

DATED

4th February

2016

**PLANNING OBLIGATION BY DEED OF AGREEMENT UNDER SECTION 106 OF THE
TOWN AND COUNTRY PLANNING ACT 1990 SUPPLEMENTARY TO THE PLANNING
OBLIGATION BY DEED OF AGREEMENT DATED 22 DECEMBER 2014**

EAST DEVON DISTRICT COUNCIL (1)

and

MARK EDWARD DIACONO and CANDIDA CLARE DIACONO BUSSY (2)

and

ECOLOGY BUILDING SOCIETY (3)

East Devon District Council

Knowle

Sidmouth

EX10 8HL

(Legal Services reference: dev.2-0276)

(Planning Services reference: 15/0870/VAR)

THIS SUPPLEMENTAL AGREEMENT is made the 4th day of February 2016

BETWEEN

- (1) **EAST DEVON DISTRICT COUNCIL** of Knowle, Sidmouth, Devon, EX10 8HL ("the District Council")
- (2) **MARK EDWARD DIACONO** and **CANDIDA CLARE DIACONO BUSSY** both of 1 Weston Cottages, Weston, Honiton, Devon, EX14 3PA ("the Owner")
- (3) **ECOLOGY BUILDING SOCIETY** of 7 Belton Road, Silsden, Keighley, W Yorkshire BD20 0EE ("the Second Chargee")

RECITALS

- (A) The District Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 ("TCPA 1990") for the area in which the Site is situated.
- (B) The Owner owns the freehold of the Site subject to a legal charge in favour of the Second Chargee dated 21 December 2015. The freehold is no longer subject to a legal charge in favour of the Chargee dated 11 December 2008.
- (C) This Deed of Variation is made by agreement under S106A of the 1990 Act and is supplemental to the Principal Agreement entered into pursuant to the 1990 Act dated 22 December 2014 between the District Council (1) the Owner (2) and the Chargee (3).
- (D) The parties hereto have agreed to vary the Principal Deed as set out herein.

NOW THIS DEED WITNESSETH 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 Principal Agreement" means the Agreement entered into pursuant to section 106 of the 1990 Act by the District Council, the Owner and the Chargee dated 22 December 2014;

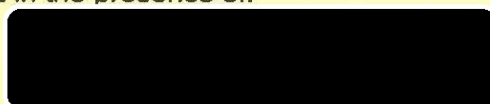
"the Supplemental Planning Application" means the application for planning permission registered by the District Council on 22nd May 2015 and allocated reference number 15/0870/VAR;

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

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 2011 and all other enabling powers
3. This Deed is supplemental to and not in substitution of the Principal Agreement which will continue in full force and effect
4. The parties hereto agree that the terms of the Principal Agreement shall continue in full force and effect following the issue of the planning permission pursuant to the Supplementary Planning Application as if the terms of the Principal Agreement were herein set out and repeated **SAVE THAT** for the avoidance of doubt this Deed shall not impose any requirement to repeat the carrying out of any obligations contained in the Principal Agreement which have already been complied with prior to the date hereof
5. The Second Chargee hereby acknowledges and declares that this Deed has been entered into by the Owner with its consent to the intent that the obligations herein contained shall be binding on the Site and that the security of charge over the Site shall take effect subject to this Deed
6. The District Council will issue the formal planning permission (in the form attached at Schedule 1 hereof) immediately following the completion of this Deed
7. The Owner will on the date hereof pay the reasonable legal fees of the District Council incurred in connection with entering into this Deed

IN WITNESS whereof the parties hereto have caused their respective Common Seals to be hereunto affixed and have executed this agreement as a Deed and it is delivered as a Deed on the date hereof

EXECUTED as a **DEED** by affixing the
COMMON SEAL of **EAST DEVON**
DISTRICT COUNCIL in the presence of:



SIGNED AND DELIVERED AS A DEED }
by MARK EDWARD DIACONO in the
presence of:



Witness Signature



Witness name

PHILL IRELAND

Witness Address

12A CYPRUS RD

EXMOUTH.

Witness Occupation

PHILL EX81DZ

Project Manager

SIGNED AND DELIVERED AS A DEED }
by CANDIDA CLARE DIACONO
BUSSY in the presence of:



Witness Signature



Witness name

PHILL IRELAND.

Witness Address

12A CYPRUS RD.

EXMOUTH.

Witness Occupation

PHILL EX81DZ.

Project Manager

SIGNED as a DEED by

ECOLOGY BUILDING SOCIETY

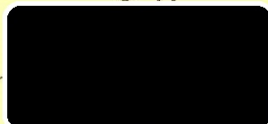
in the presence of

GEORGE HASLEM

authorised signatory



witness signature:



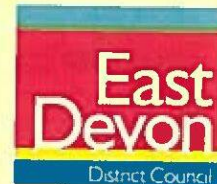
witness name:

Matthew Feeney

Schedule 1 – Draft Planning Permission

DRAFT DECISION

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



TOWN AND COUNTRY PLANNING ACT 1990

GRANT OF CONDITIONAL PLANNING PERMISSION

Applicant:	Mr M Diacono	Application No:	15/0870/VAR
Address:	1 Weston Cottages Weston Honiton Devon EX14 3PA	Date of Registration:	14 April 2015
Agent:	Orme Ltd	Date of Decision:	
Address:	Mrs Tamsyn Froom 2 Farm Road Street Somerset BA16 0BJ		
Proposal:	Variation of condition no. 2 and 6 of planning permission 14/1016/FUL to amend layout of parking area.		
Location:	Land To East Of Paynes Cottages (Otter Farm) Weston		

The Council hereby grants permission to carry out the development described above subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved drawings listed at the end of decision notice 14/1016/FUL with the exception of drawing number P539/013 which is hereby replaced by drawing number P539/003B received on 11 December 2015.
(Reason - For the avoidance of doubt.)
3. Drainage of the buildings, roads/tracks and parking areas hereby permitted shall be carried out in accordance with the details shown in drawing number P539/003B received on 11 December 2015. Any variation to the approved drainage strategy shall be submitted to and approved in writing by the Local Planning Authority and development shall thereafter be carried out in accordance with the approved details.
(Reason - To avoid pollution of the environment and flooding in accordance with policy EN15 (Control of Pollution) of the adopted East Devon Local Plan and policy EN22

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(Surface Run-Off Implications of New Development) of the emerging New East Devon Local Plan.)

4. Development shall be carried out in accordance with the materials approved on 14 December 2015 to discharge condition 4 of planning permission 14/1016/FUL. Any variation to the approved materials shall be submitted to and approved in writing by the Local Planning Authority and development shall thereafter be carried out in accordance with the approved details.
(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan and policy D1 (Design and Local Distinctiveness) of the emerging New East Devon Local Plan.)
5. Landscaping of the site shall be carried out in accordance with drawing number P539/003B received on 11 December 2015. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority. Any variation to the approved landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority and development shall thereafter be carried out in accordance with the approved details.
(Reason - To preserve and enhance the character and appearance of the area in accordance with policies D1 (Design and Local Distinctiveness) and D4 (Landscape Requirements) of the adopted East Devon Local Plan and policies D1 (Design and Local Distinctiveness) and D2 (Landscape Requirements) of the emerging New East Devon Local Plan.)
6. The development hereby permitted shall not be brought into use until the access and parking areas have been provided in accordance with drawing number P539/003B received on 11 December 2015 and surfaced and drained in accordance with the details approved under conditions 3 and 5 of this permission or in accordance with details of alternative parking, surfacing and drainage arrangements which have previously been granted planning permission by the Local Planning Authority.
(Reason - To ensure that adequate provision is made for the traffic attracted to the site in the interests of highway safety and in accordance with policy TA7 (Adequacy of Road Network and Site Access) of the adopted East Devon Local Plan and policy TC7 (Adequacy of Road Network and Site Access) of the emerging New East Devon Local Plan.)
7. Development shall be carried out in accordance with the Travel Plan approved on 8 June 2015 to discharge condition 7 of planning permission 14/1016/FUL. Any variation to the approved travel plan shall be submitted to and approved in writing by the Local Planning Authority and development shall thereafter be carried out in accordance with the approved details.
(Reason - To encourage use of sustainable modes of transport in accordance with policy TA3 (Transport Assessments/Travel Plans) of the adopted East Devon Local Plan and policy and policy TC2 (Accessibility of New Development) of the emerging New East Devon Local Plan.)

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8. The goods sold on the premises shall only be sold from within the room labelled 'shop' on drawing number P539/011 hereby approved and this room shall not be enlarged and goods shall not be sold from any other part of the building, the site or any other building without the prior express consent of the Local Planning Authority. A minimum of 60% (total sales) shall be sourced from produce solely grown or produced on land within the holding; no more than 30% (total sales) shall be sourced from produce solely grown or produced on land within 16km of the holding; and no more than 10% (total sales) shall be sourced from elsewhere.

(Reason - The proposal has been approved on the basis of it being a farm shop selling local agricultural produce linked to the production from the holding of the applicant and from other land close by and in order to prevent unrestricted sales of goods produced from outside the local area in an unsustainable location which could impact on the vitality and viability of existing nearby settlements in accordance with policy SH8 (Rural Shops, Garden Centres, Nurseries and Similar Retail Uses) of the adopted East Devon Local Plan and policy E15 (Retail Development in Rural Areas Outside Villages) of the emerging New East Devon Local Plan.)

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council works proactively with applicants to resolve all relevant planning concerns, however in this case the application was deemed acceptable as submitted.

The plans relating to this application are listed below:

P539/003 B	Combined Plans	11.12.15
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Service Lead - Planning

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.

Your attention is drawn to the Council's adopted Code of Practice for the Control of Construction Site Nuisance which is available on the EDDC website. The Code of Practice details the measures that the Council expects all works on construction sites to comply with to avoid excessive nuisance to residents. You should therefore ensure that all contractors on site are provided with a copy of this document and told to comply with it. Failure to comply with the code may lead to action under the Environmental Protection Act 1990 or the Control of Pollution Act 1974.

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

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