

REF/2016/0879

**IN THE PROPERTY CHAMBER (LAND REGISTRATION)
FIRST-TIER TRIBUNAL
(TITLE NUMBER SL147821)**

MICHAEL MOORE

Applicant

-and-

**(1) ANTHONY LIGHTFOOT
(2) HELEN LIGHTFOOT**

Respondents

IMPORTANT DOCUMENTS – C

This is Important Document “C” referred to in the Applicant’s Statement of Case.

Dated 3rd September 2007

**NORTH SHROPSHIRE DISTRICT COUNCIL (1)
PHOENIX RUBBER LIMITED**

PLANNING OBLIGATION

**Relating to Land at
Pipe Gate
Woore,
Market Drayton
Shropshire**

Chief Solicitor
North Shropshire District Council
Edinburgh House
New Street
Wem SY4 5DB
Ref LH



THIS DEED is made the *Third* day of *September*
Two Thousand and Seven B E T W E E N THE NORTH SHROPSHIRE DISTRICT
COUNCIL of Edinburgh House New Street Wem Shropshire SY4 5DB ("the
Council") of the one part and PHOENIX RUBBER LIMITED (Company Registration
No. 377912) whose Registered Office is situate at Unit 13-15 Maple Park Essex
Road Hoddesdon Hertfordshire EN11 OEX ("the Owner") of the other part

WHEREAS:-

- (1) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 for the area within which the property hereinafter described is situated and by whom this Deed is enforceable
- (2) The Owner is the registered proprietor with absolute title of land situate at Pipe Gate Woore Near Market Drayton, Shropshire which is registered at the Land Registry under Title Number SL147821 ("the Land") shown edged red for identification purposes only on the plan annexed ("the Plan")
- (3) "The Planning Obligation" means the covenants on the part of the Owner set out in Parts I, II and III of the Schedule hereto

NOW THIS DEED WITNESSETH as follows:-

1. THIS Deed is made in pursuance of Section 106 of The Town and Country Planning Act 1990 as amended by Section 12 of the Planning and Compensation Act 1991 and the Planning Obligation is a planning obligation for the purposes of that section
2. THE Owner hereby covenants with the Council in the terms set out in Parts I, II and III of the Schedule so as to bind each and every part of the Land

3. THE Planning Obligation shall take effect only upon the issue of planning consent by the Council in the form of the draft annexed hereto [reference number N/06/25/WO/39 Outline] ("the Planning Consent") and the Council hereby undertakes to issue the Planning Consent within seven days of the date of this Deed

4. NO person shall be liable for a breach of a covenant contained in this Deed 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 PROVIDED that person has furnished the Council in writing with the name and address of any person acquiring the interest from him within fourteen days of such disposal except in the case of individual disposals of single Dwellings to persons for residential purposes or disposals to statutory undertakers in which case no notice shall be required

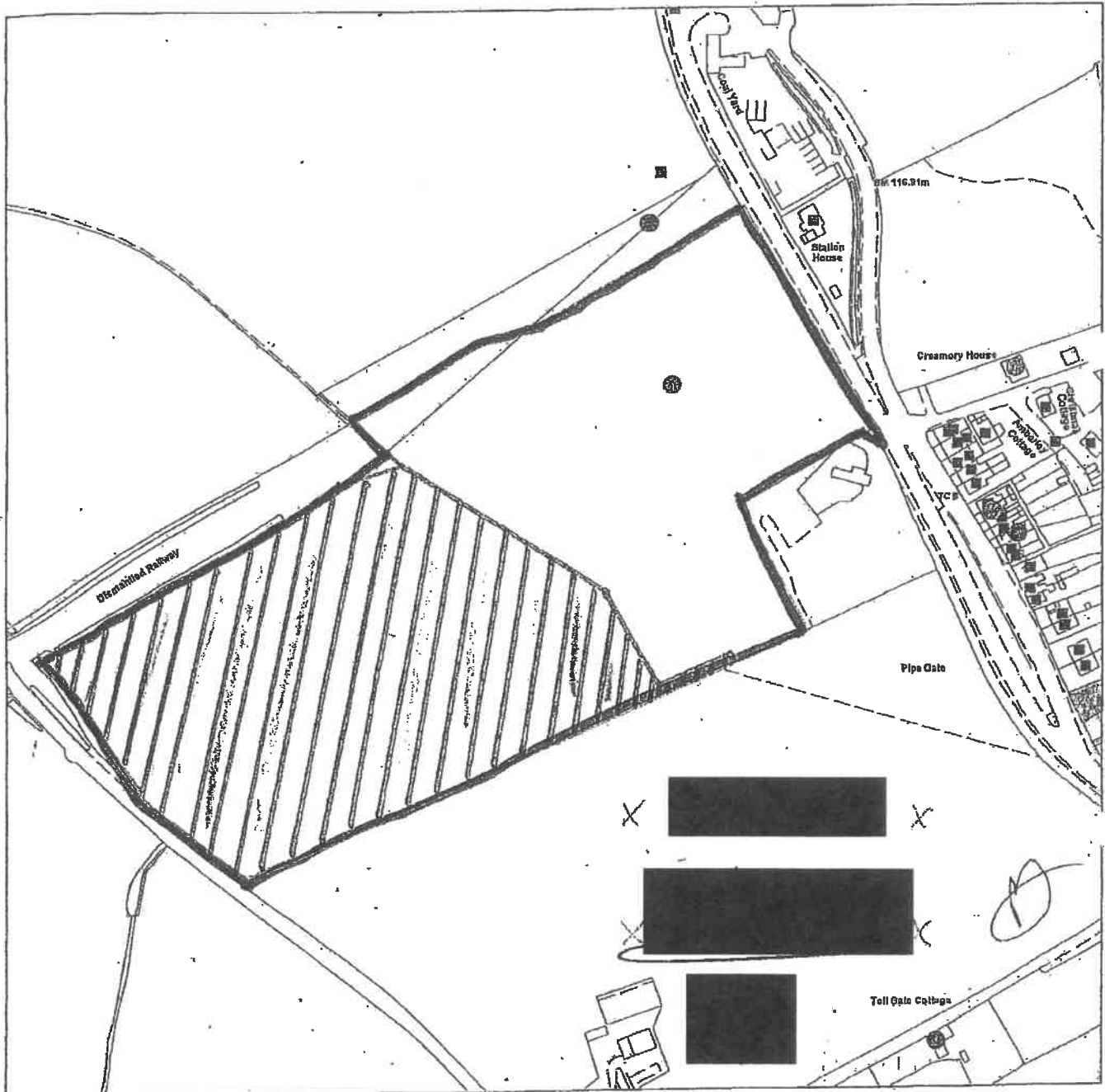
5. WHERE under this Deed any notice approval consent certificate direction authority agreement action or expression of satisfaction is required to be given or reached by any party or any responses requested any such notice approval consent certificate direction authority agreement action or expression of satisfaction shall not be unreasonable or be unreasonably withheld or delayed

6. THE Owner hereby agrees to pay the Council's reasonable legal costs in connection with the preparation and execution of this deed

7. THE expression "the Council" and the "the Owner" shall include their respective successors in title and assigns and where there are two or more persons included in the expression "the Owner" covenants expressed to be

Phoenix Rubber Works, Pipe Gate

North Shropshire District Council Planning Obligation



Scale : 1:2500

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Organisation	Not Set
Department	Not Set
Comments	
Date	17 May 2006
SLA Number	Not Set

made by the Owner shall be deemed to be made by such persons jointly and severally

8. THE Parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by a person not a party to it other than a successor in title to a party to it

9. THE obligations in this Agreement will not be enforceable against a Statutory Undertaker of the statutory apparatus and any land upon which the statutory apparatus is situated

IN WITNESS whereof the parties have executed this Deed the day and year first before written

SCHEDULE

(The Planning Obligation)

In Parts I and II of this Schedule the following words have the following meanings :-

"the Development"	the development permitted pursuant to the Planning Permission
"the Green Hatched Land"	the land shown hatched green on the Plan
"Implementation"	the carrying out of a material operation within the means of Section 56 of the Act save that for the purposes of this Deed none of the following shall constitute a material operation :
	(a) site preparation works limited to demolition site clearance ground investigation or site survey work and works consisting of decontamination and remediation;
	(b) construction of temporary accesses;

"Local Amenity Area"

(c) archaeological investigations;

(d) site investigation works;

means the Green hatched land

PART I

Covenant in respect of contribution towards improvement of footpath

1. The Owner covenants with the Council prior to permitting the occupation of the Twentieth (20th) Dwelling (or any Dwelling subsequent to the Twentieth (20th) Dwelling) to be erected on the Land pursuant to the Planning Consent or within two years of the Implementation of the Planning Consent (whichever occurs first) to pay to the Council the sum of £25,000 (Twenty Five Thousand Pounds) as a contribution towards improvements to the public footpath from Pipe Gate to Woore Market Drayton Shropshire

2. If the Council shall for whatever reason fail to apply the contribution referred to in paragraph 1 of Part 1 of the Schedule to the activities and measures mentioned therein within 5 years from the Implementation of the Planning Consent then any unexpended part of the said sum of £25,000 shall be repaid to the Owner together with such sum as would represent the interest accrued on the unexpended part of the said sum of £25,000 as if the same had been deposited in an account bearing interest at the base-rate for the time being of Nat West Bank plc. Any such repayment shall be made to the person who made the said payment of £25,000 within one month of the fifth anniversary of the date of Implementation of the Planning Consent

PART II

The Open Spaces and Play Areas

1. In this part of the Schedule "Recreation Scheme" means the details of a scheme to provide a Local Amenity Area and play area including the details listed in paragraph 3 of this Part of the Schedule and which shall be submitted by the Owner to the Council for its approval prior to Implementation of the Planning Consent and undertaken in accordance with this Part II of the Schedule

2. The Owner covenants with the Council
 - 2.1 to provide a Local Amenity Area on the green hatched Land and

 - 2.2 to provide on the Land at least 15 square metres of play area per family Dwelling erected pursuant to the Planning Consent in a location to be designated by the Owner

 - 2.3 not to use or allow or permit to be used any part of the Land designated as a Local Amenity Area or play area in any approval of any reserved matters application pursuant to the Planning Consent and laid out as such except as a Local Amenity Area or play area respectively

 - 2.4 to maintain the Local Amenity Area and play area provided pursuant to the Planning Consent together with all equipment and fencing thereof in a safe tidy and clean state and to keep planted areas (within such Local Amenity Area or play area) properly cultivated and mown as appropriate to the satisfaction of the Council until such time as such areas are adopted by the Woore Parish Council or some other local authority as maintainable at the public expense or transferred to a Management Company, and to keep such areas available for their intended use

2.5 to lay out, construct and equip the Play Area to the satisfaction of the Council and to lay out and construct the Local Amenity Area in accordance with the Recreation Scheme following the occupation of all of the Dwellings to be erected on the Land pursuant to the Planning Consent

3. A Recreation Scheme shall include the following details :

3.1 the design siting and layout of the Play Area including as a minimum:-

3.1.2 safety surfacing in accordance with current British Standards (or equivalent European Standards)

3.1.3 dog proof fencing with an integral self-closing gate

3.1.4 seating

3.1.5 details of play equipment which shall conform to current British Standards (or equivalent European Standards)

3.1.6 details of at least one 100 metre square Local Area of Play with at least one piece of play equipment

3.2 the design of the Local Amenity Area including as a minimum

3.2.1 any footpaths

3.2.2 boundary treatment

3.2.3 landscaping

3.2.4 seating

3.3 adequate provision for litter bins and lighting and security

3.4 proposals for the management and maintenance of the Play Area and Local Amenity Area pending adoption by a local authority or transfer to a Management Company

PART III

Covenants in respect of Affordable Housing

1. In Part III of this Schedule the following words have the following meanings :-

1.1 "Affordable Dwelling"

means any Dwelling constructed pursuant to the Planning Consent which is provided to meet the needs of local people in need of affordable accommodation under a Shared Ownership scheme

1.2 "Dwellings"

means the dwellings forming the Development to be used for residential purposes (and Dwellings shall have a corresponding meaning)

1.3 "Affordable Housing Scheme"

means the details of a scheme to provide Affordable Dwellings including the details listed in paragraph 3 of this Part III of the Schedule

1.4 "The Policy"

means a Selection and Allocations Policy which evaluates the housing need of an applicant for affordable housing as well as assessing their financial ability to find accommodation in the open market which Policy shall be approved in writing by the Council (such agreement not be unreasonably withheld or delayed)

1.5 "The Criteria"

means the criteria set out in paragraph 4 of this Part III of the Schedule

- 1.6 "the Development" means development permitted pursuant to the Planning Consent
- 1.7 'Shared Ownership' means the disposal of an Affordable Dwelling whereby a purchaser purchases an equity share based on a percentage of the Open Market Value in a Dwelling and pays a rent proportionate to the value of the interest they have not purchased and has the right to occupy such Dwelling and the right to acquire additional equity shares of such a unit to the extent that such provisions are permitted under the Shared Ownership Lease.
- 1.8 'Shared Ownership Lease' means a lease for a term of not less than 99 years in the form approved from time to time by the Housing Corporation.
- 1.1 The Owner covenants with the Council to provide 6 Affordable Dwellings on the Land by way of Shared Ownership tenure being 2 bedroom houses in accordance with the provisions of this Part III of the Schedule
- 1.2 The Owner covenants with the Council
- 1.2.1 to submit to the Council for its approval details of the Affordable Housing Scheme within 10 working days of the first submission of any reserved matters application pursuant to the Planning Consent ; and
- 1.2.2 not to commence construction of the proposed Affordable Dwellings until the Council has approved the Affordable Housing Scheme in writing and the Council either agrees to the Affordable Housing Scheme within 30 days of its submission (or re-submission) or informs the Owner in writing within such period that the Affordable Housing

Scheme (or any revision thereto) is not acceptable with full reasons for such decision

1.2.3 that the Affordable Dwellings when constructed and at all times thereafter shall be allocated transferred or let in accordance with the Policy to persons who are in need of affordable housing and who meet the Criteria

1.2.4 not to sell let or mortgage or otherwise dispose of his interest of that part or parts of the Land upon which the Affordable Dwellings shall be built except as a whole save that an allocation transfer or lease in accordance with paragraph 1.2.3 of this part of the Schedule shall not be a breach of this covenant Provided that this obligation shall not prevent an occupier of an individual Affordable Dwelling pursuant to a long lease or shared ownership scheme from mortgaging that Affordable Dwelling

2. The Owner covenants with the Council

2.1 not to permit the occupation of the 12th open market Dwelling (other than any Dwelling intended as an Affordable Dwelling) or any Dwelling subsequent to the 12th open market Dwelling to be erected on the Land until all of the Affordable Dwellings have been constructed and are available for occupation in accordance with the Affordable Housing Scheme

3. The Affordable Housing Scheme shall

3.1 identify the site or sites on which the Affordable Dwellings are to be built and give details of the location layout garden and amenity space parking security and boundary treatment of the Affordable Dwellings

3.2 give details of the accommodation to be provided with details of the design and internal layout and floor area of each Affordable Dwelling

- 3.3 give the name and address of the (proposed) owner and manager of the proposed Affordable Dwellings and confirm that the Affordable Dwellings shall be managed by a Registered Social Landlord or such other body who may be approved by the Council ('Affordable Housing Provider')
- 3.4 give details of the method for identifying persons in housing need who qualify for occupation of the Affordable Dwellings in accordance with the Policy and the Criteria and in the case of Affordable Dwellings intended for occupation under a Shared Ownership scheme, details shall be provided demonstrating the legal mechanism whereby such Dwellings will remain Affordable Dwellings on subsequent assignments
4. The Criteria, in order of priority (as between the categories firstly, secondly and thirdly herein described, but not within the said categories) are
- 4.1 **FIRSTLY** that a person
- (a) is ordinarily resident in the Parish of Woore
 - or
 - (b) has a strong local connection with the Parish of Woore by virtue of
 - (i) Close Family Association or
 - (ii) Employment or
 - (iii) Past Periods of Residence
- 4.2 **SECONDLY**, (in the event of there being no person who would qualify as in paragraph 5.1 above) that a person
- (a) is ordinarily resident in the Parish of Norton in Hales
 - (b) has strong local connection with the Parish of Norton in Hales by virtue of
 - (i) Close Family Association or
 - (ii) Employment or
 - (iii) Past Periods of Residence

- 4.3 **THIRDLY** (in the event of there being no person who would qualify as in paragraph 4.1 or 4.2 above) that a person
- (a) is ordinarily resident in the District of North Shropshire or
 - (b) has strong local connection with the District of North Shropshire by virtue of
 - (i) Close Family Association or
 - (ii) Employment or
 - (iii) Past Periods of Residence

PROVIDED THAT if within two months from the Date on which an Affordable Dwelling becomes available there are no persons seeking for such accommodation who would qualify under the above criteria then such Affordable Dwelling may be allocated or let or transferred to any other person (or persons) who is in need of Affordable Housing in accordance with the Policy but who does not qualify under the above Criteria

4.4 In this paragraph

"Close Family Association" means that a person has a spouse, parent, grandparent, brother, sister or child resident in the relevant parish or district

"Employment" means that a person is employed or has a firm offer for employment within the relevant parish or district and it includes self-employment

"Past Periods of Residence" means that a person has been ordinarily resident in the relevant parish or district for a continuous period of at least ten years during the last twenty years

"the Date on which an Affordable Dwelling becomes available" means the date on which construction of a Dwelling is complete or on any subsequent change of occupation

5. The provisions of the agreement shall not be binding on a mortgagee in possession of the whole or any part of the Affordable Dwellings or a bona fide purchaser for value thereof from such a mortgagee in possession or any receiver appointed by such mortgagee (except a purchaser which is an Affordable Housing Provider) PROVIDED THAT:
 - (a) Such mortgagee or chargee in possession exercising any power of sale shall first have used reasonable endeavours over a period of three months in consultation with the Councils [named officer] to dispose of the Affordable Dwellings to an Affordable Housing Provider approved by the Council (such approval not to be unreasonably withheld or delayed) AND
 - (b) The Council's [named officer] shall have certified in writing (such certification not to be unreasonably withheld or delayed) that it is satisfied that the mortgagee has without success used reasonable endeavours to dispose of the Affordable Dwellings to an RSL over a three month period
- 6.1 An occupier of an Affordable Dwelling who is a tenant of a Registered Social Landlord shall be released from the covenants contained in this Planning Obligation if he exercises his right to acquire the freehold of the Affordable Dwelling or to acquire 100% equity in a long lease thereof on the date on which he completes such acquisition PROVIDED THAT the Owner gives the Council the notice referred to in paragraph 6.2.1 below accompanied by an undertaking in the form appended to this Part III of the Schedule
- 6.2 The Owner further covenants to provide one Affordable Dwelling ("the replacement Affordable Dwelling") for each Affordable Dwelling released from this Planning Obligation under paragraph 6.1 of this Schedule and that

- 6.2.1 the Owner shall give the Council written notice within 28 days of receiving notice that its tenant intends to exercise his right to acquire the freehold or acquire 100% of his long lease that the Affordable Dwelling may be released under paragraph 6.1 above
- 6.2.2 the replacement Affordable Dwelling shall comprise equivalent accommodation to the dwelling which it replaces
- 6.2.3. the replacement Affordable Dwelling shall be situate within the parishes listed in paragraphs 4.1 and 4.2 of this Schedule
- 6.2.4 the replacement Affordable Dwelling shall be available for occupation by persons in need of affordable housing who also meet the criteria set out in paragraph 4 of this Schedule within 6 months of the sale of the Affordable Dwelling
- 6.2.5 the Owner shall provide the Council with a copy of the transfer of the freehold or document effecting the transfer of the equity of the Affordable Dwelling within 28 days of such transaction being completed

AND it is hereby AGREED and DECLARED that the covenants contained in this paragraph 6 of Part III of the Schedule affect only that part of the Land upon which the Affordable Dwellings are constructed

Form of Undertaking appended to Part III

"[name of Owner] of [address] HEREBY UNDERTAKE with the North Shropshire District Council to provide a replacement Affordable Dwelling in accordance with the Agreement dated 2007 made between the North Shropshire District Council of the one part and Phoenix Rubber Limited of the other part within 6 months of the sale of the freehold / full equity of [address] and to enter into a planning obligation with the North Shropshire District Council to ensure that the replacement Affordable Dwelling when provided shall remain available for occupation by persons in need of affordable housing who meet the criteria set out in paragraph 4 of Part III of the Schedule to the said Agreement

Dated.....

Executed as a deed etc."

THE COMMON SEAL OF THE NORTH)

SHROPSHIRE DISTRICT COUNCIL)

was affixed to this Deed in)

the presence of-)

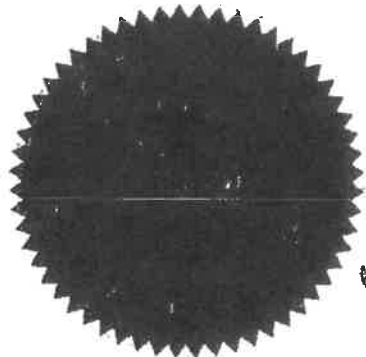
[Redacted]

Chairman

[Redacted]

Chief Executive

[Redacted]



6987

THE COMMON SEAL OF PHOENIX)

RUBBER LIMITED was affixed to this)

Deed in the presence of :-)

Secretary/Director

Director

[Redacted]

x

x

MEMORANDUM

(Clause 3)

Planning Consent was issued on

Q:6260FF.OBL