

DATED *27th March* 1992

SOUTH HAMS DISTRICT COUNCIL

and

DARTINGTON HOUSING ASSOCIATION LIMITED

DEED

Under Section 106 of the Town
and Country Planning Act 1990

Re: Land at
Aveton Gifford Devon

South Hams District Council
Follaton House
Plymouth Road
Totnes

RDH/LM/PL15/40/92
9.3.92

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DARTINGTON HOUSING ASSOCIATION LIMITED

DEED

Under Section 106 of the Town

and Country Planning Act 1990

Re: Land at
Aveton Gifford Devon

SOUTH HAMS DISTRICT COUNCIL

THIS DEED is made the

27th day of March

1992 BETWEEN Dartington Housing Association whose registered office is at Central Offices Dartington Totnes Devon ("the Owner") of the one part and SOUTH HAMS DISTRICT COUNCIL of Follaton House Plymouth Road Totnes Devon TQ9 5NE ("the Council") of the other part

WHEREAS:-

(1) The Council is the Local Planning Authority for the purposes of the Town and Country Planning Act 1990 or any subsequent amendment or re-enactment of that Act ("the Act") for the District of South Hams within which is situated the land ("the Land") shown edged red on the attached plan ("the Plan") namely land between Court Barton Farm and the Primary School Aveton Gifford Devon

(2) The Owner owns an estate in fee simple absolute in possession in the Land free from encumbrances together with a right of way with or without

vehicles over the land shown hatched brown on the Plan and together with the drainage rights shown for the purposes of identification only coloured blue

(3) An application ("the Application") registered on 28th August 1991 under reference number 9/02/1417/91/1 was made to the Council for outline planning permission to develop the Land by the erection of six houses as set out in the plans deposited with the Council accompanying the Application

(4) South West Water Services Limited ("the Sewerage Undertaker") is concerned with the sewerage system and sewage disposal facilities in Aveton Gifford and has requested an embargo on all proposed development which would have a right to use those facilities

(5) The Council is mindful to grant outline planning permission subject to conditions ("the Permission") for the development ("the Development") proposed by the Application provided the Owner agrees to be bound by the planning obligations contained in this Agreement

NOW THIS DEED WITNESSES as follows:-

1(a) This Agreement is made pursuant to section 106 of the Act and section

0-3m

St Andrew's Church

Court Barton

Aveton Gifford Primary School

Aveton Gifford

Pebbleside

6225
-62

33 of the Local Government (Miscellaneous Provisions) Act 1982

(b) Except as set out in subclause (c) the matters contained in the following clauses are planning obligations for the purposes of section 106 of the Act entered into by the Owner which shall bind the Owner and its successors in title to each and every part of the Land and are planning obligations enforceable by the Council

(c) Insofar as the matters contained in Clause 3 are neither executed for the purpose of facilitating nor connected with the development of the Land but are covenants to facilitate the provision of low cost housing in the South Hams District they are covenants to which section 33 of the Local Government (Miscellaneous Provisions) Act 1982 applies which shall bind the Owner and its successors in title to each and every part of the Land

2 The Owner hereby agrees with the Council as follows:-

(a) That the Development shall until the Sewerage Undertaker removes its request for a sewage embargo in Aveton Gifford be served solely by means of septic tank drainage

(b) The Owner shall not exercise any right given to him by Statute or otherwise to connect the Development to the public sewerage system in Aveton Gifford ("the System") until the Sewerage Undertaker is satisfied that the System is capable of catering for additional connections and accordingly removes its request for a sewage embargo

(c) If the Development is connected to the System prior to the Sewerage Undertaker's request for a sewage embargo being removed then the Council may at the expense of the Owner cause any such connection to be severed

(d) The septic tank and soakaway serving the Development shall be sited designed and maintained to the satisfaction of the Council and the soakaway shall be sited at least thirty metres from the nearest spring well or watercourse so as not to cause contamination

(e) If the septic tank and soakaway are not maintained to the satisfaction of

the Council then the Council may enter the Land at the expense of the Owner and undertake all necessary works of maintenance

(f) The Owner shall not seek from the Council any payment of compensation under the Act in respect of the Land except in the event of the acquisition of the Land or any part of it under Part IX or Part X of the Act

3(a) The Development shall be occupied and managed in accordance with the objects of the Owner as a Housing Association

(b) No unit shall be occupied other than on the basis of an assured tenancy granted in accordance with the following provisions

(c) The Council shall have the right to nominate

(i) for a period of ten years from the date of completion of the Development all of the tenants occupying the Development

(ii) after that ten year period the tenants of one half of the dwellings in the Development

(d) In exercising its nomination rights the Council shall in every case nominate a person who is considered by it to be in need of such accommodation and who:-

(i) has immediately prior to such nomination been ordinarily resident within the parish of Aveton Gifford and

(ii) has a strong local connection with the said parish of Aveton Gifford AND in making a nomination under this sub-clause the Council shall (but without limiting its wider discretion in this regard) consider:

(A) family associations of such person or persons in the said parish of Aveton Gifford

(B) any periods of ordinary residence of such person or persons in the said parish of Aveton Gifford not immediately before the date upon which any unit of accommodation becomes vacant and/or

(C) whether such person or persons has or have permanent employment in the said parish of Aveton Gifford

(e) If the Council is unable to make a nomination in the manner referred to in subclause (d) above then it shall apply the procedures contained in Clause (d) but in place of the references to the parish of Aveton Gifford there shall be substituted reference to any one of the parishes of Loddiswell Churchstow and Bigbury

(f) If the Council is unable to make a nomination in the manner referred to in subclauses (d) and (e) above then it shall nominate a person or persons from the Council's list of persons of priority housing need within its administrative area but if such nomination is not made within six weeks of notification by the Owner of a vacancy of a unit of accommodation then the Owner shall be entitled to allocate any vacant unit of accommodation to any person who is considered by the Association to be in need of such accommodation

(g) The obligations relating to nominations contained above shall not be binding upon any future mortgagee or chargee of the Owner for the time being holding a mortgage or legal charge of the Land or any part of it nor upon any successor in title of such mortgagee or chargee to the intent that any such mortgagee or chargee shall be able to exercise its power of sale and transfer the Land or any part of it free of the Council's rights of nomination provided always that if the Council shall at any time lose those rights of nomination in respect of any dwellings as a result of any future mortgagee or chargee exercising its power of sale the Owner shall forthwith grant to the Council equivalent rights of nomination in respect of other suitable dwellings in the ownership of the Owner in the District of South Hams

4 The Owner agrees to pay to the Council before or at the completion of this Agreement the reasonable legal costs of the Council in respect of the preparation and execution of this Agreement

IN WITNESS OF WHICH the Council and the Owner have affixed their respective Common Seals to this Deed on the date first written above

THE COMMON SEAL of SOUTH HAMS)

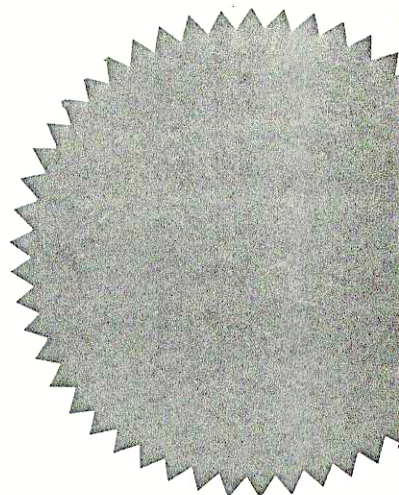
DISTRICT COUNCIL was affixed to)

this Deed in the presence of:-)


Chairman/Councillor

Authorised Officer

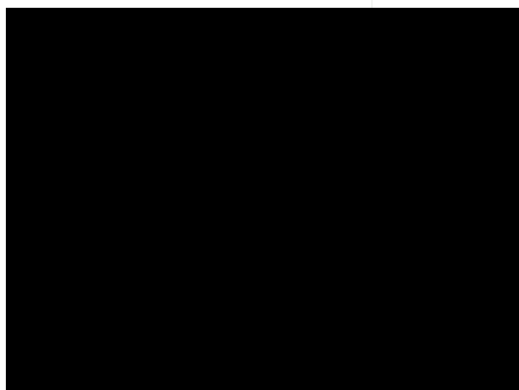


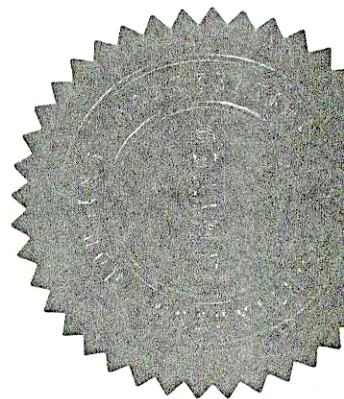


THE COMMON SEAL of DARTINGTON HOUSING)
ASSOCIATION LIMITED)

was affixed)

to this Deed in the presence of:-)





For the purposes of this Agreement the expressions "the Owner" and "the Association" shall include the successors in title and assigns respectively of each party and "the Owner" shall include two or more joint owners of the legal estate and furthermore it is hereby agreed that for the purposes of this Agreement obligations undertaken by more than a single person are joint and several obligations

3 The covenants by the Owner and Association with the Council hereinafter contained are made with the intent that the covenants shall in respect of the land be binding on the land and be binding on and enforceable against the successors in title of the Owner and the Association and are covenants to which the said Section 52 and the said Section 33 apply

4 Nothing in this Agreement is or amounts to or shall be construed as a planning permission or approval

5 The Owner and the Association hereby jointly and severally covenant with the Council not to permit the occupation of any part of the proposed development otherwise than strictly in accordance with the procedures contained in the Schedule hereto

IN WITNESS whereof the Council and the Association have caused their Common Seals to be hereunto affixed and the Owner has hereunto set his hand and seal the day and year first before written

S C H E D U L E

1 The proposed development shall at all times be occupied and if let be managed in accordance with the objects of the Association and in accordance with any planning permission granted in respect of the proposed development

2 The Association shall upon completion of the proposed development and at all times subsequently allocate each unit of accommodation within the proposed development to a person who is considered by the Association to be in need of such accommodation and who:-

(i) has immediately prior to such allocation been ordinarily resident within the Parish of

(ii) has a strong local connection with the said Parish of

AND in seeking to allocate any such unit of accommodation under this sub-clause the Association shall (but without limiting its wider discretion in this regard) consider:

(a) family associations of such person or persons in the said Parish of

(b) any periods of ordinary residence of such person or persons in the said Parish of not immediately before the date upon which any unit of accommodation becomes vacant and/or

(c) whether such person or persons has or have permanent employment in the said Parish of

3 If the Association is unable to allocate any of the said units of accommodation in the manner referred to in Clause 2 above then the Association shall allocate any such units of accommodation by applying the procedures contained in Clause 2 hereof but in lieu of the references therein to the Parish of there shall be substituted reference to any one of the following list of associated Parishes:-

4 If the Association is unable to allocate any of the said units of accommodation in the manner referred to in Clauses 2 and 3 above then the Association shall allocate any such units of accommodation to a person or persons nominated by the Chief Health and Housing Officer for the time being of the Council from the Council's list of persons of priority housing need within its administrative area but if such nomination is not made within six weeks of notification by the Association of a vacancy of a unit of accommodation then the Association shall be entitled to allocate any vacant unit of accommodation to any person who is considered by the Association to be in need of such accommodation

5 The said units of accommodation shall be occupied either on the basis of a
" Shared Ownership Lease as defined in Section 622 of the Housing Act 1985
(but without any provision in such Lease for the purchase of a further
share or shares or the purchase of the Lessor's reversionary interest) or
on the basis of an Assured Tenancy

THE COMMON SEAL of EAST DEVON)

DISTRICT COUNCIL was hereunto)

affixed in the presence of:-)

Chief Executive