

DATED 2nd August 2004

THE NORFOLK COUNTY COUNCIL

- and -

T M A BARK SUPPLIES

- and -

A G and M J THOMAS

-and -

AMC BANK LIMITED

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### AGREEMENT

Under Section 106 of the  
Town and Country Planning Act 1990  
relating to land at  
The Runway Weston Longville

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Head of Law  
Norfolk County Council  
County Hall  
Martineau Lane  
Norwich  
NR1 2DH



THIS AGREEMENT is made by Deed the 2nd day of August  
2004

B E T W E E N THE NORFOLK COUNTY COUNCIL (the "County Council") of  
County Hall Martineau Lane Norwich (1) and TMA BARK SUPPLIES (co no.  
04597067) of Mill Farm Bungalow Mill Street Elsing Dereham Norfolk ("the  
Developer") (2) and ANTHONY GERALD THOMAS and MARION JOY THOMAS  
both of Woodforde Farm Weston Longville (together referred as "the Owners")(3) and  
AMC BANK LIMITED of Charlton Place Charlton Road Andover Hampshire SP10  
1RE ("the Mortgagee")(4)

AND RECITES:-

- (1) The Owners are the freehold owners of the land shown edged red (the "Land")  
on the attached plan (the "Plan") subject to legal charges to the Mortgagee  
dated 20<sup>th</sup> July 1976 7<sup>th</sup> July 1986 27<sup>th</sup> September 1991 29<sup>th</sup> November 1993  
and 9<sup>th</sup> December 1996 and the Owners are also the tenants of the Land  
under the terms of a tenancy agreement dated 29<sup>th</sup> November 1993
- (2) The County Council is a Local Planning Authority within the meaning of the  
Town and Country Planning Act 1990 (the "Act") for the area within which the  
Land is situate
- (3) The Developer has made application to the Norfolk County Council (reference  
C/5/03/5007) dated 28<sup>th</sup> November 2003 (the "Application") in accordance with



the Act and the Orders and Regulations for the time being in force thereunder for planning permission to develop the Land by the carrying out of bark processing (on a permanent basis) (the "Development")

- (4) Subject to completion of this Agreement the County Council have resolved to grant planning permission for the Development pursuant to the Application (the "Planning Permission")
- (5) The obligations created by this Deed are planning obligations within the meaning of Section 106 of the Act (as amended)
- (6) The obligations created by this Deed are enforceable by the County Council

N O W THIS DEED WITNESSETH as follows:-

1.1.1 This Agreement is made in pursuance of Section 106 of the Act Section 111 of the Local Government Act 1972 and all other enabling powers

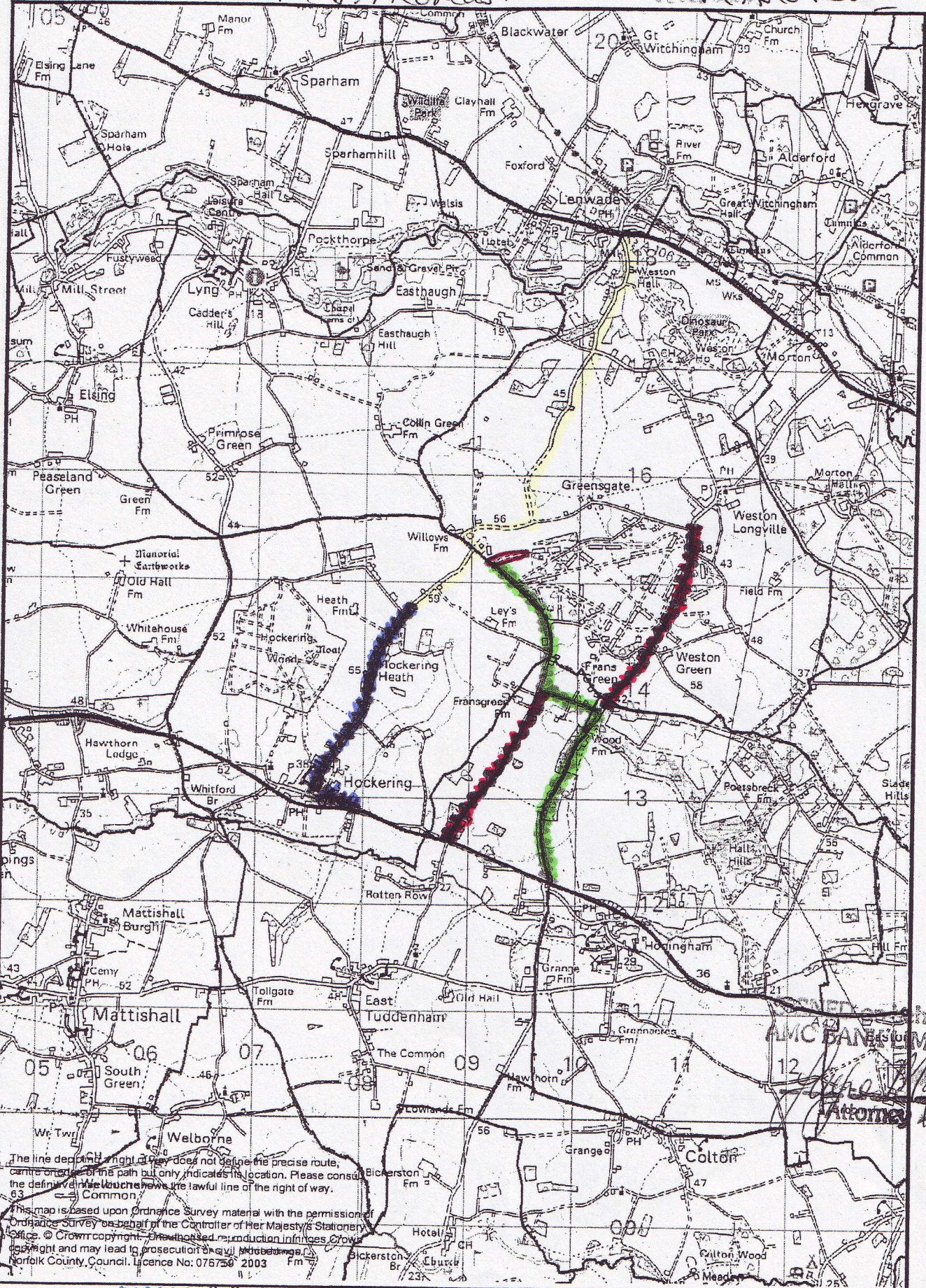
1.1.2 In this Agreement the terms "Vehicle" and "Vehicles" mean any motor vehicle or motor vehicles as the case may be weighing (including any cargo) in excess of 3.5 metric tonnes

1.2 The Mortgagee consents to the Owners entering into this Agreement and acknowledges that this Agreement binds its interest in the Land provided that the Mortgagee shall not be liable for any breach of this agreement unless it shall enter into the Land as mortgagee in possession



*M.F. Thomas*

*Tom Andrew*



The line depicts a right of way does not define the precise route, centre line or edge of the path but only indicates its location. Please consult the definitive map for the lawful line of the right of way.

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**PERMITTED NORTH ONLY**  
**PERMITTED SOUTH ONLY**  
**PERMITTED NORTH + SOUTH**  
**NOT PERMITTED**

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Scale 1:50000  
Map centre: 608897,314381



2. The Owners and the Developer hereby jointly and severally covenant with the County Council with effect from the date of the Planning Permission that the Land shall not be used for the purposes authorised by the Planning Permission unless:-

2.1 All Vehicles operated by the Developer the Owners or their employees or otherwise under the direct control of the Developer or the Owners:

- (1) approach the Land either via the route shown in yellow on the Plan and/or the route shown in blue on the Plan ("the Access Routes") and;
- (2) leave the Land either via the route shown in yellow on the Plan or the route shown in green upon the Plan ("the Egress Routes") (the Access Routes and the Egress Routes are together referred to as the "Permitted Routes") and;
- (3) do not access the Land via the route shown in green on the Plan or leave the Land via the route shown in blue on the Plan or access or egress the Land via the route shown coloured red on the Plan ("the Red Route")

2.2 in relation to Vehicles not under the direct control of the Developer or the Owners all reasonable endeavours shall be used to ensure that such Vehicles approach the Land via one of the Access Routes and leave the Land via one of the Egress Routes and do not approach or leave the Land via the Red Route



2.3 there are affixed and displayed and maintained on the Land such signs approved by the County Council in writing as to locations numbers size and legend and as shall be required from time to time by the County Council (including any modifications additions or subtractions to those first or subsequently approved by the County Council)

3. It is hereby agreed and declared for the purposes of clause 2.2 that the requirement to use reasonable endeavours:

3.1 requires the Owners and the Developer to incorporate in all contracts with persons likely to visit the Land a term having the same effect as clause 2.1

3.2 requires the Owners and the Developer to communicate in writing with persons whose Vehicles from time to time regularly visit the Land informing them of the Permitted Routes and requesting that their Vehicles follow them at all times when visiting the Land at a method and frequency as shall be reasonably likely to secure co-operation with the use of the Permitted Routes such method and frequency to be determined by the Developer or Owners as appropriate and disclosed to the County Council as requested or at the County Councils discretion shall be as reasonably determined by the County Council

3.3 requires the Developer or the Owners on receiving information that any driver of a Vehicle shall have taken any route to or from the Land other than the one of the Permitted Routes as appropriate to take all necessary and lawful action possible against the Driver to ensure future compliance



- 3.4 will be breached if an employee of the Developer or the Owners uses a route other than the one of the Permitted Routes
- 4.1 The parties will attempt in good faith to resolve any dispute or claim arising out of or relating to this Agreement promptly through negotiations between the respective senior executives of the parties who have authority to settle the same
- 4.2 If the matter is not resolved through negotiation the parties will attempt in good faith to resolve the dispute or claim through an Alternative Dispute Resolution ("ADR") procedure as recommended to the parties by the Centre for Dispute Resolution
- 4.3 If the matter has not been resolved by an ADR procedure within 28 days of the initiation of such procedure or if either party will not participate in an ADR procedure the dispute shall be referred to arbitration for decision by a person appointed by agreement between the parties or in default of agreement by the President for the time being of the Institute of Civil Engineers who shall act as an expert and not as an arbitrator and whose decision shall be final and binding upon the parties
5. Without prejudice to the enforcement of restrictions and obligations against successors in title no person shall be liable for any breach of this Agreement if at the time the breach occurs they have no interest in the Land PROVIDED THAT the reservation of any rights or the inclusion of any covenants or



restrictions over the Land in any transfer shall not constitute an interest for the purposes of this clause

6. No waiver (whether express or implied) by the County Council of any breach of default by the Developer or the Owners or their successors in title in performing or observing any of the terms and conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the County Council from enforcing any of the terms and conditions or from acting upon any subsequent breach or default in respect thereof by the Developer or the Owners or their successors in title
7. If the Planning Permission is quashed revoked or expires without implementation then this Deed shall absolutely determine
8. The Owners hereby covenant that they are the freehold owners of the Land and have full power to enter into this Agreement that the Land is free from all mortgages charges or other encumbrances other than the legal charges to the Mortgagee and there is no person having any interest in the Land other than those notified in writing to the County Council's Head of Law prior to the date hereof
9. The expressions "the County Council" "the Developer" and "the Owners" shall include their respective successors and assigns as appropriate within the terms of Section 106 of the Act



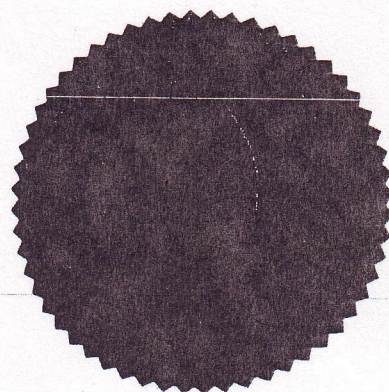
10. The parties do not intend that any term of this Agreement shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement
  11. The Developer shall pay the County Councils reasonable legal costs on this Agreement
  12. This Agreement shall be registered as a local land charge
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13. In consideration of the Landowner and the Mortgagee entering into this Deed the Developer hereby covenants with the Owners and the Mortgagee to indemnify the Owners and the Mortgagee and each of them against all costs claims losses damages expenses or other liabilities incurred by the Owners that arise directly or indirectly as a result of the Owner entering into this Deed or of any breach by the Developer of its or the Owners obligations under this Deed
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IN WITNESS WHEREOF the parties hereto have executed and delivered this Deed  
the day and year first before written

THE COMMON SEAL of THE NORFOLK  
COUNTY COUNCIL was hereunto  
affixed in the presence of:-

*G.S. Russell*



authorised to sign  
on behalf of  
**HEAD OF LAW**

EXECUTED AS A DEED by  
T M A BARK SUPPLIES  
Acting by:-

Director

Secretary

*[Signature]*  
*T.M. Andrew*

SIGNED by the said  
ANTHONY GERALD THOMAS  
in the presence of:-

*[Signature]*

JONATHAN TRETT.  
WOODFORDS FM. COTT.,  
WESTON LONGVILLE,  
NR9-5LQ.

SIGNED by the said  
MARION JOY THOMAS  
in the presence of:-

*M. J. Thomas*

JONATHAN TRETT.

SIGNED AND DELIVERED as a Deed  
by **Jayne Lesley Moffat**  
as Attorney and for AMC BANK LIMITED  
was hereunto affixed in  
the presence of:-

*[Signature]*  
*Jayne Moffat*

*[Signature]*

**LYNDSEY GURD**  
Charlton Place  
Charlton Road  
Andover  
Hampshire SP10 1RE

11701