

DATED 14th July 1992

WELWYN HATFIELD DISTRICT COUNCIL

-and-

JADE LIMITED

AGREEMENT UNDER SECTION 106 OF TOWN AND
COUNTRY PLANNING ACT 1990

relating to Hook Kennels Coopers Lane
Road Northaw Herts.

W.J. Anderson
Solicitor to the Council
Welwyn Hatfield District Council
Council Offices
The Campus
Welwyn Garden City
Herts. AL8 6AE

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THIS AGREEMENT dated the fourteenth day of July One thousand Nine hundred and Ninety Two is made between the Council of the first part the Owner of the second part ~~and the Mortgagee of the third part~~

Definitions and Interpretation

1) In this Agreement the following expressions shall have the following meanings ascribed to them:-

- 1.1) the Council Welwyn Hatfield District Council of Council Offices
The Campus Welwyn Garden City Hertfordshire AL8 6AE
- 1.2) the Owner Jade Limited of Bank House Handforth Wilmslow
Cheshire
- 1.3) the House Plans Plans numbered 523/001B 523.16 and 523.17 prepared
by Mason Bennett Partnership which have been
submitted to and approved by the Council
- 1.4) the Development All that freehold land situate to the north of
Site Coopers Lane Road Northaw Hertfordshire
- 1.5) the Drawing The Drawing numbered 523/012A annexed hereto
- 1.6) the 1987 A Full Planning Permission numbered S6/0171/87/FP
Planning and issued by the Council on 31st July 1987
Permission pursuant to a Planning Application previously made
by Ashdale Developments Limited the benefit of
which is now vested in the Owner
- 1.7) the G.D.O. The Town and Country Planning General Development
Order 1988
- 1.8) the Quarantine That part of the Development Site shown on the
Block Drawing and hatched green and edged in red
- 1.9) Hook Cottages That part of the Development Site shown on the
Drawing and hatched black and edged in red

- 1.10) the Building Site That part of the Development Site shown on the Drawing and hatched red and edged in red
- 1.11) the Hardstandings The concrete pads situate on that part of the Development Site which are shown on the Drawing and marked "Remove Concrete Pads etc and replace with topsoil and seed"
- 1.12) The expressions "the Council" and "the Owner" shall include where appropriate their respective successors in title and assigns
- 1.13) Unless otherwise provided this Agreement shall be deemed to remain in full force and effect on any extension or renewal variation or amendment of the 1987 Planning Permission which the Council may grant
- 1.14) References in this Agreement to any statutes or statutory instruments shall include any statute or statutory instrument amending consolidating or replacing them respectively from time to time and for the time being in force
- 1.15) Where in this Deed there is a covenant not to do or to refrain from any activity or thing then there shall be deemed to be included in such covenant a provision that such activity or thing shall not be permitted or suffered

Recitals

2) Whereas:-

- 2.1) The Council is the Local Planning Authority for the purposes of the Town and Country Planning Act 1990 (hereinafter called "the Act") for the area within which the Development Site is situated and is for the purposes of S106 of the Act empowered to enforce the planning obligations herein contained
- 2.2) The Council is also a principal Council within the meaning of Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and the Local Government Act 1972

2.3) The Owner is the Owner in fee simple absolute in possession of the Development Site and warrants that it is in all respects capable of entering into this Deed and the Mortgagee consents to the Owners execution of this Deed

2.4) The Council contends that there was an error appearing in the 1987 Planning Permission namely that inter alia the 1987 Planning Permission permits the erection of five detached houses on the Building Site and the purpose of this Agreement is to give effect to the matters agreed between the Council and the Owner by way of an amendment of the 1987 Planning Permission and by the covenants on the part of the Owner hereinafter set forth

NOW THIS DEED WITNESSETH as follows:-

Nature of Agreement

3.1) The obligations contained in this Agreement are planning obligations for the purposes of Section 106 of the Act insofar as they fall within the terms of Sub-Section 1 thereof.

3.2) Insofar as the obligations contained herein are not planning obligations within Section 106 of the Act the covenants are entered into pursuant to Section 111 of the Local Government Act 1972 and all other enabling powers and this Agreement shall be registered as a Local Land Charge.

Agreement between the Council and the Owner

4) The Council and the Owner hereby agree as follows and the Owner covenants accordingly:-

4.1) That the 1987 Planning Permission shall be henceforth amended so that the heading thereof shall read:-

"Change of use of existing racing association headquarters to residential, comprising conversion and extensions to form 38 dwellings with associated car parking and access, and erection of four detached houses and with garages. Hook Kennels, Northaw, Herts"

and for the avoidance of doubt the Owner covenants with the Council that

- (a) the Owner has not implemented the construction of the said detached houses on the Building Site and
- (b) the Owner will not erect on the Building Site a greater number of detached houses than that specified in the amended permission referred to hereinabove

4.1.1) That Condition 1 of the 1987 Planning Permission shall be amended by substituting for the words "this notice" therein the date of this Agreement and of the remaining conditions in the 1987 Planning Permission only the following shall apply to the erection of the four houses on the Building Site viz:- 2(3) (as to which the scheme shown on House Drawing 523/001B is approved by the Council) and 4

4.1.2) That the Building Regulation Approval issued by the Council in February 1991 under reference 90/0912 shall constitute an approval of the House Plans and the erection of the said four houses in accordance with such plans and no further application for any approval under the Building Regulations shall be required in respect thereof

- 4.2) That the four detached houses which may be erected on the Building Site in sub-clause 4.1 hereinbefore mentioned shall be in accordance with the House Plans or such other plans as the Council as Local Planning Authority shall approve and shall not at any time be enlarged improved altered nor added to nor likewise shall any gate fence wall or other means of enclosure by any works or operations which but for the provisions of this sub-clause would otherwise be permitted development as defined in Classes A B C and E of Part 1 of Schedule 2 to the G.D.O. and in Class A of Part 2 of Schedule 2 to the G.D.O. except if and insofar as may be permitted by a future planning permission
- 4.3) That the Owner now waives and surrenders each and every right now accruing to it (and whether derived under the Act or otherwise) which but for the provisions of this sub-clause would enable the Owner to re-build or reinstate the buildings and other structures comprising Hook Cottages and the Quarantine Block and the Owner agrees that it shall not be entitled to any compensation recompense or other payment whatsoever in consequence of the such waiver and surrender
- 4.4) At the Owners own expense to demolish all the buildings structures fences hardstandings and other erections comprising Hook Cottages and the Quarantine Block and thereafter to provide topsoil and seeding to the reasonable satisfaction of the Council
- 4.5) That the Owner shall not carry out any operations or works on the Building Site other than initial site works (including foundations) until all demolition works in sub-clause 4.4 hereinbefore set forth shall have been completed
- 4.6) Without prejudice to the provision precluding compensation in sub-clause 4.3 hereinbefore contained the Owner shall not make any claim for compensation whether under the Act or otherwise in respect of any expenditure rendered abortive or costs or other loss whatsoever incurred in consequence of the Owners agreements and covenants in sub-clause 4.1 to 4.5 contained or for any other loss or damage directly or indirectly attributable to the acknowledged error appearing in the 1987 Planning Permission

Release of Rights of Action

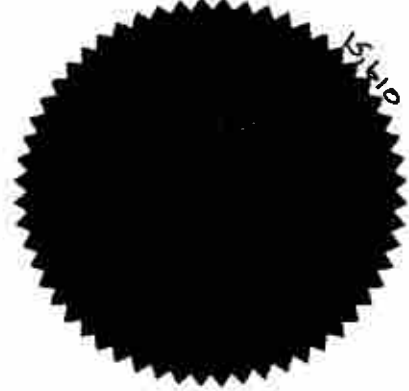
6) The Council and the Owner now respectively release each other from all claims demands rights of action and liabilities whatsoever and howsoever arising and whether directly or indirectly arising from the before recited alleged error appearing in the 1987 Planning Permission and the negotiations giving rise to the execution of this Deed

IN WITNESS whereof the Council and the Owner have executed this S106 Agreement as a Deed the day and year first before written

THE COMMON SEAL of WELWYN)
HATFIELD DISTRICT COUNCIL was)
hereunto affixed in the presence of:)

W. H. Henson
Chairman of the Council

W. J. Anderson
Authorised Officer



THE COMMON SEAL of JADE LIMITED)
was hereunto affixed in the presence)
of:-)

J. A. Newman

C. Turner
(C. Turner)
Secretary

