

This Unilateral Planning Obligation is dated *16th* day of

July 2006 and is given by:

- (1) **ANDREW JASON DRING** and **PAULINE JANE DRING**
both of 14 The Beeches Newmarket Road Royston
Hertfordshire SG8 7DY ('the Owner')
- (2) **MARCHFIELD DEVELOPMENTS LIMITED** company
number 1504148 whose registered office is at Chells Manor
Stevenage Hertfordshire SG2 7AA ('the Applicant')

1 **Background**

- 1.1 The Owner is the registered proprietor under title number CB272535 of the land at Raicon Estate 15 Ashwell Road Steeple Morden Royston Herts shown for identification purposes only edged red on the Plan ('the Red Land')
- 1.2 South Cambridgeshire District Council ('the Council') is the local planning authority
- 1.3 Cambridgeshire County Council ('the County Council') is the local education authority

- 1.4 The Applicant has by planning application number 5/0209/04/F applied to the Council for planning permission for the residential development of the Red Land ("the Application")
- 1.5 The Council has by a decision notice dated 5th day of May 2005 refused the Application
- 1.6 The Applicant has appealed to the Secretary of State for Communities and Local Government against the Council's decision and is willing to give an undertaking to perform the obligations set out in this Unilateral Planning Obligation in the event of the appeal being allowed

2 Interpretation

In this Unilateral Planning Obligation:

- 2.1 'the Act' means the Town and Country Planning Act 1990
- 2.2 "Affordable Dwelling" means a dwelling which meets the current Housing Corporation Scheme Development Standards unless otherwise agreed by the Council; "the requisite number" (of "Affordable Dwellings") shall be two (2) for rent at affordable rent (as defined below) and/or let on a Lease (as defined below)

- 2.3 "Affordable Rent" means a rent which does not exceed the Housing Corporation Target Rent Level for the respective type of dwelling in the Cambridge area
- 2.4 'Affordable Housing Land' means that part of the Red Land shown for identification purposes only hatched yellow on the Plan
- 2.5 'agreed' or 'approved' means agreed or approved in writing (agreement or approval not to be unreasonably withheld or delayed) and given for the purpose of this Unilateral Planning Obligation
- 2.6 'the Application Site' means the Red Land
- 2.7 'the Development' means the development of the Application Site proposed in the Application or permitted by planning permission granted pursuant to the Application or carried out substantially in accordance with such planning permission
- 2.8 'Education Contribution' means the education contribution referred to in clause 6 towards improvements to educational facilities at Bassingbourn Village College necessitated by the Development and being the sum of (£10,000.00) Ten Thousand Pounds
- 2.9 'Registered Social Landlord' means a registered social landlord within the meaning of the Housing Act 1996

2.10 "Lease" means a lease in respect of any dwelling in a form approved by the Council (such approval not to be unreasonably withheld or delayed) which shall be a shared ownership lease (as defined by Section 622 Housing Act 1985) but subject to the following:-

- (a) the initial term of the lease shall not be less than 125 years;
- (b) any rent or other payment for use and occupation in respect of the landlord's retained interest shall not exceed the relevant proportion of affordable rent;
- (c) subject to sub-paragraph (b) above any rent charged in respect of the landlord's retained interest for use or occupation of any dwelling shall, if variable in accordance with or by reference to any index or by reference to market rents, be subject equally to decrease as well as increase without premium (e.g.: plus 2%) over the index or market rents (as the case may be) if the effect of such premium shall at the time it is applied cause the level of rent (or its relevant proportionate part) to exceed an affordable rent (as defined)

- (d) the initial share of the lessee shall not exceed 50% but the lessee may at his option increase his share to 80% subject otherwise to the terms of the lease
- (e) maintenance contributions in respect of management of the common parts of the development attributable to the relevant dwellings and any charges upon the lessee of the landlord's reasonable costs of repairs or insurance or the performance of other obligations for which the landlord shall be responsible under any shared ownership lease shall not be regarded as rent for the purposes of this agreement
- (f) the Lease, in the case of receipt from the lessee of notice of intention to assign, may make provision to restrict the price of any assignment to a proportion of the market value not greater than the lessee's interest in the dwelling

2.11 "Qualifying Person" either:-

- (a) an individual who shall satisfy the Council that he or she is in housing need as defined by and/or described in the Council's latest adopted policies¹ (so far as may be

¹ "Extract of policy HG7: South Cambridgeshire Local Plan No.2 (February 2004)

Housing need: Those in 'housing need' for the purposes of this policy will be individuals or households who are:-

- both (a) either in unsuitable accommodation within the District (as defined by the District Council's points system) or homeless;

relevant) and who shall prior to the grant of any tenancy or lease or any agreement for a tenancy or a Lease or any assignment produce to the Registered Social Landlord or other grantor written confirmation by the Council that such an individual is a Qualifying Person for this purpose, or

- (b) an individual on the current list (if any) of Qualifying Persons (deemed pre-certificated by the Council) provided by the Council ("Council's List") provided that the circumstances of the Qualifying Person shall not have materially changed from the date of the certificate or the Council's List (as the case may be) to the date of grant of a tenancy, Lease or assignment such that he or she would cease to be in housing need (as defined) or on the Council's List

and (b) unable to afford to rent or purchase suitable accommodation on the open market (i.e., in the case of rented property the accommodation cost would need to be more than 35% of net income; in the case of mortgaged property the individual or household would be unable to afford a deposit of 5% of a suitable house and would have a gross monthly income of less than 3 times the necessary monthly mortgage income after payment of the 5% deposit and inclusive of the cost of buildings insurance, mortgage protection policy and/or mortgage guarantee (premium)).

Qualifying persons: Applicants for affordable housing provided under this scheme will be 'qualifying persons' if they are in housing need [as defined above] and live in, or are employed in, or have close local connections with, the relevant village or parish or an immediately adjoining parish

Cascade provisions: If there are no qualifying persons identified at the time a unit of Affordable Housing is completed or becomes available for re-occupation, the accommodation will be offered to those meeting the same qualifying criteria in relation to the following sequential preference of areas: (i) other nearby [South Cambridgeshire] parishes, (ii) parishes elsewhere in South Cambridgeshire or (iii) parishes in adjoining local authority areas in order of geographical proximity."

- 2.12 'Specified Date' means the date upon which an obligation arising under this Unilateral Planning Obligation is due to be performed
- 2.13 Words importing the masculine include the feminine and vice versa
- 2.14 Words importing the singular include the plural and vice versa
- 2.15 Words importing persons include companies and corporations and vice versa
- 2.16 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually
- 2.17 Any reference to a clause or schedule or plan is to one in to or attached to this Unilateral Planning Obligation
- 2.18 In the absence of contrary provision any reference to a statute includes any statutory modification or re-enactment of it and every statutory instrument direction specification made or issued under the statute or deriving validity from it
- 2.19 References to any party to this Unilateral Planning Obligation shall include the successors in title to that party and to any deriving title through or under that party and in the case of the County Council and the Council the successors to their

respective functions as local education authority and local planning authority

3 Enabling Provisions

This Unilateral Planning Obligation is made pursuant to Section 106 of the Act the Local Government Act 1972 Section 111 and all other enabling powers

4 Commencement

This Unilateral Planning Obligation shall come into effect upon the date of the grant of the planning permission granted pursuant to the Application but the obligations in clauses 5 and 6 shall become effective only on the commencement of the Development in accordance with Section 56 of the Act

5 Affordable Housing

The Owner and the Applicant covenant:

- 5.1 to provide within the Red Land the Affordable Housing Land
- 5.2.1 that no more than 75% (by number of dwellings) of the free market dwellings (meaning the dwellings comprised in the Development other than the Affordable Dwellings) shall be occupied until the Owner shall have transferred (at market value on the basis of use for provision of Affordable Dwellings in accordance with this Undertaking) to a Registered Social

Landlord approved in writing by the Council (such approval not to be unreasonably withheld or delayed) or to the Council (hereinafter generically referred to as "the Association") ("the Affordable Housing land") TOGETHER WITH free of charge to the Association all necessary rights of access over and connection with roads and footpaths and drainage through foul and, if appropriate, surface water sewers and such other services as may be available on the estate generally (all such roads, footpaths and sewers being capable of adoption as constructed) to the boundary of the Affordable Housing land or to suitable connection points adjacent thereto through the Property from the public highway. The interest to be transferred shall be the freehold title free from financial incumbrances

- 5.2.2 In the event of any dispute between the parties as to the market value for the purposes of the transfer of the Affordable Housing Land the dispute shall be referred on any party's application for determination by a suitably experienced Chartered Surveyor acting as an expert and his decision shall be binding on the parties save for manifest error. The expert shall (if not agreed by the parties within 10 working days (meaning days when the clearing banks are open for inter-bank business) of any party

requesting agreement to his appointment) be appointed on any party's application by the President or next senior available officer of the Royal Institution of Chartered Surveyors. The expert shall allow each party to submit representations and receive and submit counter-representations on the other parties representations but he shall not be fettered by them and shall reach his decision as expert. The expert's decision shall be issued within one month of his appointment and his costs shall be as he awards

5.2.3 If (otherwise than because of default by the Owners or the Applicant) the transfer of the Affordable Housing Land has not been completed within 6 months of the market value having been agreed or determined pursuant to Clause 5.2.2 this Clause 5 shall cease to have any effect and the Red Land including the Affordable Housing Land shall be free of the terms of this Clause 5 accordingly

5.3 The remaining paragraphs shall apply only to the Affordable Housing land

5.3.1 There shall be constructed upon the Affordable Housing land only the requisite number of Affordable Dwellings

5.3.2 The Affordable Dwellings shall be occupied only upon assured tenancies at affordable rents and/or Leases to be agreed

between the Council and the Association. If agreement has not been reached within one month of this Clause 5 becoming effective the Affordable Dwellings shall be occupied upon Lease and the market value for the transfer of the Affordable Housing Land shall be agreed or determined accordingly

- 5.3.3 The occupation of any Affordable Dwelling shall be limited to a Qualifying Person in the District of South Cambridgeshire PROVIDED THAT the Association may allow persons who are not Qualifying Persons to occupy any dwelling if there are no Qualifying Persons available and willing to take up occupation when a dwelling becomes vacant and provided that such disposition is in accordance with the objects of the Association
- 5.3.4 Qualifying Persons from Steeple Morden shall have priority of allocation before qualifying persons from neighbouring parishes
- 5.3.5 As between the Council and the Association the nomination arrangements set out below shall apply
- 5.3.6 It is hereby expressly agreed between the parties hereto that the planning obligations set out in this Clause 5 shall not bind
- (a) any mortgagee or chargee of any Affordable Dwelling or any receiver appointed by any such mortgagee or chargee;
- or

- (b) any tenant acquiring a freehold or leasehold interest in an Affordable Dwelling pursuant to a statutory enfranchisement provision; or
- (c) any assignee where the shared ownership lessee has met the following three criteria –
- he has served upon the landlord written notice of intention to assign the whole dwelling Lease (other than by way of mortgage)
 - has not received within ten weeks thereof from the landlord details of a nominee purchaser who shall be a Qualifying Person, and
 - has exchanged contracts with, or completed the assignment to (if there is no prior exchange of contracts), the assignee within a year from the date of service of the written notice of intention to assign

Nomination rights

1. As between the Association and the Council the following provisions shall govern the nominations/allocations of occupation of the dwellings
2. The Association shall notify the Council in writing from time to time of any dwelling which shall be vacant and available for occupation

3. The Association and the Council shall liaise as necessary with regard to local housing need generally and the list of qualifying persons
4. In cases where the Council shall have the right of nomination
 - (i) the Council will normally submit 3 names of nominees to the Association within 7 working days of receipt of written notice of a vacancy from the Association
 - (ii) it may however nominate the Association's preferred choice unless there shall in the opinion of the Council be good reasons for not doing so; in such cases the Council may within 7 days as aforesaid nominate another person to whom the dwelling shall be allocated by the Association unless there shall in the opinion of the Association be good reasons for not so allocating; and if the dwelling is not so allocated, the Association and the Council shall discuss further nominations by the Council for that dwelling
5. The Council and the Association shall have the following nomination rights in respect of the dwellings

Nominations

The initial allocation of each dwelling

The Council 100%

Thereafter

The Council 75%
The Association 25%

6 Education Contribution

The Owner and the Applicant covenant:

- 6.1.1 to pay to the County Council prior to the occupation of any free market dwelling the Education Contribution
- 6.1.2 not to occupy or cause or allow to be occupied any free market, dwelling forming part of the Development before the Education Contribution shall have been made
- 6.2 If the County Council has not applied or made arrangements for the application of all or any part of the Education Contribution within five years from the date of receipt of the same in accordance with this Deed (time being of the essence thereof) then the Education Contribution or part thereof (as the case may be) shall become repayable on demand to the Applicant with interest accrued from the said date of receipt at Barclays Bank Plc Base Rate (or that of their successors) on a daily basis until such sum is paid in full PROVIDED ALWAYS that if before the expiry of the said five year period there is any Contract or Contracts in existence relating to the provision of the improvements referred to in Clause 2.7 to which the Education Contribution is attributable in the absolute discretion

of the County Council which Contract or Contracts shall be completed after the expiry of the said five year period any sum to be repaid to the Owner shall be repaid (together with interest thereon as aforesaid) following payment of the final account in respect of any and all such Contracts and the sum to be repaid shall be less all costs incurred and/or paid to provide the said improvements pursuant to such Contract or Contracts

7 Certificates

The Owner and the Applicant covenant where this Unilateral Planning Obligation imposes a requirement for the making of a payment or the undertaking of an act or the cessation of an activity on a Specified Date the Owner and the Applicant shall give to the Council notice of the Specified Date not more than seven days after such Specified Date

8 Interest

The Owner and the Applicant covenant to pay interest on sums due to the County Council and the Council under this Unilateral Planning Obligation but not paid on the Specified Date from the Specified Date until actual payment. The rate of interest shall be 3% above the National Westminster Bank Plc's base rate

9 Costs

The Owner and the Applicant covenant to pay to the Council their reasonable legal costs incurred in entering into this Unilateral Planning Obligation amounting to £ 400.00

10 General

The parties agree that:

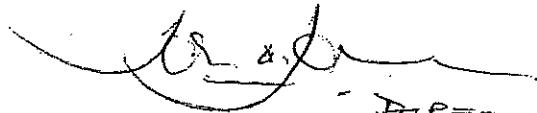
- 10.1 nothing in this Unilateral Planning Obligation constitutes or constitutes an obligation to grant planning permission
- 10.2 nothing in this Unilateral Planning Obligation grants planning permission or any other approval consent or permission required from the County Council or the Council in the exercise of any other statutory function
- 10.3 nothing in this Unilateral Planning Obligation fetters or restricts the exercise by the County Council and the Council of any of their powers
- 10.4 the obligations contained in clauses 5 and 6 are planning obligations for the purpose of Section 106 of the Act
- 10.5 this Unilateral Planning Obligation constitutes a deed
- 10.6 this Unilateral Planning Obligation is enforceable by the Council [and to the extent mentioned in clauses 6,7 and 8 by the County Council


10.7 this Unilateral Planning Obligation does not nor is intended to confer a benefit on a third party within the meaning of the Contracts (Rights of Third Parties) Act 1999


EXECUTED as a Deed by

MARCHFIELD DEVELOPMENTS

LIMITED ~~in the presence of:~~


DIRECTOR

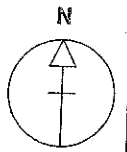

DIRECTOR


SECRETARY

LR

TITLE NUMBER
CB272535

CAMBRIDGESHIRE : SOUTH CAMBRIDGESHIRE

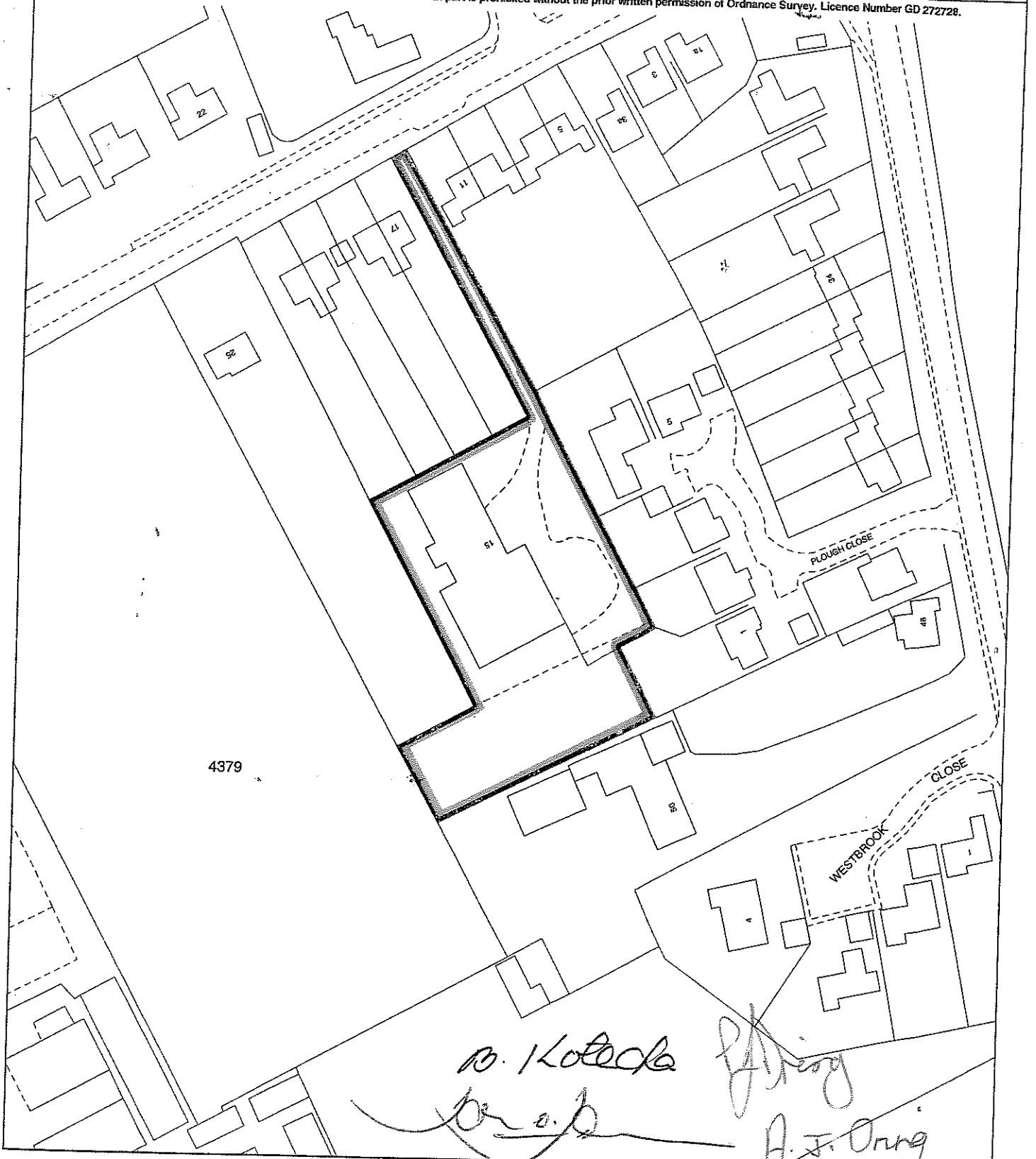


ORDNANCE SURVEY MAP REFERENCE:

TL2841NE

SCALE 1:1250 Enlarged from 1/2500

©CROWN COPYRIGHT. Produced by HMLR. Further reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number GD 272728.



This title plan shows the general position of the boundaries: it does not show the exact line of the boundaries. Measurements scaled from this plan may not match measurements between the same points on the ground. For more information see Land Registry Explanatory Leaflet 24.
This office copy shows the state of the title plan on 7 July 2003 at 9:51:28. It may be subject to distortions in scale.
Under s.113 of the Land Registration Act 1925, this copy is admissible in evidence to the same extent as the original.
Issued on 7 July 2003.
This title is dealt with by the Peterborough District Land Registry.



