DATED 14TH AUGUST 2003

HUNTINGDONSHIRE DISTRICT COUNCIL

- and -

CAMBRIDGESHIRE COUNTY COUNCIL

- and –

J S BLOOR (NORTHAMPTON) LTD

S U P P L E M E N T A L

A G R E E M E N T

under Section 106 of the Town and Country
Planning Act 1990 in relation to
residential development at
The Island Site Mill Lane Little Paxton

(Supplemental to Agreement dated
13 December 2001)

C Meadowcroft
Head of Legal and Estates
Huntingdonshire District Council
Pathfinder House
St Mary's Street
Huntingdon
Cambridgeshire PE29 2TN

(CenS.CM.jaw.L/PO 53)

THIS AGREEMENT is made the 14TH day of August Two thousand and three

BETWEEN the **HUNTINGDONSHIRE DISTRICT COUNCIL** of Pathfinder House St Mary's Street Huntingdon in the County of Cambridgeshire (hereinafter called "the Council") of the first part and **CAMBRIDGESHIRE COUNTY COUNCIL** of Shire Hall Castle Hill Cambridge CB3 0AP (hereinafter called "the County Council") of the second part and **J S BLOOR (NORTHAMPTON) LIMITED** of Ashby Road Measham Swadlincote Derbyshire DE1 7JP (hereinafter called the Owner) of the third part

WHEREAS:

(1) The Council and the County Council and the Owner entered into an Agreement ("the Principal Agreement") dated 13 December 2001 pursuant to Section 106 of the Town & Country Planning Act in connection with the Existing Permission

(2) The Owner has submitted 3 further planning applications relating to the Land which propose amended elevations together with additional flats and houses

(3) The proposed increase in the total number of Dwellings generates a requirement for additional financial contributions in respect of affordable housing and education and open space and children's play equipment

(4) The parties hereto have agreed to vary the terms of the Principal Agreement as herein provided

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 :

1.1 The provisions of this Agreement shall be supplemental to and where indicated in substitution for the provisions of the Principal Agreement

1.2 Save as herein provided the provisions of the Principal Agreement shall remain in full force and effect

1.3 From the date of this Supplemental Agreement the term "Agreement" shall mean the Principal Agreement as supplemented and varied by this Agreement and a copy of the Agreement in its amended form appears at Annexure 1 to this Supplemental Agreement

1.4 In this Agreement "the Schedule" shall mean the Schedule to the Principal Agreement

1.5 For the avoidance of doubt the base date for indexation of all contributions to be paid under this Agreement and the Principal Agreement is and shall continue to be 13th December 2001

1.6 The Council hereby undertakes to issue the planning permission pursuant to the Application substantially in the form of the attached draft within 21 days of completion of this Supplemental Agreement

2. It is hereby agreed and declared that the Principal Agreement shall be amended as hereinafter provided

2.1 The definition of "Affordable Housing Contribution" shall be amended by deleting "£409,500" and substituting "£441,000"

2.2 The definition of "Education Contribution" shall be amended by deleting "£313,875" and substituting "£334,800"

2.3 The definition of "Off Site Facilities Contribution" shall be amended by deleting "£117,400" and substituting "£125,227"

2.4 The definition of "the Development" shall be amended by deleting "135" and substituting "144"

2.5 The definition of "the Application" shall be deleted and replaced as follows :-

"the Application" means the planning applications registered on :-

i) 17 April 2002 under application numbers 02/00998FUL and 02/00999FUL and

ii) 30 April 2002 under application number 02/01154/FUL"

2.6 The following shall be added to the Definitions in the Principal Agreement :-

"Existing Permission" means the planning permission issued by the Council under reference 00/01515/FUL and dated 14 December 2001

2.7 The definition of "the Planning Permission" shall be deleted and replaced as follows :-

"the Planning Permission" means the Existing Permission together with the permissions for the Development granted by the Council pursuant to the Application"

2.8 In recital 4 the words "Development is such as" shall be deleted and replaced with "Application"

2.9 Clause 4.12 shall be deleted

2.10 2.10 The following shall be added after the words 'shall pay to the Council' in paragraph 1.1 to the Schedule

"or if the Council shall specify in writing to the Owner directly to a registered social landlord (as defined in Part 1 of the Housing Act 1996)" and the word 'to' immediately following the word "Council" shall be deleted.

2.11 The following shall be added after the words 'to use' in paragraph 1.3 to the Schedule :-

"(or if the Affordable Housing Contribution is transferred directly to a registered social landlord under paragraph 1.1 to this Schedule to use its reasonable endeavours to secure the use of)"

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

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

C R Betts

SENIOR LAWYER



THE COMMON SEAL of **J S BLOOR (NORTHAMPTON) LTD** was affixed to this Deed in the presence of :-)



AUTHORISED SIGNATORY

AUTHORISED SIGNATORY

ANNEXURE 1

DATED *13th December* 2001

HUNTINGDONSHIRE DISTRICT COUNCIL

- and -

CAMBRIDGESHIRE COUNTY COUNCIL

- and –

J S BLOOR (NORTHAMPTON) LTD

A G R E E M E N T

under Section 106 of the Town and Country
Planning Act 1990 in relation to
residential development at
The Island Site Mill Lane Little Paxton

C Meadowcroft
Head of Legal and Estates
Huntingdonshire District Council
Pathfinder House
St Mary's Street
Huntingdon
Cambridgeshire PE18 6TN

(CenS.CM.jaw.L/PO 17)

THIS AGREEMENT is made the *13th* day of *December* Two thousand and one

BETWEEN the **HUNTINGDONSHIRE DISTRICT COUNCIL** of Pathfinder House St Mary's Street Huntingdon in the County of Cambridgeshire (hereinafter called "the Council") of the first part and **CAMBRIDGESHIRE COUNTY COUNCIL** of Shire Hall Castle Hill Cambridge CB3 0AP (hereinafter called "the County Council") of the second part and **J S BLOOR (NORTHAMPTON) LIMITED** of Ashby Road Measham Swadlincote Derbyshire DE1 7JP (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)
"Affordable Housing"	means housing accommodation affordable by those people who cannot afford to buy or rent housing generally available on the open market
"Affordable Housing Contribution"	means the sum of £441,000.00 (£10,500.00 per Dwelling) as adjusted by any increase or decrease in the Index from the date of this Agreement to the date of payment of the Affordable Housing Contribution to the Council
"the Application"	means the planning applications registered on :- i) 17 April 2002 under application numbers 02/00998FUL and 02/00999FUL and ii) 30 April 2002 under application number 02/01154FUL
"Commence Development/ Commencement of Development"	means the implementation of the Planning Permission by the carrying out of a material operation as defined by Section 56(4) of the Act excluding demolition archaeological works or site decontamination
"Committed"	means that a contract has been let to a contractor or awarded to the Council's direct service organisation to undertake the

	relevant works or an order placed for the supply of equipment and/or services as appropriate
"the Development"	means the development of the Land in accordance with the Planning Permission by the erection of 144 dwellings and flats
"the Director"	means the Director of Environment and Transport for the time being of the County Council or such other officer as the County Council may specify
"Dwelling(s)"	means the dwellinghouses and/or flats to be constructed in accordance with the Planning Permission
"Education Contribution"	means the sum of £334,800.00 as adjusted by any increase or decrease in the Index from the date of this Agreement to the date of payment of the Education Contribution to the County Council
"Existing Permission"	means the planning permission issued by the Council under reference 00/01515/FUL and dated 14 December 2001
"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
"Highway Improvement Scheme"	means a scheme of highway improvements to Mill Lane Little Paxton substantially in the form set out in the attached plan marked 'Highway Improvement Plan' (including a pedestrian crossing if reasonably justified by a manual classified traffic count on Mill Road) or such reasonable variations thereto as the Director may specify in writing
"the Index"	means for the purpose of calculating (a) the Affordable Housing Contribution, the Education Contribution and the Traffic Sign Contribution the Royal Institution of Chartered Surveyors Building Cost Information Service All in Tender Price Index : and

	(b) the Off Site Facilities Contribution the GB Whole Economy Average Earnings Index published by the Office for National Statistics
"the Land"	means land known as the Island Site situate on the western side of Mill Lane Little Paxton comprising approximately 3.2 hectares and shown edged red on the Plan
"Off Site Facilities"	means the provision and maintenance of children's and youth/adult open space and play equipment and/or other recreational facilities in lieu of provision on the Land in accordance with Policy R8 of the Huntingdonshire Local Plan 1995
"Off Site Facilities Contribution"	means the sum of £125,227.00 as adjusted by any increase or decrease in the Index from the date of this Agreement to the date of payment of the Off Site Facilities Contribution
"the Plan"	means the plan annexed hereto and marked "Plan No : 00/01515/FUL"
"the Planning Obligations"	means the planning obligations specified in the Schedule hereto
"the Planning Permission"	means the Existing Permission together with the permissions for the Development granted by the Council pursuant to the Application
"Traffic Signal Contribution"	means the sum of £10,000.00 as adjusted by any increase or decrease in the Index from the date of this Agreement to the date of payment of the Traffic Signal Contribution

WHEREAS:

(1) The Council is the Local Planning Authority for the purposes of Section 106 of the Act and the County Council is the Local Education and also a Local Planning Authority for the purposes 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 CB235265

(3) The Application has been submitted to the Council for Planning Permission for the Development

(4) The Council is satisfied that the Application 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

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 are enforceable by the Council

2. **THE** Planning Obligations contained in paragraphs 1-3 inclusive to the Schedule hereto are enforceable by the Council and those contained in paragraph 4 to the Schedule are enforceable by the County Council

3. **THE** Owner (with the consent of the Mortgagee) hereby covenants with the Council and the County Council

3.1 to observe and perform the Planning Obligations

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

3.3 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 of 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 or to the freehold sale or lease to a bona fide purchaser of a single private Dwelling comprised in the Development

3.4 to notify the Council and the County Council in writing within 14 days thereof

3.4.1 of the Commencement of Development; and

3.4.2 of the occupation of the first Dwelling; and

3.4.3 of the occupation of the 64th Dwelling

4. **IT** is agreed and declared

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

4.2 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

4.3 If the Planning Permission shall expire before the Commencement of Development or is revoked or otherwise withdrawn without the consent of the Owner this Agreement shall thereupon cease to have effect

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

4.5 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 or the County Council as Local Authority and/or Local Planning Authority or the County Council as an Education Authority or as Highway Authority

4.6 The Owner shall permit any person duly authorised by the Council or the County Council to enter any part of the Land which does not comprise the curtilage of any occupied private dwelling at any reasonable hour to ascertain whether there is or has been any breach of the Planning Obligations hereunder

4.7 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

4.8 Except where expressly provided to the contrary any approval or consent required under the terms of this Agreement shall not be unreasonably withheld or delayed

4.9 The Council in respect of the Affordable Housing Contribution and the Off Site Facilities Contribution and the County Council in respect of the Education Contribution shall within

two months of receiving a written request from the Owner (such request not to be made before the expiration of the time within which such contributions should have been expended or committed) supply a statement of account as to how the Affordable Housing Contribution the Off Site Facilities Contribution or the Education Contribution (as the case may be) have been spent or if not spent or Committed details of the amount not so expended or Committed

4.10 No person shall be liable in respect of any breach of a Planning Obligation contained in this Agreement after disposing of its interest in the Land or the part in respect of which such breach occurs PROVIDED THAT the said person will remain liable of any breach occurring prior to parting with such interest

4.11 A bona fide purchaser of a substantially complete single private Dwelling within the Development shall have no liability under this Agreement

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)

1. Affordable Housing Contribution

1.1 prior to Commencement of Development the Owner shall pay to the Council or if the Council shall specify in writing to the Owner directly to a registered social landlord (as defined in Part 1 of the Housing Act 1996) the Affordable Housing Contribution

1.2 if the Affordable Housing Contribution or interest earned upon it or any part thereof is not expended or Committed within a period of 5 years from its receipt by the Council the Affordable Housing Contribution or such part thereof which is not so expended or Committed shall on receipt of a written demand from the Owner be repaid by the Council to the Owner together with simple interest thereon calculated at the base lending rate of the National Westminster Bank Plc prevailing from time to time for the period from the date the Affordable Housing Contribution is received to the date of repayment

1.3 The Council agrees to use (or if the Affordable Housing Contribution is transferred directly to a registered social landlord under paragraph 1.1 to this Schedule to use its reasonable endeavours to secure the use of) the Affordable Housing Contribution towards the provision of Affordable Housing within the district and for no other purpose

2. Off Site Facilities Contribution

2.1 Not more than 65 Dwellings shall be occupied until the Off Site Facilities Contribution has been paid to the Council

2.2 If the Off Site Facilities Contribution or interest earned upon it is not expended or Committed within a period of 5 years from its receipt by the Council the Off Site Facilities Contribution or such part thereof which is not so expended or Committed shall on receipt of a written demand from the Owner be repaid by the Council to the Owner together with simple interest thereon calculated at the National Westminster Bank Plc base lending rate prevailing from time to time for the period from the date the Off Site Facilities Contribution is received to the date or repayment

2.3 The Council agrees to use the Off Site Facilities Contribution towards the provision and maintenance of children's and/or youth/adult open space and/or children's play equipment and/or other recreational facilities serving Little Paxton and for no other purpose

3. Traffic/Highway Improvements

3.1 Not to Commence Development until the Highway Improvement Scheme has been submitted to and approved by the Director

3.2 Not to occupy any Dwelling until the Highway Improvement Scheme has been completed to the satisfaction of the Director

3.3 Not to Commence Development until the Traffic Signal Contribution has been paid to the County Council such sum to be used by the County Council towards the signalisation of the Mill Lane/The Common junction and for no other purpose.

4. Education Contribution

4.1 Not more than 65 Dwellings shall be occupied until the Education Contribution has been paid to the County Council

4.2 The County Council covenants that the Education Contribution shall be used solely for school accommodation requirements serving the Little Paxton catchment area

4.3 If the Education Contribution or interest earned upon it or any part thereof is not expended in accordance with 4.2 above within a period of 5 years from its receipt by the County Council the Education Contribution or such part thereof which is not expended together with any interest thereon shall be repaid on receipt of a written demand by the County Council to the Owner **PROVIDED ALWAYS** that if before the expiry of the said five year period there is any contract or contracts in existence (including for avoidance of doubt any provision of works or services by the Council's or the County Council's direct service organisation) 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 five year period any sum to be repaid to the Owner 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

4.4 It is hereby acknowledged and agreed that the County Council may at its sole discretion on or at any time after completion of this Planning Obligation commence the provision of or provide (in whole or in part) the education facilities in accordance with paragraph 4.2 to this Schedule notwithstanding that the trigger point for payment of the sum specified in paragraph 4.1 to this Schedule shall not have arisen and the Owners shall pay the Education Contribution in accordance with the provisions of this Agreement (which for the avoidance of doubt shall be no later than when the 65th) Open Market Dwelling shall be occupied) so as to reimburse the County Council the costs incurred both prior (if any) and subsequent to such trigger point but not exceeding the Education Contribution

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

Executive Director of Central Services



89/03

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

THE COMMON SEAL of **J S BLOOR (NORTHAMPTON) LTD** was affixed to this Deed in the presence of :-