

DATED

1991

Messrs D. G. and A.A. WHITE (1)

..... (2)

THE DEVON AND CORNWALL HOUSING
ASSOCIATION LIMITED (3) (2)

MID DEVON DISTRICT COUNCIL (4) (3)

A G R E E M E N T

under Section ¹⁰⁶~~52~~ of the Town
and Country Planning Act ~~1971~~ 1990
relating to Land at Landboat
Cottages Cheriton Fitzpaine
in the County of Devon

M I R BULL
The Great House
1 St Peter Street
Tiverton
Devon EX16 6NY

MIRB/BMH/P4/4/5(125)
3\LEGAL\MIBQ1

as a Deed

THIS AGREEMENT is made / this day of One

Thousand nine hundred and ninety-one BETWEEN DAVID GRANT WHITE of 18 Okefield Road Crediton Devon and ANDREW ALBERT WHITE of 10 Deep Lane Crediton Devon

the first part

~~trading as A WHITE AND SONS (hereinafter called "the Developers") of the second part DEVON AND CORNWALL HOUSING~~

ASSOCIATION LIMITED of 188 Sidwell Street Exeter Devon

(hereinafter called "the Association") of the ^{second} ~~third~~ part and

MID DEVON DISTRICT COUNCIL of The Great House St Peter Street Tiverton in the County of Devon (hereinafter called "the Council") of the ^{third} ~~fourth~~ part

WHEREAS :-

(1) The ^{are} Owners is the owners of an estate in fee simple of all that piece or parcel of land (hereinafter called "the land") situate in the Parish of Cheriton Fitzpaine in the County of Devon and as shown edged red on the plan annexed hereto being land adjoining Landboat Cottages Cheriton Fitzpaine Crediton Devon

(2) The ^{Owners} Developers have applied to the Council for Planning Permission to develop the land by the construction of four dwellings and making alterations to the access to the land this has been done by an Application Numbered 4/12/90/1286

(3) The Council is the Local Planning Authority for the area in which the land is situate

(4) The Association is ^{established for the purpose of providing housing and associated amenities for persons in necessitous occupation under tenancy and the management of low cost circumstances and for elderly persons upon terms appropriate to their means} ~~engaged in the provision for housing and associated amenities for persons in necessitous occupation under tenancy and the management of low cost housing~~ [reference to the defined objectives of the Association] in the area of Mid Devon (inter alia)

(5) The Council is prepared to grant Planing Permission for the proposed development provided that the Owners the

~~Developers~~ and the Association agree to be bound by the covenants herein contained

NOW IT IS HEREBY AGREED as follows:-

1. This Agreement is made pursuant to Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 Section 106 of the Town and Country Planning Act 1990 and all other powers enabling the Council the Owners ~~the Developers~~ and the Association to enter into these presents.
2. It is hereby agreed that the covenants hereinafter contained are covenants to which the provisions of the before-mentioned Section 33 of the 1982 Act shall apply
3. For the purpose of this Agreement the expressions "the Owner" "~~the Developers~~" and "the Association" shall include the successors in title and assigns respectively of each party and the following expressions shall have the meanings respectively set out herein:-
 - (a) "Plan" shall mean the plan annexed hereto
 - (b) "the Act" shall mean the Town and Country Planning Act 1990
 - (c) "Development" shall mean the erection by the ^{Owner} ~~Developers~~ of four dwellings upon the Land for domestic habitation and the construction of access thereto as more fully described in the Planning Application referred to in recital (2) hereof
 - (d) "the Application" shall mean the planning application before-recited
 - (e) "the dwellings" shall mean those provided in pursuance of the planning permission and "dwelling" shall mean any one of such dwellings

(f) "the planning permission" shall mean such permission as is hereafter granted in respect of the Application

4.7. The Owners ~~the Developers~~ and the Association hereby jointly and severally covenant with the Council as follows:-

(1) that if the Council grant planning permission for the Development they will not ~~dispose of~~ ^{use} any of the dwellings to be provided on the land pursuant to the planning permission otherwise than by ~~an~~ ^{letting on} Assured Tenancy as

defined in the Housing Act 1988 ^{or such other form of tenancy as may be permitted by law from time to time}

(2) that the covenant in Clause 3(1) above shall relate not only to the first letting and occupation of any of the dwellings but shall apply both to such first letting and any subsequent lettings of any of the dwellings

(3) at the time of any letting of a dwelling the prospective tenant shall be advised fully of the consequences and implications of taking an assured tenancy ^(or such other form of tenancy as the case may be) and ~~particularly (but not to the exclusion of other terms and consequences) [that the tenant shall not be entitled to exercise any Right to Buy as provided in any of the Housing Acts]~~

(4) that they will not let a dwelling except in accordance with the procedures hereinafter set out

5.4. Each dwelling within the Development shall be let only ~~(on an assured tenancy)~~ to a person who is considered by the Association (or the Council ⁱⁿ ~~is~~ default of the Association making any nomination hereunder) to be in need of such accommodation and is adjudged to be unable ^{purchase or otherwise secure reasonably suitable accommodation} to compete in the normal open market for property in Cheriton Fitzpaine ^{Parish} and who:-

(a) was born in Cheriton Fitzpaine ^{Parish} and/or

- (b) lives in Cheriton Fitzpaine^{Parish} and/or
- (c) used to live in Cheriton Fitzpaine^{Parish} but has been forced to move away because of the lack of affordable housing and/or
- (d) is employed in ~~socially beneficial~~ employment in Cheriton Fitzpaine^{Parish} and/or
- (i) if there are no person who qualify under the foregoing the Council shall have the right to nominate a suitable applicant from its housing waiting list for the whole district of Mid Devon
- (ii) if within ^{one} ~~six~~ weeks of a dwelling within the Development becoming available for letting (whether on practical completion of the Development or at any time subsequently) the Association is unable to fill any vacancy arising in accordance with the foregoing provisions then the Association (or the Council in default) may allocate such dwelling to any person who is considered by the Association (or the Council) to be in need of such accommodation
- (iii) if the Association is unable or fails to fill any vacancy which arises in accordance with the foregoing provision and (in particular) in accordance with subparagraph (ii) hereof the Owners ~~the Developers~~ or the Association (whichever shall be applicable) shall be free to let a dwelling to a person or persons who does not come within any of the foregoing categories

65. The Owners ~~the Developers~~ and the Association hereby further covenant jointly and severally with the Council that as long as they have any interest in the land they will bring the provisions of this Agreement to the attention of any future owner of the freehold interest in

the land and to the attention of any future occupier of any of the dwellings prior to them entering into any agreement for the granting of any such future interest in the land or any part of it

76. The Council acknowledge that the parties hereto shall only be bound by the terms of this Agreement in respect of that period during which they had a legal interest in the land or any part of it

87. It is hereby further agreed that if planning permission pursuant to the Application is not granted within three months of the date of this Agreement then the terms hereof shall be null void and of no effect

IN WITNESS whereof the Owners and ~~the Developers~~ have hereunto set their hands and seals and the Developers and the Association and the Council have caused their respective Common Seals to be hereunto affixed the day and year first before written

as his deed
SIGNED ~~SEALED~~ AND DELIVERED by the)
said *DAVID GRANT WHITE*.....)
in the presence of:-)

as his deed
SIGNED ~~SEALED~~ AND DELIVERED by the)
said *ANDREW ALBERT WHITE*.....)
in the presence of:-)

SIGNED SEALED AND DELIVERED by the)
said)
in the presence of:-)

THE COMMON SEAL of THE DEVON AND)
CORNWALL HOUSING ASSOCIATION LIMITED)
was hereunto affixed in the presence)
of:-)

Committee Member

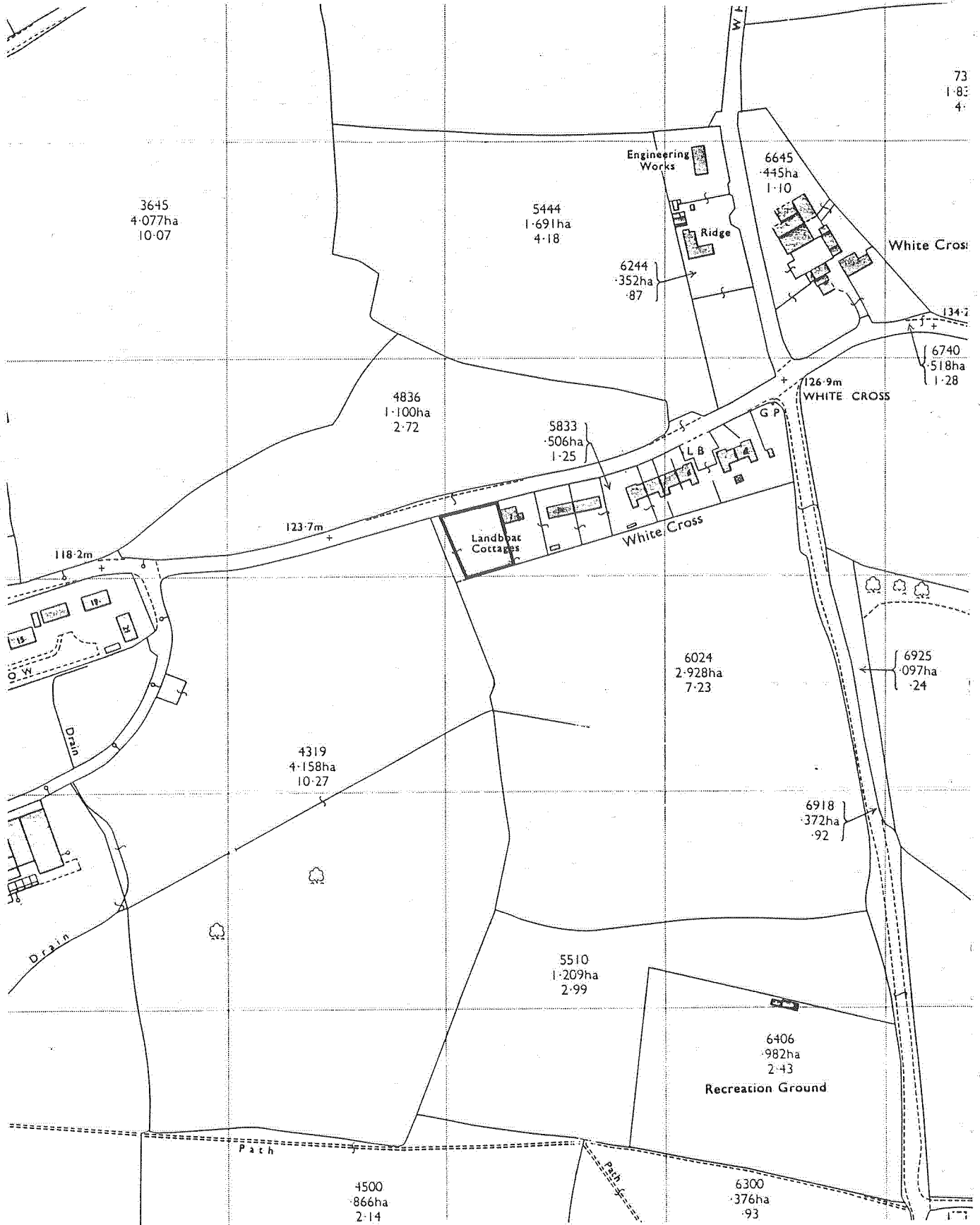
Committee Member

Secretary

THE COMMON SEAL of MID DEVON)
DISTRICT COUNCIL was hereunto)
affixed in the presence of:-)

Director of Legal and Administrative Services

Seal No:



TITLE **LANDBOAT COTTAGES**
PROJECT **Section 106 Agreement**
SCALE **1:2500**
DRAWING DATE **D7 M11Y90**
NO **4.12.90.1286**

Erection of four dwellings and alterations to existing vehicular access at Landboat Cottages, White Cross, Cheriton Fitzpaine.
O.S. Sheet Extract SS 8706

