

AN AGREEMENT made the _____ day of _____ **2007**

BETWEEN (1) **SOUTH SOMERSET DISTRICT COUNCIL** of Brympton Way Yeovil Somerset BA20 2DS (**‘the Council’**) (2) All the persons whose names and addresses are set out in the Schedule (**‘the Trustees’**) being all the present trustees of the Charity known as **THE SEAVINGTON PLAYINGFIELD ASSOCIATION** (charity registration no. 269986) (**‘the Association’**) and (3) **THE SEAVINGTON COMMUNITY SHOP AND SERVICES ASSOCIATION LIMITED** (company no. IP30220R) whose registered office is at Middlefield Barn, Church Lane, Ilminster, Somerset TA19 0QP (**‘the Applicant’**)

RECITALS

- 1) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 (as amended) (**‘the 1990 Act’**) for the administrative area of the South Somerset District.
- 2) The Association is the freehold owner of land being the site of the Millennium Hall and playingfield at Water Street, Seavington St Mary, Somerset (**‘the Playingfield’**) as shown edged red on the Plan annexed to this Agreement (**‘the Plan’**) which it holds on the terms of a Charitable Trust established by a Scheme made by the Charity Commissioners on 13th December 1995.
- 3) The Playingfield is located within the administrative area of the Council.
- 4) The Applicant is an Industrial and Provident Society registered under the Industrial and Provident Societies Act 1965 (registration number IP30220R) and it is proposed that a part of the Playingfield adjacent to the Millennium Hall should be leased to the Applicant for a term of fifty years for the purpose of establishing a community shop.
- 5) By a planning application made on 14th March 2007 (**‘the Application’**) the Applicant applied to the Council for planning permission (reference no. 07/01276/FUL) to erect a single storey Community Village Shop and Café (**‘the Proposed Development’**) on land adjacent to the Millennium Hall as shown coloured blue on the Plan.

- 6) The Council is prepared to grant planning permission for the Proposed Development on the terms set out in this Agreement.

NOW THIS DEED WITNESSES as follows:

Definitions and interpretation

1 In this Agreement:

- 1.1 **‘the 1990 Act’** has the meaning given to it in recital 1 above.
- 1.2 **‘the Application’** has the meaning given to it in recital 5 above.
- 1.3 **‘the Covenanted Parties’** means together the Association and the Applicant.
- 1.4 **‘the Lease’** means the lease under which the Applicant holds the Site from the Association.
- 1.5 **‘the Plan’** has the meaning given to it in recital 2 above.
- 1.6 **‘the Planning Permission’** means the planning permission to be granted following the execution of this Agreement on determination of the Application by the Council.
- 1.7 **‘the Playingfield’** has the meaning given to it in recital 2 above.
- 1.8 **‘the Proposed Development’** means the development as referred to in recital 5 above and so far as appropriate it includes any amended plans, specifications and particulars deposited with the Council as part of and in support of the Application.
- 1.9 **‘the Site’** is the property lying within the Playingfield shown coloured blue on the Plan which is the subject of the Application.
- 1.10 words in the singular include the plural and vice versa and words in the masculine gender include the feminine gender and vice versa and the expressions the Council, the Applicant and the Association include their respective successors in title and assigns.
- 1.11 where at any time a party to this Agreement comprises more than one person the obligations and liabilities of that party under this Agreement shall be joint and several obligations and liabilities of those persons.

- 1.12 Any reference in this Agreement to the Application includes any subsequent renewal amendment or modification of it receiving planning approval and any reference to the Proposed Development includes the development proposed in any such renewed amended or modified application.
- 1.13 the clause headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.

Statutory provisions

- 2 The parties hereto acknowledge that:
- 2.1 The Council enters into this Agreement in pursuance of its powers under Section 106 of the 1990 Act Section 111 of the Local Government Act 1972 and all other powers enabling it in that regard.
- 2.2 The covenants obligations and restrictions entered into by the Covenantee Parties with the Council are planning obligations for the purposes of and are made pursuant to Section 106 of the 1990 Act.
- 2.3 The planning obligations created by this Agreement are:
- 2.3.1 intended to run with the Site without limit of time so as to bind the Covenantee Parties and their respective successors in title and assigns of each and every part of the Site and any person corporate or otherwise claiming through or under them an interest or estate in any part or parts of the Site.
- 2.3.2 enforceable by the Council.
- 2.4 This Agreement is conditional upon and shall not come into effect until the grant of the Planning Permission.

The Planning Obligations

- 3 The Covenantee Parties covenant with the Council that if at any time the Applicant should cease to be registered as an Industrial and Provident Society or surrender or assign its leasehold interest in the Site or otherwise cease to operate as a Community Shop and Café or if the Association should seek to forfeit the Lease then they the Covenantee Parties shall:

- 3.1 Wholly discontinue and cease the use of the Site as permitted under the Planning Permission within 28 days of the Council serving a notice on either of them to that effect.
- 3.2 Accept revocation of the Planning Permission pursuant to the provisions of Sections 97 and 98 of the 1990 Act without making any claim for compensation or for any other payments, costs or liabilities in respect of or arising from that revocation and shall do all such acts and things as the Council shall reasonably require of them to facilitate such revocation.

Grant of permission

- 4 Having regard to the planning obligations entered into by the Covenantee Parties in this Agreement the Council shall grant the Planning Permission for the Proposed Development immediately on completion of this Agreement subject only to the conditions set out in the attached appendix.

Applicant's covenant with the Association

- 5 The Applicant covenants with the Association that they will observe and perform the planning obligations entered into by them with the Council and in the case of default will indemnify the Association against all reasonable costs, claims, expenses or liabilities incurred by the Association which naturally and reasonably arise out of or result from such breach.

Burden of the planning obligations

- 6 It is agreed and declared by the parties to this Agreement that:
 - 6.1 The burden of each planning obligation given in this Agreement binds each and every part of the Site affected by that particular obligation into whosoever hands it may come.
 - 6.2 The Covenantee Parties and their successors shall not be liable for the performance of any obligation or in respect of any breach of an obligation after they have parted with all their interest in the land affected by the obligation in question or the part of the Site on which such breach is committed but without

prejudice to any liability subsisting at the time when the interest of the
Covenanting Parties in the relevant land ceased.

- 6.3 A planning obligation not to do any act or thing includes an obligation not to cause or permit or suffer that act or thing to be done by another person.

Agreements and declarations

- 7 It is hereby agreed and declared that:
- 7.1 the Covenanting Parties and their successors in title shall supply to the Council such information as the Council shall reasonably require from time to time including the provision of documentary evidence to enable the Council to verify compliance with the planning obligations contained herein.
 - 7.2 for the purpose of ensuring that the provisions of this Agreement are duly performed and observed the Covenanting Parties shall permit the Council and its officers have access to the Site at all reasonable times.
 - 7.3 for the purposes of the Contracts (Rights of Third Parties) Act 1999 this Agreement is not made for the benefit of nor shall any of its provisions be enforceable by any person other than:
 - 7.3.1 the parties to this Agreement
 - 7.3.2 any persons deriving their title to all or part of the Site under or from the Covenanting Parties
 - 7.3.3 any body succeeding to the statutory duties and functions of the Council as the local planning authority.

Registration

- 8 The Covenanting Parties covenant with the Council to apply to the Land Registry as soon as practicable upon the completion of this Agreement for the existence of this Agreement to be noted against all registered titles relating to the Site and shall supply evidence of the same to the Council.

IN WITNESS whereof two Trustees of the Association acting as Charity Trustees in pursuance Section 82 of the Charities Act 1993 have executed this instrument on behalf of the Association and the Common Seal of the Applicant and the Council were hereunto affixed the day and year first before written

THE SCHEDULE

The Trustees of the Seavington Playingfield Association

Robert Francis Ash of

Peter John Ashley of

Matt Day of

Nigel Frederick England of

Lesley Jane Gudgeon

Michael Francis George Harrison of

Winifred May Harrison of

Anne Elizabeth Osbourne of

Ann Patricia Pritchard of

APPENDIX

Proposed planning conditions

[set out below]

SIGNED AS A DEED by

and

two Trustees of the **SEAVINGTON
PLAYING FIELD ASSOCIATION**
pursuant to a resolution of the Association
on

THE COMMON SEAL of **SEAVINGTON COMMUNITY SHOP AND SERVICES
ASSOCIATION LIMITED** was hereunto affixed in the presence of:

THE COMMON SEAL of **SOUTH
SOMERSET DISTRICT COUNCIL** was
hereunto affixed in the presence of:

DATED

2007

BETWEEN

SOUTH SOMERSET DISTRICT COUNCIL

- and -

**THE TRUSTEES OF THE SEAVINGTON
PLAYINGFIELD ASSOCIATION**

-and-

**SEAVINGTON COMMUNITY SHOP AND SERVICES
ASSOCIATION LIMITED**

AGREEMENT

relating to Seavington Playingfield, Water Street, Seavington St
Mary, Somerset pursuant to Section 106 of the Town and
Country Planning Act 1990 (as amended)

I. D. Clarke,
Solicitor
South Somerset District Council,
The Council Offices,
Brympton Way,
Yeovil,
Somerset BA20 2DS.