailed proposals.)

17. No part of the development hereby approved shall be commenced until:
- a) The access road has been laid out kerbed, drained and constructed up to base course level for the first 40 metres back from its junction with the public highway.
 - b) The ironwork has been set to base course level and the visibility splays required by this permission laid out.
 - c) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority
(Reason - To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.)
18. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:
- a) The cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - b) The cul-de-sac visibility splays have been laid out to their final level;
 - c) The street lighting for the cul-de-sac has been erected and is operational;
 - d) The car parking and any other vehicular access facility required for the dwelling by this permission has been completed;
 - e) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
(Reason - To ensure that adequate access and associated facilities are available for the traffic attracted to the site.)
19. When once constructed and provided in accordance with Condition 17 (above), the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular traffic and pedestrians and the street lighting and nameplates maintained to the satisfaction of the Local Planning Authority.
(Reason - To ensure that these highway provisions remain available.)
20. Within twelve months of the first occupation of the first dwelling roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junction, access, retaining walls and visibility splay works shall be completed to the written satisfaction of the Local Planning Authority.
(Reason - To ensure that the access arrangements are completed within a reasonable time in the interests of safety and the amenity of residents.)
21. There shall be no direct vehicular access to Musbury Road or Widepost Lane and the existing accesses shall be closed to vehicular traffic in accordance to details which shall be approved by the Local Planning Authority.
(Reason - In the interests of highway safety.)
22. No development shall take place until details of the parking and turning areas within the dwelling have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall not be occupied until the parking and turning areas have been completed in accordance with the approved plans. Thereafter at all times the parking and turning areas shall be kept free of obstruction and available for use for these purposes.

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(Reason - To ensure that adequate and safe provision is made for the occupiers and in the interests of highway safety.)

23. Before any development commences details of final finished floor levels and finished ground levels in relation to a fixed datum shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
(Reason - To ensure that adequate details of levels are available in the interest of the character and appearance of the locality.)
24. The foul drainage shall be connected to the public sewer and shall be kept separate from clean surface and roof water.
(Reason - To avoid pollution of the environment.)
25. No development shall take place until details of the surface water drainage works have been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details before any dwelling on the site is occupied.
(Reason- To avoid pollution of the environment and/or flooding.)
26. A design statement setting out the design principles to be adopted in the development shall be submitted with the reserved matters in Condition 2 above and no development shall commence until the design statement has been approved by the Local Planning Authority.
(Reason - To ensure that the development, inter alia, reinforces the key characteristics and special qualities of the area in which the development is proposed.)

NOTE FOR APPLICANT

- 1 IN GRANTING PLANNING PERMISSION FOR THIS DEVELOPMENT, THE FOLLOWING IS A SUMMARY OF THE REASONS FOR THE DECISION:

The proposal complies with the Devon Structure Plan 2001-2016 policies ST1 (Sustainable Development), ST18 (Affordable Housing), ST18a (Mix and Type of Housing), C06 (Quality of New Development), C08 (Archaeology), C013 (Protecting Water Resources and Flood Defence) and TR10 (Strategic Road Network).

The proposal complies with the East Devon Local Plan, Revised Deposit, September 2003 policies S3 (Development Within Built-up Area Boundaries), S4 (Countryside Protection), D1 (Design and Local Distinctiveness), D4 (Landscape Requirements), D5 (Trees on Development Sites), EN12 (Proposals Affecting Sites Which May Potentially be of Archaeological Importance), EN22 (Contaminated Land), EN24 (Adequacy of Foul Sewers and Sewage Treatment Works), EN26 (River and Coastal Flooding), H2 (Residential Land Allocation), H2B (Range and Mix of New Housing Development), H3 (Affordable Housing) and E3 (Safeguarding Employment Land and Premises).

- 2 The site layout plan which is referred to at 3 below is purely illustrative only and is not in any way binding upon the Local Planning Authority in its consideration of a Reserved Matters application.
- 3 No new buildings or structures should be placed over or within 3 metres of the sewer which crosses the site without the prior consent of South West Water.

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- 4 The Environment Agency states that most contaminated soils are regarded as controlled waste. Therefore, their handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- i) Duty of Care Regulations 1991
- ii) Special Waste Regulations 1996
- iii) Waste Management Licensing Regulations 1994 (as amended)

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically and that the licensable status of any proposed off site operations is clear. In this respect, It is recommended that the Agency's Environment Management Department is contacted (telephone 01392 326111) before any waste is removed from site so that appropriate disposal sites can be confirmed.

- 5 THE PLANS RELATING TO THIS DECISION NOTICE ARE ENCLOSED.

Head of Planning & Countryside Services

THIS DECISION IS NOT A DECISION UNDER BUILDING REGULATIONS AND THE APPLICANT SHOULD ENSURE THAT ALL NECESSARY APPROVALS FOR THE SAME PROPOSAL AND THE SAME PLANS ARE OBTAINED BEFORE COMMENCING ANY WORK ON THE SITE.

Please refer to the accompanying notes which form part of this decision notice.

IN WITNESS whereof this Deed has been executed by the parties hereto the day and year
first before written

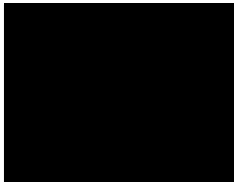
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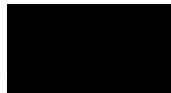
hereunto affixed in the presence of:)

SIGNED AS A DEED BY
PREVICULTA LIMITED ACTING BY:

Director



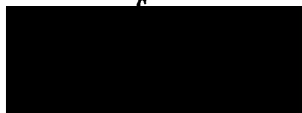
Secretary



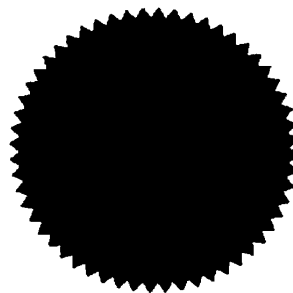
THE COMMON SEAL of DEVON)

COUNTY COUNCIL was hereunto)

affixed in the presence of:-)



County Solicitor

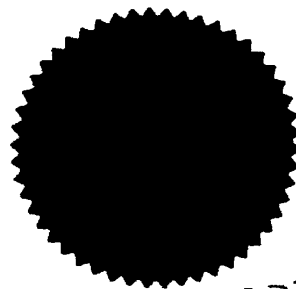
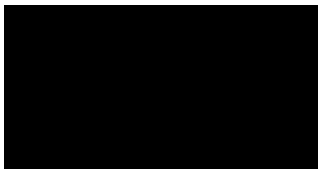


DOCUMENT No. 35842

THE COMMON SEAL of EAST DEVON)

DISTRICT COUNCIL was hereunto)

affixed in the presence of:-)

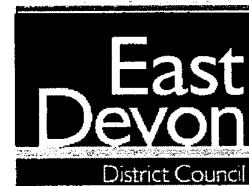


17373

~~Chief Executive/Deputy Chief Executive/Head of Legal and Member Services~~

Memo

To: Planning East
Land Charges
Sulina Tallack
Paul Lowe



From: Henry Gordon Lennox
Legal Services

Your Ref: 13/2612/MFUL

Our Ref: DEV.2-0109/HGL

2nd July 2014

West Close, Musbury

I attach a copy of a Supplemental Deed that was completed today. This deed secures that the provisions of the original S106 agreement (dated 31st August 2005 - copy attached) which are still applicable shall apply in respect of the planning permission granted under 13/2612/MFUL.


Henry Gordon Lennox
Principal Solicitor

THIS DEED this made the 2nd day of June Two Thousand and Fourteen between

- (1) **DTMR DEVELOPMENTS LIMITED** Company Number 07429100 whose registered office is at 340 Melton Road Leicester Leicestershire LE4 7SL ("DTMR")
- (2) **EAST DEVON DISTRICT COUNCIL** of Council Offices Knowle Sidmouth Devon EX10 8HL ("the Council")
- (3) **DEVON COUNTY COUNCIL** of County Hall Topsham Road Exeter Devon EX2 4QD ("the County")

WHEREAS

1. The Council is the local planning authority for the purposes of the 1990 Act for the area in which the Site is situated and is the body by whom the planning obligations contained in the Principal Deed may be enforced
2. The Council granted outline Planning Permission for the development of the Site under application 03/P2728 after the Principal Deed had been entered into
3. The Site is now in the ownership of DTMR and is registered under Title Number DN541914 at the Land Registry
4. DTMR have submitted the Planning Application to the Council and DTMR is proposing to build a residential development on the Site and this Deed is entered into to secure the planning obligations as set out in the Principal Deed so that they apply to the development permitted by the Planning Application
- 5.. The County is the local education authority and highway authority within whose area the Site is situated and also a local planning authority for the purposes of the 1990 Act

NOW THIS DEED WITNESSES AS FOLLOWS

1. In this Deed unless the context otherwise requires the following words and expressions shall have the following meanings:-

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

"the Planning Application" means the application for planning permission registered by the Council on 28th November 2013 and allocated reference number 13/2612/MFUL

"the Principal Deed" means the S106 Agreement entered pursuant to section 106 of the 1990 Act section 111 of the Local Government Act 1972 and all other enabling powers between East Devon District Council Previculta Limited and Devon County Council dated 31st August 2005

"the Site" means Land at Purzebrook House and land next to Musbury Road, Axminster Devon

And otherwise the definitions and expressions used in the Principal Deed shall apply to this Deed as to the Principal Deed

2. This Deed is made pursuant to section 106 of the 1990 Act section 111 of the Local Government Act 1972 section 1 of the Localism Act 2000 and all other enabling powers
3. This Undertaking is supplemental to and not in substitution for the Principal Deed which will continue in full force and effect
4. The parties hereto agree that the terms of the Principal Deed shall continue in full force and effect following the issue of the planning permission pursuant to the Planning Application as if the terms of the Principal Deed were herein set out and repeated SAVE THAT for the purpose of this Deed reference in paragraph 1 of the First Schedule of the Principal Deed to '20%' shall be replaced with the number '8' and FURTHER PROVIDED that this Deed shall not impose any requirement to repeat the carrying out of any obligations contained in the Principal Deed which have already been complied with prior to the date hereof and for the avoidance of doubt the County and the Council acknowledge that they have received the Highway Contribution and Education Contribution referred to in the Principal Deed

IN WITNESS WHEREOF this Deed has been executed by the parties hereto this day and year first before written

SIGNED as a DEED by DTMR)
LIMITED acting by)

Director

Director/Secretary

THE COMMON SEAL of DEVON)
COUNTY COUNCIL was hereunto)
affixed in the presence of:-)

~~County Solicitor~~

A Duly Authorised Officer

DOCUMENT No. 45254

THE COMMON SEAL of EAST)
DEVON DISTRICT COUNCIL)
was hereunto affixed in the)
presence of:-)

Authorised Signatory

1909