



PARIS SMITH & RANDALL
SOLICITORS

Dated 22 December 2004

EAST HAMPSHIRE DISTRICT COUNCIL (1)

and

STEPHEN PATRICK ROOTS, JOANNE ELIZABETH ROOTS, PETER JOHN
COOMBER and EILEEN LILIAN COOMBER (2)

and

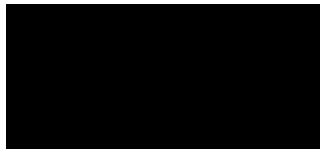
HALIFAX PLC (3)

Section 106 Agreement

relating to

Overbury Farm House, Old Odiham Road, Alton, GU34 3BX

Paris Smith & Randall
Number 1 London Road
SOUTHAMPTON
SO15 2AE



THIS AGREEMENT is made the 22 day of December 2004
BETWEEN:

- I/
- (1) EAST HAMPSHIRE DISTRICT COUNCIL of Penns Place, Petersfield, Hampshire, GU31 4EX ("the Council") and
 - (2) STEPHEN PATRICK ROOTS, JOANNE ELIZABETH ROOTS, PETER JOHN COOMBER and EILEEN LILIAN COOMBER, all of Overbury Farm House, Old Odiham Road, Alton, GU34 4BX ("the Owner") and
 - (3) HALIFAX PLC (company registration number 2367076) of Trinity Road, Halifax, West Yorkshire, HX1 2RG ("the Mortgagee")]
- TER GW

RECITALS

Whereas:

- (A) The Council is the local planning authority and local highway authority for the purposes of Section 106 of the Act for the area within which the Land is situated
- (B) The Owner is the freehold owner of the Land which is registered at H M Land Registry under title numbers SH14121 being, Overbury Farm House, Old Odiham Road, Alton, GU34 4BX
- (C) The Mortgagee is the registered proprietor of a legal charge dated 12 March 2003 over the land registered at H M Land Registry under title number SH14121
- (D) By a written application bearing the statutory register number F.31210/002/FUL the Owner applied to the Council for full planning permission for the change of use of an ancillary building on the Land from agricultural to residential use
- (E) Having regard to the provisions of the Local Plan and to all other material considerations the Council has resolved to grant full planning permission pursuant to the Application subject to the Owner entering into this Agreement to make provision for regulating the development and securing the matters hereinafter referred to and
- (F) This Agreement is conditional upon the matters hereinafter referred to

OPERATIVE PART

1 Statutory Powers

This Agreement is a planning obligation for the purposes of Section 106 of the Act and is entered into pursuant also to Section 111 of the Local Government Act 1972 and it is acknowledged by the parties that the obligations contained within it are enforceable by the Council as local planning authority and local highway authority against the Owner as Owner of an interest in the Land and its successors in title in respect of their interests in the Land

2 Interpretation

2.1 In this Agreement unless the context otherwise requires the following terms (arranged in alphabetical order) shall have the following meanings:

“the Act”	means the Town and Country Planning Act 1990 (as amended)
“Agreement”	this Deed of Agreement
“the Application”	the planning application for the development of the Land submitted by the Owner to the Council to which the Council has allocated reference F.31210/002/FUL
“Conditions Precedent”	the conditions contained in clause 3
“the Development”	development of the part of the Land shown edged blue on the Plan
“Implementation”	the time when the change of use authorised by the Permission is instituted
“the Land”	means part of the land which is registered at H M Land Registry under title number SH14121 shown edged red on the Plan
“Local Plan”	the East Hampshire District Council Local Plan 1998
“Occupation”	occupation other than for the purposes of fitting out or site security (and “Occupy” “Occupied” and

4 **Covenants by the Owner and the Developer**

- 4.1 The Owner hereby covenants with the Council not to Implement the Development before the grant of the Permission
- 4.2 (Subject to the Conditions Precedent being fully satisfied) the Owner hereby covenants for the benefit of the Council that it will observe and perform the covenants on its part contained in Schedule 1

5 **Release and Lapse**

- 5.1 It is hereby agreed that the Owner shall not be liable for a breach of any of its obligations under this Agreement after it shall have parted with all of its interests in the Land
- 5.2 It is further agreed that this Agreement shall lapse and be of no further effect if:
 - 5.2.1 the Permission shall lapse without having been Implemented; or
 - 5.2.2 the Permission shall be modified or revoked other than with the consent of the Owner; or
 - 5.2.3 the Permission is quashed following a successful legal challenge

6 **Local Land Charge**

- 6.1 This Agreement is a local land charge and shall be registered as such by the Council
- 6.2 Upon the full satisfaction of all the terms of this Agreement or if this Agreement lapses pursuant to clause 5.2 hereto the Council shall at the request of the Owner procure that all entries in the register of local land charges relating to it shall be removed forthwith

7 **No Fetter on Discretion**

Nothing in this Agreement shall be taken to be or shall operate so as to fetter or prejudice the Council's statutory rights powers discretions and responsibilities

8 **Warranty as to Title**

The Owner hereby warrants to the Council that the title details referred to in recital (B) are complete and accurate in every respect

9 **Severability**

It is agreed that if any part of this Agreement shall be declared unlawful or invalid by a Court of competent jurisdiction then (to the extent possible) the remainder of this Agreement shall continue in full force and effect.

10 **Costs**

The Owner hereby warrants for the benefit of the Council that its will on or before the date of this Agreement pay the Council's reasonable costs in connection with the preparation and completion of this Agreement.

11 **Contracts (Right of Third Parties) Act 1999**

Notwithstanding the provisions of the Contracts (Right of Third Parties) Act 1999 no part of this Agreement shall be enforceable by a third party who is not a party to the Agreement and for the avoidance of doubt the terms of the Agreement may be varied by agreement between the parties without the consent of any such third party.

12 **Notification of Commencement**

The Owner covenants for the benefit of the Council that it will give the Council at least twenty (20) Working Days written notice prior to Implementing the Development

13 **Notices**

13.1 Any notices required to be served by one party on another under this Agreement shall be in writing and shall be served by first class prepaid post or by facsimile transmission at the addresses shown in this Agreement or at such other addresses as they may by notice substitute.

13.2 Any notice required to be served on the Council shall be marked "For the attention of the Development Control Manager" and shall bear the reference "Section 106 Agreement - Overbury Farm House, Old Odiham Road, Alton, GU34 4BX"

14 **Indemnity**

14.1 Notwithstanding any other Clauses of this Agreement the Owner covenants to indemnify the Council from and against all actions claims demands expenses and proceedings arising under or out of or incidental to or in connection with the performance by the Owner of its obligations under this Agreement PROVIDED THAT such indemnity shall not apply in respect of any action claim demand

expenses and proceedings which arise out of any negligent act default or omission on the part of the Council.

15 **Consent of Mortgagees**

The Mortgagee as mortgagee in respect of the Land hereby consents to this Agreement being entered into and to the obligations becoming binding on the Land notwithstanding its charge

IN WITNESS WHEREOF the parties have executed this Agreement as a Deed on the date first before here written

SCHEDULE 1
The Owner's Covenants

The Owner covenants with the Council as follows:

- 1 Not to allow suffer or permit the Development or any part thereof to be Occupied or used otherwise than for purposes ancillary to the use of the remainder of the Land for purposes within Class C3 of the Schedule to the Town & Country Planning (Use Classes) Order 1987
- 2 Not at any time to sell lease transfer or otherwise dispose of the Development separately from the remainder of the Land and not to sell lease transfer or otherwise dispose of the remainder of the Land separately from the Development
- 3 Not to create or suffer or permit to be created a separate curtilage around the Development

SCHEDULE 2
Draft Planning Permission



Partners

EAST HAMPSHIRE DISTRICT COUNCIL

DRAFT DRAFT DRAFT DRAFT DRAFT

Mayfield Design
 162 Pack Lane
 Kempshott
 Basingstoke
 Hampshire
 RG22 5HR

For: Mr S Roots & Mr P Coomber

TOWN AND COUNTRY PLANNING ACT 1990

NOTICE OF PERMISSION**F.31210/002/FUL**

Proposal: CHANGE OF USE OF AGRICULTURAL LAND TO RESIDENTIAL AND
 CONVERSION OF STABLE TO DWELLING (AS AMENDED BY PLANS
 RECEIVED 27/10/03 & 29/10/03)

Site Address: Overbury Farm House, Old Odiham Road, Alton, GU344BX (Shalden
 Parish)

Subject to the following conditions

1. (ST5) The development hereby permitted shall be begun within five years from the date of this permission.
Reason To comply with the provision of Section 91(1) of the Town and Country Planning Act, 1990.
2. (ST8) The development hereby permitted shall be completed in accordance with the approved plans and specifications. Any variation or departure from the approved plans will require the prior approval of the Planning Authority before works commence.
Reason To ensure that the development hereby authorised is satisfactorily undertaken in the interests of the amenity of the area.
3. (E03) The external materials to be used in the alterations and repair of the dwelling hereby permitted, shall match as closely as possible, in type, colour and texture those of the existing building.
Reason To ensure that a harmonious visual relationship is achieved between the new and the existing developments.
4. (H54K) Adequate space shall be provided within the site, for the loading, unloading and parking of vehicles to the satisfaction of the Planning Authority.
Reason In the interests of highway safety.

**DRAFT DRAFT DRAFT DRAFT****NOTICE OF PERMISSION F.31210/002/FUL**

5. (D15) **Notwithstanding** the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order revoking and re-enacting that Order) no extension or alteration to this dwelling shall be made except with the prior written consent of the Planning Authority.
Reason It is considered that further extension/alteration of this dwelling could result in an adverse effect upon the adjacent property and/or the visual character of the area.
6. (D21) The remaining barn and outhouse indicated on the submitted plans shall be used only for purposes incidental to the enjoyment of the dwelling house hereby permitted.
Reason To enable the Planning Authority to control the future use of this site..
7. (UNQ1) All access to the property shall be via the existing access to Overbury Farm House
Reason In the interests of highway safety.

Informative Notes to Applicant:

1. Construction activities should be restricted to the hours of 0730 and 1800 Monday to Friday and 0800 to 1300 on Saturday. there should be no work carried out on Sundays and Public/Bank holidays. If complaints are received Environmental Health has the power under Control of Pollution Act 1974 to control the hours of such activities.
2. No burning of waste materials should take place on site.
3. The Highway Authority indicates that it would not look favourably on any application to form a separate access to the property from the C124, Old Odiham Road.

end

THE COMMON SEAL of
EAST HAMPSHIRE DISTRICT COUNCIL
was hereunto affixed in the presence of
MICHAEL LAWTHOR, Solicitor to the Council:-

Signed as a deed by the said
STEPHEN PATRICK ROOTS
in the presence of:-

.....
Witness Signature

.....
Witness Name

.....
Witness Address

.....
Witness Occupation

Signed as a deed by the said
JOANNE ELIZABETH ROOTS
in the presence of:-

.....
Witness Signature

.....
Witness Name

.....
Witness Address

.....
Witness Occupation

Signed as a deed by the said
PETER JOHN COOMBER
in the presence of:-

.....
Witness Signature



.....
Witness Name

9. CELTIC ^{DRIVE} ~~COOP~~ SALISBURY RD ANDOVER SPO20A .
Witness Address

Production of Soft furnishings
Witness Occupation

9/12/20

Signed as a deed by the said
EILEEN LILIAN COOMBER
in the presence of:-

.....
Witness Signature



.....
Witness Name

9. CELTIC DRIVE SALISBURY RD ANDOVER SPO20A .
Witness Address

Production of Soft furnishings
Witness Occupation

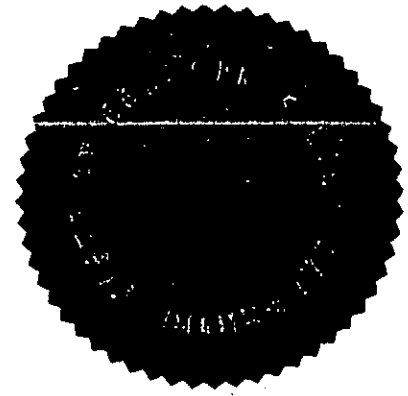
*

**The Common Seal of Halifax plc
was affixed in the presence of:**



Authorised Signatory

THE COMMON SEAL of
EAST HAMPSHIRE DISTRICT COUNCIL
was hereunto affixed in the presence of
MICHAEL LAWTHER, Solicitor to the Council:-



213360



Signed as a deed by the said
STEPHEN PATRICK ROOTS
in the presence of:-

.....
Witness Signature

.....
Witness Name

.....
Witness Address

.....
Witness Occupation

Signed as a deed by the said
JOANNE ELIZABETH ROOTS
in the presence of:-

.....
Witness Signature

.....
Witness Name

.....
Witness Address

.....
Witness Occupation



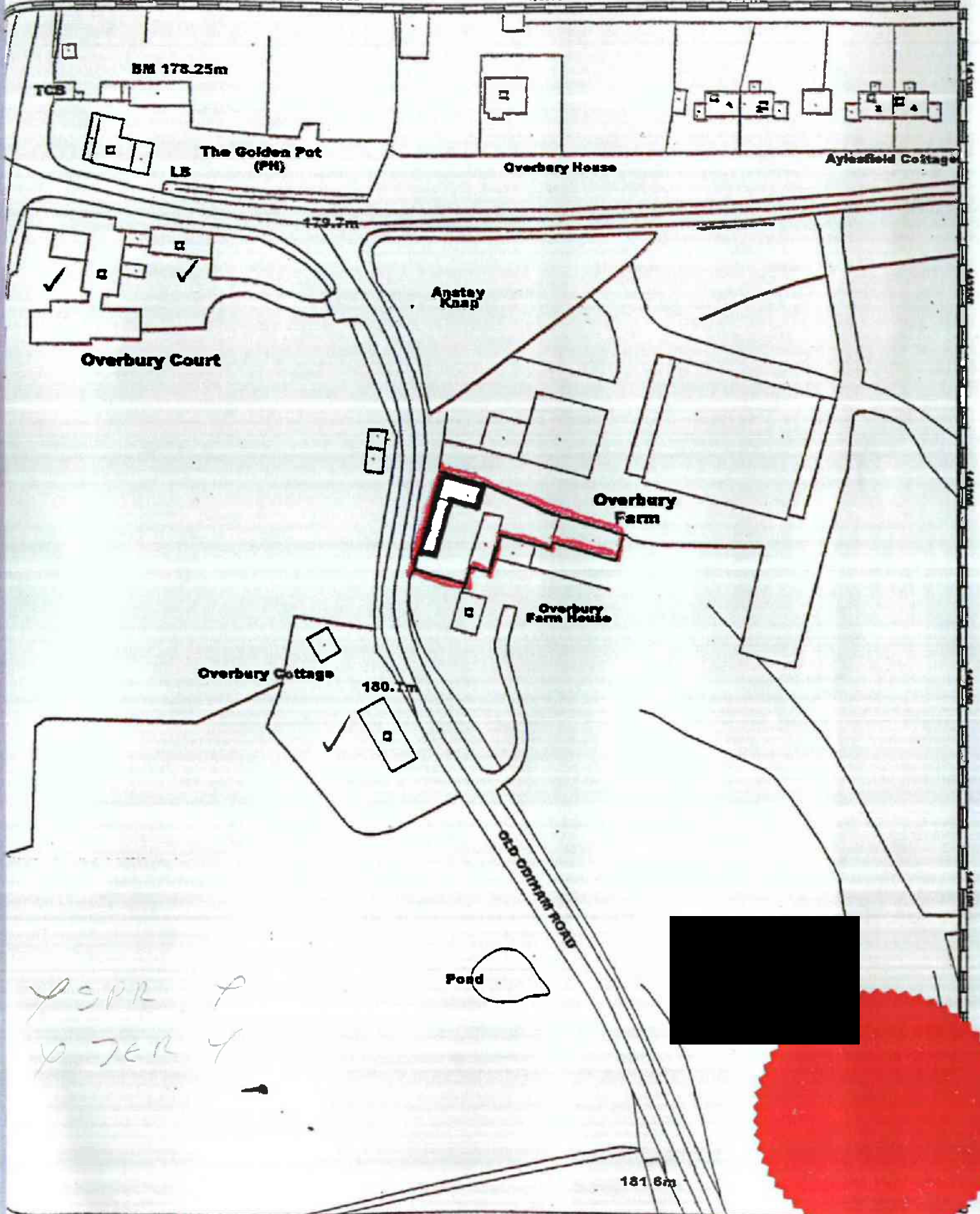
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Partners

EAST HAMPSHIRE DISTRICT COUNCIL LA078965 1999



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