

T H I S A G R E E M E N T is made the *Ninth* day
of *December* 1992 B E T W E E N NORTH DEVON DISTRICT
COUNCIL of Civic Centre Barnstaple in the County of Devon
(hereinafter called "the District Council") of the first
part and DEVON AND CORNWALL HOUSING ASSOCIATION LIMITED of
81 Heavitree Road Exeter EX1 2LX in the County of Devon
(hereinafter called "the First Owner") of the second part
and CAMEL DEVELOPMENTS LIMITED of Queen Camel Yeovil
Somerset (hereinafter called "the Applicant") of the
third part

W H E R E A S

- (1) The expressions "the District Council" "the Applicant" and "the First Owner" shall (unless the context otherwise admits) be deemed to include their respective successors in title lessees or assigns
- (2) The First Owner is the estate owner in fee simple of the land (hereinafter called "the red land") described in the first part of the Schedule hereto
- (3) The Applicant is the estate owner in fee simple of the land (hereinafter called "the blue land") described in the second part of the Schedule hereto
- (4) The District Council is the Local Planning Authority for the purposes of the Town and Country Planning Act 1990 (hereinafter called "the 1990 Act") for the area within which the red land and blue land are situated and is the Local Planning Authority by whom this Planning Obligation is enforceable

(5) The Applicant has by planning applications dated 14th April 1992 and 16th April 1992 under reference numbers 15436 and 15437 (copies of which applications are annexed hereto) applied for planning approval for the erection of 8 dwellings on the red land and 3 dwellings on the blue land (hereinafter called "the Development") in accordance with the drawings therein

(6) The parties hereto in accordance with the provisions of Section 106 of the 1990 Act as amended have agreed to enter into a Planning Obligation the terms of which are contained in this Agreement

N O W THIS DEED WITNESSETH as follows:

1. THIS Agreement is made in pursuance of Section 106 of the 1990 Act and all other enabling powers in that behalf to the extent that it shall be binding not only on the parties hereto but also their Successors in Title and any persons deriving Title through or under them

2. THE District Council in consideration of the covenants on the part of the First Owner herein contained HEREBY AGREES to grant and issue unto the Applicant planning permission (hereinafter called "the Planning Permission") for the Development in the terms of the Draft Consents attached hereto within twenty-one days of the date hereof subject to such conditions as may be set out in the Planning Permission and such other conditions as may be implied by statute or statutory instrument

3. THE First Owner hereby covenants with the District

Council as follows:

(i) That upon completion of the dwellings to be erected on the red land and at all times thereafter none of the dwellings to be erected on the red land shall be disposed of in any way otherwise than to persons satisfying the criteria (hereinafter called "qualifying persons") contained in Clause 4 hereof or to the partner or spouse of such persons and in accordance with the provisions of sub-clause (ii) of this clause

(ii) That upon completion of the said dwellings on the red land the First Owner will make the said dwellings available for letting in accordance with the Rules of Association of the First Owner

4. NO part of the red land shall be disposed of to any person other than a person who demonstrates a housing need in accordance with the criteria of need as may be adopted by the District Council and/or the First Owner from time to time and published as their respective allocation systems and has (in order of priority)

(i) immediately prior to such disposal been ordinarily resident within the Parish of Swimbridge for a minimum continuous period of 5 years or

(ii) had continuous employment in the said Parish of Swimbridge for a period of at least 5 years immediately prior to the said disposal or

(iii) been resident in the Parish of Swimbridge for 5 years within the 10 years immediately prior to the disposal or

(iv) had one or both parents or guardians residing in the said Parish of Swimbridge for a minimum continuous period of 10 years immediately prior to the disposal

5. IF no qualifying person shall wish to occupy any of the dwellings erected on the red land or if the said waiting list shall be temporarily exhausted the First Owner and the District Council shall permit an application where a housing need is demonstrated in accordance with Clause 4 above from the adjoining Parishes of Landkey Stoke Rivers Bishops Tawton Chittlehampton East and West Buckland and Filleigh and should there be no suitable application from any of the said adjoining Parishes within a period of one month applications which demonstrate a housing need in accordance with Clause 4 above will be permitted from any Parish within the District of North Devon and if there should be no applications from any Parish within a further period of seven days the District Council shall nominate an applicant from the District Council's Council House Waiting List PROVIDED THAT if the District Council shall fail to nominate an applicant or shall unreasonably delay such nomination the First Owner shall be entitled to grant a tenancy of the dwelling in question to such person as it shall consider most in need of accommodation

6. IT IS HEREBY EXPRESSLY AGREED AND DECLARED as follows:

- (i) That no compensation shall be payable by the District Council in respect of any provision of this Agreement
- (ii) This Agreement is made with the intent that it shall be enforceable without any limit of time against the First Owner and any persons having an estate in the red land as if the District Council were possessed of adjacent land and as if this Agreement had been expressed to be made for the benefit of such land
- (iii) Nothing in this Agreement is or amounts to or shall be construed as a planning permission within the meaning of Section 336 of the 1990 Act
- (iv) For the avoidance of doubt nothing herein contained or implied shall prejudice or affect the District Council's rights powers duties and obligations in the exercise of its functions as a Local Authority and the rights powers duties and obligations of the District Council under all public and private statutes byelaws orders and regulations may be as fully and effectually exercised in relation to the land as if this Agreement had not been executed by the District Council and nothing herein contained or implied shall be taken to be a covenant or

warranty or representation on the part of the District Council that the Applicant's proposals are lawful

- (v) For the avoidance of doubt clauses 3 4 and 5 hereof shall in no way affect the blue land or any part thereof or the method of sale or letting of any dwelling to be erected thereon or on any part thereof

IN WITNESS whereof the parties hereto have caused their respective Common Seals to be hereunto affixed the day and year first before written

SCHEDULE

First Part

(Description of red land)

ALL THAT piece or parcel of land situate at Woodatown within the Parish of Swimbridge Barnstaple in the County of Devon ALL WHICH said piece or parcel of land is for the purpose of identification only shown edged red on the plan annexed hereto

Second Part

(Description of the blue land)

ALL THAT piece or parcel of land adjoining the red land situate at Woodatown Swimbridge Barnstaple in the County of Devon ALL WHICH said piece or parcel of land is for the purpose of identification only shown edged blue on the plan annexed hereto