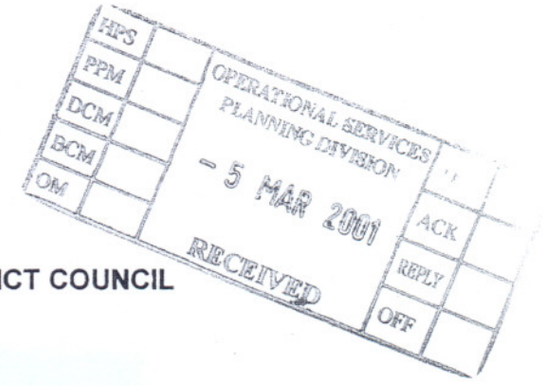
DATED 28th February 2001

72



HUNTINGDONSHIRE DISTRICT COUNCIL

- and -

CAMBRIDGESHIRE COUNTY COUNCIL

- and -

WESTBURY HOMES (HOLDINGS) LIMITED

A G R E E M E N T

under Section 106 of the Town and Country
Planning Act 1990 in relation to
Commuted Sums for Education Purposes & Offsite Recreation Facilities in respect of
Residential Development of Land at High Street, Little Paxton, St Neots

C Meadowcroft
Head of Legal and Estates
Huntingdonshire District Council
Pathfinder House
St Mary's Street
Huntingdon
Cambridgeshire PE29 3TN

(CE.WAS.cc.PO 18.00)

THIS AGREEMENT is made the 28th day of February Two thousand and one

BETWEEN the **HUNTINGDONSHIRE DISTRICT COUNCIL** of Pathfinder House St Mary's Street Huntingdon in the County of Cambridgeshire, PE29 3TN (hereinafter called "the Council") of the first part and **CAMBRIDGESHIRE COUNTY COUNCIL** of Shire Hall, Castle Hill, Cambridge CB3 0AP of the second part and **WESTBURY HOMES (HOLDINGS) LIMITED,** (company number 822538) whose Registered Office is Westbury House, Lansdown Road, Cheltenham, Gloucestershire GL50 2WH (hereinafter called "the Owner") of the third part

DEFINITIONS:

In this Agreement the following expressions shall have the following meanings :-

"the Act"	means the Town & Country Planning Act 1990 (as amended)
"the Application"	means the planning application registered on the 9th day of May 2000 under application number 00/00744 (as amended)
"the Commencement of Development"	means the implementation of the Planning Permission by the carrying out of a Material Operation
"the Commuted Sum"	means the sum payable by the Owner to the Council under Part 1 of the Schedule in lieu of provision of on site leisure and recreational facilities by supplementing existing play space provision in the village of Little Paxton within the Huntingdonshire District of Cambridgeshire
"the Development"	means the development of the Land in accordance with the Planning Permission by proposed residential development
"Education Contribution"	means the sum specified in Part II of the Schedule which is to be used towards the improvement of the educational facilities serving the Parish of Little Paxton
"the Head of Planning"	means the Head of Planning Services for the time being of the Council or such other officer as the Council may specify

"the Index"	means for the purposes of: (a) the Commuted Sum in Part I of the Schedule the Index of Retail Prices published by the Central Statistical Office or any other Successor, Body, Ministry or Department (b) the Education Contribution in Part II of the Schedule the All-In Tender Price Building Cost Index published by the Royal Institution of Chartered Surveyors
"the Land"	means land situate at High Street, Little Paxton, Cambridgeshire comprising approximately 0.95 hectares and shown edged red on the Plan
"Material Operation"	means a material operation as defined by Section 56(4) of the Act
"the Plan"	means the plan annexed hereto and marked
"the Planning Obligations"	means the planning obligations specified in the Schedule hereto
"the Planning Permission"	means permission for the Development granted by the Council pursuant to the Application

WHEREAS:

(1) The Council is the Local Planning Authority for the purposes of Section 106 of the Act for the area within which the Land is situated

(2) The Owner is seised of the Land registered with title absolute at H M Land Registry under title number CB 221468

(3) The Owner has offered and the County Council has agreed to accept the Education Contribution

(4) The Owner has submitted the Application to the Council for Planning Permission for the Development

(5) The Council is satisfied that the Development is such as may be permitted by the Council under the Act subject to conditions and subject also to the prior execution of this Deed into which the parties hereto have agreed to enter

"the Index"	means for the purposes of: (a) the Commuted Sum in Part I of the Schedule the Index of Retail Prices published by the Central Statistical Office or any other Successor, Body, Ministry or Department (b) the Education Contribution in Part II of the Schedule the All-In Tender Price Building Cost Index published by the Royal Institution of Chartered Surveyors
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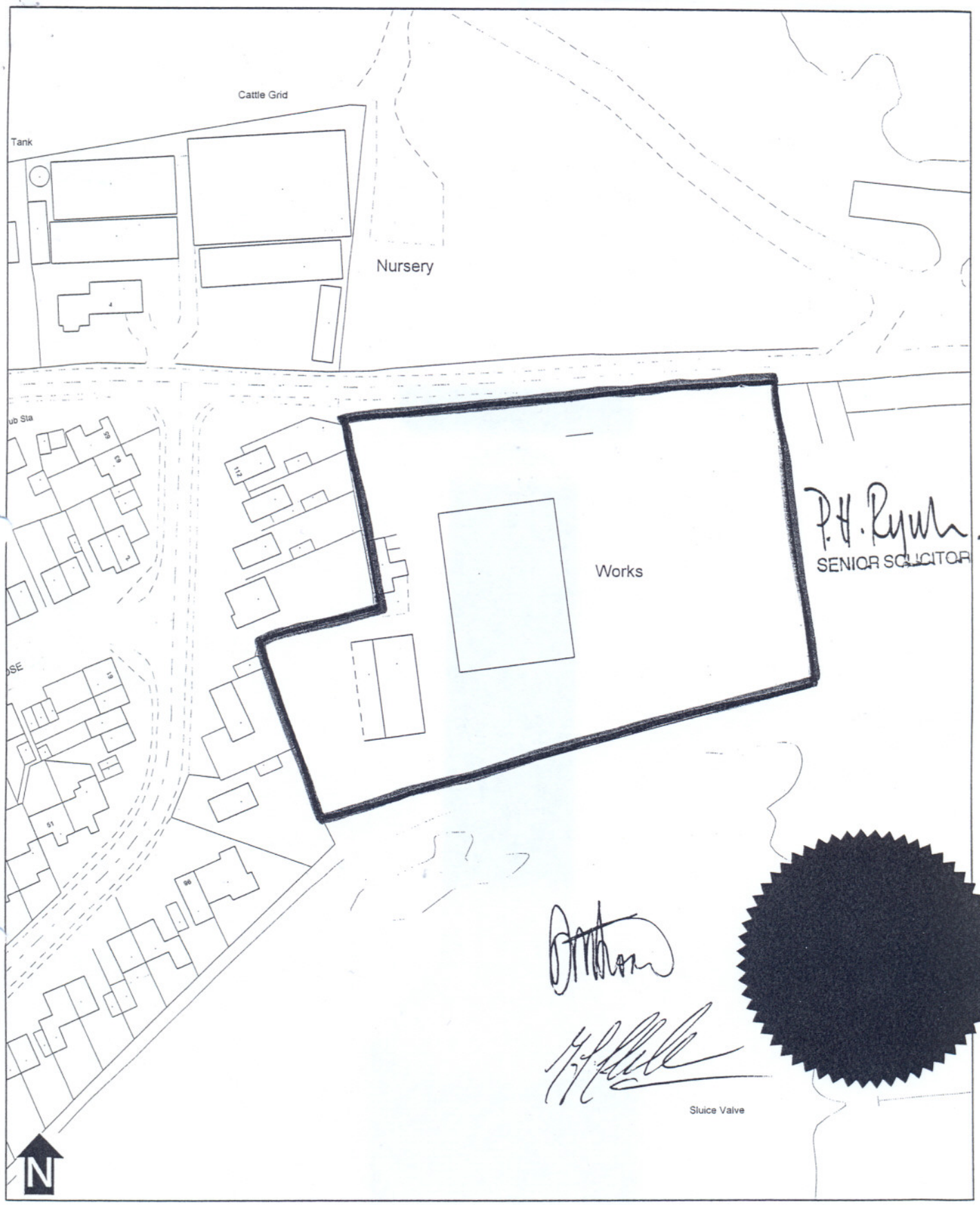
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Huntingdonshire District Council

Section 106 Agreement - Town & Country Planning Act 1990

Description: Erection of 20 dwellings

Date: Nov 2000

Address: High St, Little Paxton

Plan No: 00/00744

NOW THIS DEED which is a Planning Obligation made in pursuance of Section 106 of the Act and all other powers the parties hereto enabling

WITNESSETH as follows :

1. **THE** Planning Obligations are planning obligations for the purposes of Section 106 of the Act and those set out in Part I of the Schedule are enforceable by the Council and those set out in Part II of the Schedule are enforceable by the County Council

2. **THE** Owner hereby covenants with the Council and the County Council

2.1 To observe and perform the Planning Obligations.

2.2 To comply with all other provisions covenants and other stipulations contained in this Agreement not being Planning Obligations

2.3 Within 21 days of the date of any disposition of any legal interest in the land or any part thereof to give the Council written notice thereof including details of the name and address the person or persons to whom such interest was transferred **provided always** that this shall not apply to interest by way of mortgage or legal charge and **provided further** that no person or persons shall be liable for any breach of this covenant occurring after he they or it shall have parted with all interest in the fee simple estate or interest in the land or the part thereof in respect of which the breach occurs **provided further** that nothing herein shall oblige the Owner to comply with the provisions of this Clause unless and until it implements the Planning Permission and **provided further** that the release contained in this sub clause shall not become effective in favour of any such person unless and until they shall after parting with any such interest have provided to the Council and the County Council evidence identifying their successor in title including details of the name and address of the person or persons to whom such interest was transferred

2.4 Any bona fide purchaser of a single private dwelling house erected on the land shall not be bound or concerned with the Planning Obligations provisions covenants and other stipulations contained in this Agreement

3. IT is agreed and declared

3.1 The expressions "the Council" and "the Owner" shall include their successors in title and assigns

3.2 Wherever the expression "the Owner" includes more than one person then the covenants on the part of the Owner herein contained shall be deemed to be joint and several

3.3 The Planning Obligations (but not the other provisions covenants and stipulations in this Agreement) shall only take effect and be binding on the date of the Commencement of Development

3.4 If the Planning Permission shall expire before the Development has commenced by the carrying out of a Material Operation or is revoked or otherwise withdrawn without the consent of the Owner this Agreement shall thereupon cease to have effect

3.5 The Owner shall pay to the Council and the County Council their reasonable legal costs incurred in drafting negotiating and completing this Agreement

3.6 Nothing herein contained shall prejudice fetter or affect any of the statutory rights powers duties and obligations for the time being vested in the Council as Local Authority and/or District Planning Authority

3.7 The Owner shall permit any person duly authorised by the Council or the County Council to enter the Land at any reasonable hour to ascertain whether the Commencement of Development has taken place or there is or has been any breach of the Planning Obligations on the part of the Owner hereunder

3.8 That in the event of any delay in making any payment required under this Agreement interest shall be payable on the amount payable at the rate of four per cent per annum above National Westminster Bank Plc base lending rate from time to time in force from the date that the relevant payment falls due to the date of actual payment

3.9 The Owner hereby acknowledges and agrees that the County Council may at its sole discretion on or at any time after completing this Planning Obligation commence or provide in whole or in part the education facilities referred to in the Definitions Clause to this Agreement notwithstanding that the trigger points for payment of the sum specified in Part II of the

Schedule shall not have arisen and for the avoidance of doubt the Owner shall pay the said specified sum in accordance with the provisions of this Agreement so as to reimburse the County Council the costs incurred (if any) prior to such trigger point

3.10 Subject to having given notice pursuant to Clause 2.3 no person shall be liable for any breach or default of the Planning Obligations provisions covenants and other stipulations contained in this Agreement after he shall have parted with all interest in the Land but without prejudice to liability for any subsisting breach prior to parting with such interest

3.11 The Council covenants with the Owner that it will apply all monies pursuant to Part I of the Schedule solely for the purpose of the provision of recreation and leisure facilities off site within the Parish of Little Paxton, Cambridgeshire and that if it has not applied or made arrangement for the application of all or any part of the Commuted Sum within 5 years from the date of receipt of the same in accordance with this Agreement then the Commuted Sum or part thereof (as the case maybe) shall become repayable on demand to the Owner as herein named Provided always that if before the expiry of the said 5 year period there is any contract or contracts in existence relating to the provision of the improvements to which the Commuted Sum is attributable in the absolute discretion of the Council which contract or contracts shall be completed after the expiry of the said 5 year period any sum to be repaid to the Owner as herein named shall be repaid following payment of the final account of any and all such contracts and a sum to be repaid shall be less all costs incurred and/or paid to provide the said improvements pursuant to such contract or contracts

3.12 The County Council hereby covenants with the Owner that it will apply all monies received pursuant to the provisions of Part II of the Schedule solely for the purpose of improving educational facilities serving the Parish of Little Paxton, Cambridgeshire and that if it has not applied or made arrangements for the application of all or any part of the Education Contribution within 5 years from the date of receipt of the same in accordance with this deed then the Education Contribution or part thereof (as the case may be) shall become repayable on demand to the Owner as herein named Provided always that if before the expiry of the said 5 year period there is any contract or contracts in existence relating to the

provision of the improvements 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 5 year period any sum to be repaid to the Owner as herein named shall be repaid following payment of the final account 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

IN WITNESS whereof the parties hereto have caused this Deed to be executed the day and year first before mentioned

THE SCHEDULE

(Section 106 Planning Obligations)

Part I

1. **COMMUTED SUM**

1.1 At least 21 days prior to the first occupation of the eleventh dwelling to pay the Commuted Sum to the Council which may be spent by either the Council (or its Nominees) as it sees fit in the provision of recreation and leisure facilities off site within the Parish of Little Paxton, Cambridgeshire

1.2 Not to occupy or cause or permit to be occupied more than ten dwellings permitted by the Planning Permission until the Commuted Sum has been paid to the Council

1.3 The Commuted Sum shall as at the date of this Agreement be £17,520, (seventeen thousand five hundred and twenty pounds) but shall be adjusted thereafter in accordance with the proportional change in the Index during the period calculated from the date of this Agreement to a date one month before the Commuted Sum is paid.

Part II

2. **EDUCATION CONTRIBUTION**

2.1 At least 21 days prior to the first occupation of the eleventh dwelling to pay the Education Contribution to the County Council.

2.2 Not to occupy or cause or permit to be occupied more than ten dwellings permitted by the Planning Permission until the Education Contribution has been paid to the County Council

2.3 The Education Contribution shall as at the date of this Agreement be £24,000 (twenty four thousand pounds) but shall be adjusted thereafter in accordance with the proportional change in the Index during the period calculated from the date of this Agreement to a date one month before the Education Contribution is paid

THE COMMON SEAL of the **HUNTINGDONSHIRE DISTRICT COUNCIL** was affixed to this Deed in the presence of :-)
)
)

Executive Director of Central Services



THE COMMON SEAL of **CAMBRIDGESHIRE COUNTY COUNCIL** was affixed to this Deed in the presence of :-)
)
)

Authorised Signatory

SENIOR SOLICITOR



THE COMMON SEAL of **WESTBURY HOMES (HOLDINGS) LIMITED** was hereto affixed in the presence of:)
)
)

Authorised Signatory

Authorised Signatory



HUNTINGDONSHIRE DISTRICT COUNCIL

INTERNAL MEMORANDUM

FROM: THE HEAD OF LEGAL & ESTATES

TO: Planning Division

MY REF: CenS.WAS.as.PO 18.00

PLEASE ASK FOR: Mr Smalley

YOUR REF: NJW/00/00744

EXT NO: 8022

DATE: 28 February 2001

RE: SECTION 106 AGREEMENT - LITTLE PAXTON - 00/00744/FUL

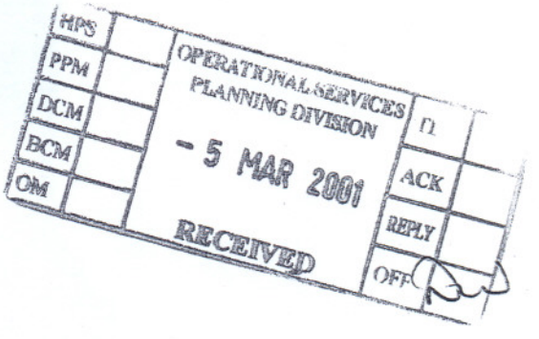
I am pleased to confirm completion of this matter on the 28th day of February 2001.

I enclose for your record a copy of the completed Agreement. Could you please arrange to liase with Terry Day in Accountancy and Steve Moller, Parks Manager with respect to securing payment of the commuted sum at when the appropriate trigger point is reached.

Please could you now issue the Planning Consent. & send me a copy !

WA Smalley
Solicitor

cc: Steve Moller, Parks Manager



Application Number: 00/00744/FUL

TOWN & COUNTRY PLANNING ACT, 1990

PLANNING PERMISSION

Westbury Homes Holdings (Ltd)
Westbury Court
Anglia Way
Moulton Park
Northampton NN3 6JA

Huntingdonshire District Council in pursuance of powers under the above Act, hereby **GRANT PERMISSION** for:

Erection of 20 dwellings, garages, roads etc.
at Development At High Street Little Paxton St. Neots Huntingdon Cambridgeshire

in accordance with your application received on 2nd May 2000 and the plans, drawings and documents which form part of the application subject to the following condition/s and reason/s.

1. Condition. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

1. Reason. To comply with Section 91 of the Town & Country Planning Act, 1990.

2. Condition. Details of the type, colour and texture of all materials to be used for the external surfaces of the building(s) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development to which this permission relates.

2. Reason. To ensure a satisfactory external appearance and grouping of materials in accordance with policy EN25 of the Huntingdonshire Local Plan 1995 and policy SP12/10 of the Cambridgeshire Structure Plan 1995.

3. Condition. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carries out as approved. These details shall include hard surfacing materials.

3. Reason. To enable the Local Planning Authority to retain control of the development in the interests of visual amenity in accordance with policy EN25 of the Huntingdonshire Local Plan 1995 and policy SP12/10 of the Cambridgeshire Structure Plan 1995.

4. Condition. Soft landscape works shall include planting plans; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants noting species, plant sizes, and proposed numbers/densities where appropriate; implementation programme.

Head of Planning Services
ufm4.rtf
Date 9th March 2001

Huntingdonshire
DISTRICT COUNCIL
Pathfinder House St Mary's Street Huntingdon PE29 3TN

4. Reason. To enhance the appearance of the development in accordance with policy EN25 of the Huntingdonshire Local Plan 1995 and policy SP12/10 of the Cambridgeshire Structure Plan 1995..

5. Condition. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

5. Reason. To ensure that the work is carried out within a reasonable period.

6. Condition. The existing trees and hedgerows shall be retained and protected for the duration of the construction of the development in accordance with Drawing LP3R dated 13 September 2000 prepared by Giles Landscapes Design. The protection measures shall be implemented at all times during the course of the construction works.

6. Reason. To safeguard existing trees and hedgerows and the existing visual character of the area in accordance with policy EN25 of the Huntingdonshire Local Plan 1995.

7. Condition. Notwithstanding the provisions of the revised layout plan (Drawing No. PAXT/SK/001/G) received by the Local Planning Authority on 4 September 2000 details of the boundary walls and fences to be erected in conjunction with the development, including the fencing to be erected to protect the existing boundary hedges, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

7. Reason. In order that the Local Planning Authority may retain control over the development in the interests of safeguarding the existing trees and hedgerows around the site in accordance with Policy En18 of the Huntingdonshire Local Plan.

8. Condition. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification) no fences, gates, or walls shall be erected, altered, or moved within the curtilage of any dwelling house without the prior approval of the Local Planning Authority.

8. Reason. In order that the Local Planning Authority may retain control over the development in the interests of safeguarding the existing trees and hedgerows around the site in accordance with Policy En18 of the Huntingdonshire Local Plan.

9. Condition. No development shall commence on site until such time as detailed plans of the roads and footpaths have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Head of Planning Services
ufm4.rtf
Date 9th March 2001

Huntingdonshire
DISTRICT COUNCIL
Pathfinder House St Mary's Street Huntingdon PE29 3TN

9. Reason. In order to ensure that access is available to serve the development.

10. Condition. No dwelling shall be occupied until such time as the roads and footpaths have been constructed from the dwelling to which it relates to the adjoining road.

10. Reason. In order to ensure that access is available to serve the development.

11. Condition. No development shall commence until details of the surface water drainage for the site have been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be constructed in accordance with the approved details prior to the occupation of any part of the development hereby approved.

11. Reason. To ensure satisfactory drainage of the site in accordance with policy CS8 of the Huntingdonshire Local Plan 1995 and policy SP8/4 of the Cambridgeshire Structure Plan 1995.

12. Condition. No development shall take place on site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been submitted to and approved in writing by the Local Planning Authority.

12. Reason. In order to safeguard archaeological interests in accordance with Policy En12 of the Huntingdonshire Local Plan.

13. Condition. No development shall commence on site until a scheme has been submitted to and approved in writing by the Local Planning Authority for the investigation, assessment, and treatment of any ground contamination and the redial measures to be undertaken. The development shall not commence until the approved scheme has been implemtented.

13. Reason. To mitigate the potential risks associated with contaminated land.

14. Condition. No development shall commence on site until a detailed scheme for the protection of the dwellings from noise from the adjoining coated stone plant has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved before the dwellings are occupied.

14. Reason. In the interests of the prevention of noise pollution in accordance with policy H37 of the Huntingdonshire Local Plan 1995.

Head of Planning Services
ufm4.rtf
Date 9th March 2001

Huntingdonshire
DISTRICT COUNCIL
Pathfinder House St Mary's Street Huntingdon PE29 3TN

15. Condition. The proposed development shall be carried out in complete accordance with the amended plans received by the Local Planning Authority on 4 September 2000 specifically drawings referenced Ewd-03, Ewd-07, 5/109, 5/110/B, Paxt/Pl/Hg/001, Paxt/Locat, Paxt/Sk/001/G, Paxt/Sk/003, Paxt/Sk007 to 009 inc., Paxt/Sk013 to 017 inc. and the amended plans received by the Local Planning Authority on 26 October 2000 specifically referenced Paxt/Elev/001, 003, 004, 008, 009, 010, 014, 015, and 016, 2ANV/200, 2Bla/200, and Paxt/Sk/010.

15. Reason. For the avoidance of doubt and to ensure a satisfactory standard of development.

16. Note to applicant. This permission is related to an Agreement entered into by the applicant and the Huntingdonshire District Council, under Section 106 of the Town and Country Act 1990.

17. Note to applicant. The applicant's attention is drawn to the enclosed letter from the Environment Agency.

18. Note to applicant. The soft landscaping scheme referred to in Condition 4 shall make provision for additional hedgerow planting in accordance with Drawing LP2 dated August 2000 prepared by Giles landscapes Design.

19. Note to applicant. The following planning policy documents and/or guidance are considered relevant to this decision:

The approved Development Plan that comprises the Cambridgeshire Structure Plan, 1995, and the Huntingdonshire Local Plan, 1995.

Other relevant guidance:

Planning Policy Guidance Note 1 "General policy and Principles" (1997)

Huntingdonshire
DISTRICT COUNCIL
Pathfinder House St Mary's Street Huntingdon PE29 3TN