

DATED

15.8.1994

1994

RIBBLE VALLEY BOROUGH COUNCIL

- and -

THE ROYAL BANK OF SCOTLAND PLC

- and -



A G R E E M E N T

Under Section 106 Town and Country Planning Act 1990

relating to property known as

Sharples Farm Vicarage Lane

Wilshire Blackburn Lancashire

P F TIMSON LLB

Chief Legal Officer

Ribble Valley Borough Council

CLITHEROE

THIS AGREEMENT is made the 14th day of August
One thousand nine hundred and ninety four BETWEEN RIBBLE VALLEY
BOROUGH COUNCIL of Council Offices Church Walk Clitheroe Lancashire
(hereinafter called "the Council") of the first part and THE ROYAL BANK OF
SCOTLAND PLC of 36 St Andrew Square Edinburgh (hereinafter called "the
Bank") of the second part and [REDACTED]
of Sharples Farm Vicarage Lane Wilpshire Blackburn Lancashire (hereinafter
called "the Owners") of the third part _____

WHEREAS:-

- (1) The Council is the local planning authority for the purposes of the
Town and Country Planning Act 1990 for the area within which
certain land and property known as Sharples Farm Vicarage Lane
Wilpshire Blackburn Lancashire shown edged red on the plan
attached hereto is situated _____
- (2) The Owners are seised of the fee simple in possession of the said
land and property _____
- (3) The said land and property is subject to a Legal Charge dated the
First day of February One thousand nine hundred and ninety three
made between the Owners of the one part and the Bank of the
other part _____
- (4) The Owners have by written application dated the Twenty seventh
day of June One thousand nine hundred and ninety four applied
to the Council for permission to develop the said land and
property by the erection of a residential annexe as detailed in the
plans and particulars deposited with the Council _____
- (5) The Council is satisfied that the development disclosed by the said
particulars is such as may be approved by the Council under the
said Act _____

N O W T H I S D E E D W I T N E S S E T H as follows:-

1. THIS Agreement is made in pursuance of Section 106 of the Town and Country Planning Act 1990 _____

2. IN consideration of the Council hereby approving the said development for the purposes of the said Act the Owners and the Bank covenant with the Council as set out in the Schedule hereto _____

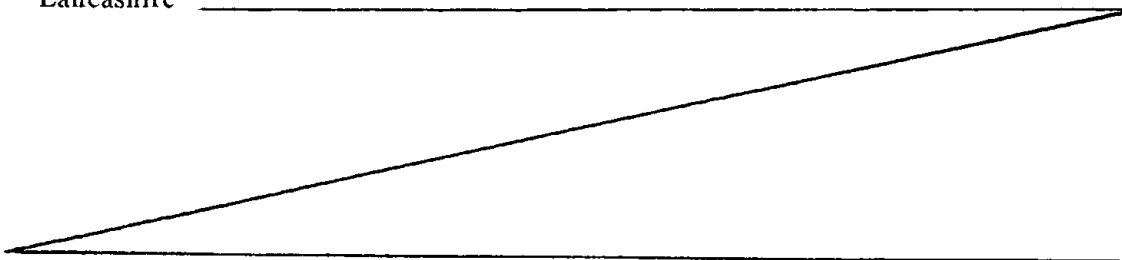
3. THE expressions "the Council" "the Bank" and "the Owners" shall include their respective successors in title and assigns _____

IN WITNESS whereof the Council and ^{the} Bank ~~have~~ caused their respective Common Seals to be hereunto affixed and ^{the} Owners have signed as a deed the day and year first before written _____

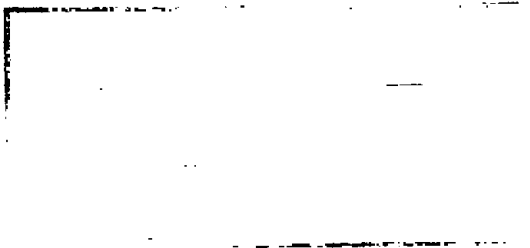
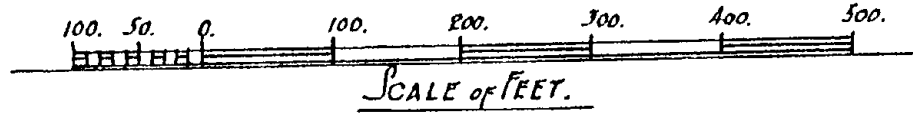
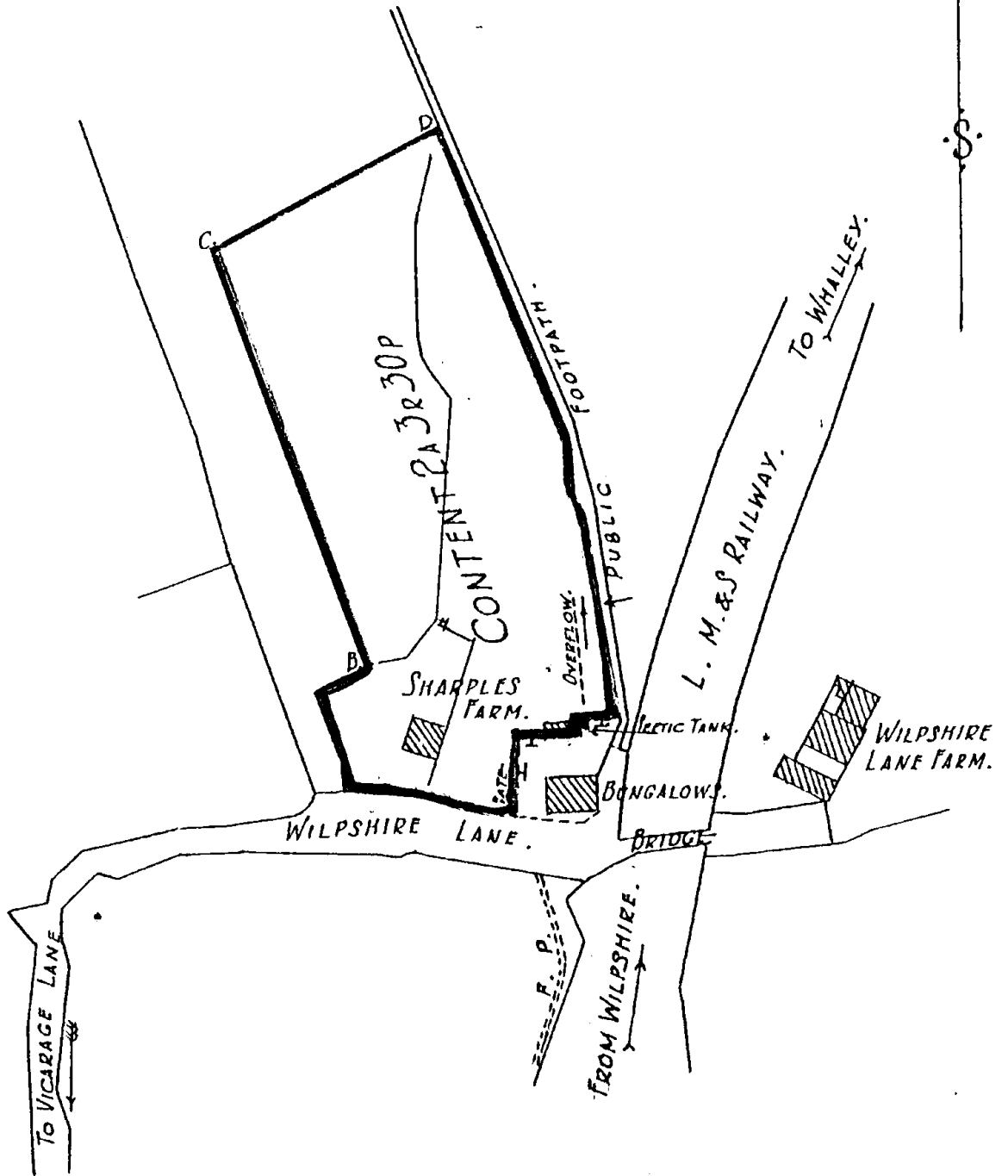
THE SCHEDULE

1. The Bank but so as not to impose any liability on the Bank except during such time as the Bank is in occupation of the said land and property and the Owners hereby covenant with the Council that the said land and property shall be permanently subject to the restriction regulating the development thereof as hereafter contained and the purport and intent of such covenant shall be endorsed by way of Memorandum on the Owners title deeds relating to the said land and property _____

2. The said restriction referred to in the preceding clause is as follows:-
Not to allow the annexe the subject of the development to be sold (or let) as a separate dwelling (or used) other than as an annexe accommodation forming part of the property known as Sharples Farm Vicarage Lane Wilpshire Blackburn Lancashire _____



PLAN REFERRED TO.



THE COMMON SEAL of RIBBLE)

VALLEY BOROUGH COUNCIL)

was hereunto affixed in the presence)

of:-)



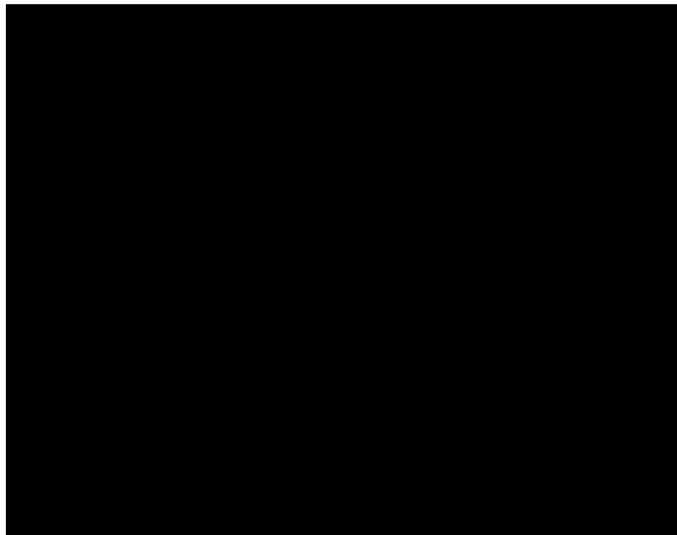
SIGNED AND DELIVERED AS A)

DEED for and on behalf of THE)

ROYAL BANK OF SCOTLAND Plc)

by a duly authorised Attorney in the)

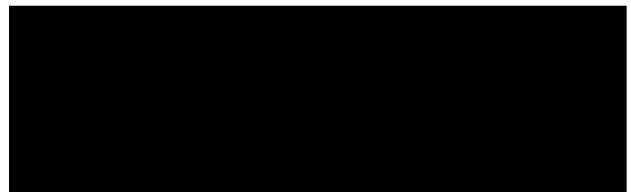
presence of:-)



Witness' Signature Bank Employee

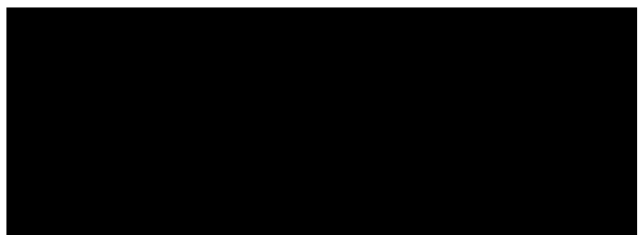
SIGNED AS A DEED by JOHN)

JEFFERSON in the presence of:-)



SIGNED AS A DEED by MARTINE)

PC.2Z1
JEFFERSON in the presence of:-)



RIBBLE VALLEY BOROUGH COUNCIL

Department of Development

Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA

Telephone: 01200 425111

Fax: 01200 421488

Town and Country Planning Act 1990

PLANNING PERMISSION

APPLICATION NO: 3/00/0627/P
DECISION DATE: 28 NOVEMBER 2000
DATE RECEIVED: 1 SEPTEMBER 2000

APPLICANT:

MR & MRS J JEFFERSON
THE FOLLIES
VICARAGE LANE
WILPSHIRE
BB1 9FY

AGENT:

JANET DIXON
CHARTERED TOWN PLANNER
PEEL HOUSE
ALDERFORD CLOSE
CLITHEROE
BB7 2QP

DEVELOPMENT PROPOSED: VARIATION OF SECTION 106 AGREEMENT AND CONDITION 3 OF 3/95/0325 TO PERMIT THE BUNGALOW TO BE LET SEPARATELY FROM THE FOLLIES

AT: THE BUNGALOW, THE FOLLIES, VICARAGE LANE, WILPSHIRE

Ribble Valley Borough Council hereby give notice that **permission has been granted** for the carrying out of the above development in accordance with the application plans and documents submitted subject to the following condition(s):

1. The development must be begun not later than the expiration of five years beginning with the date of this permission.
2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) any future extensions and/or alterations to the dwelling including any development within the curtilage as defined in Schedule 2 Part 1 Classes A to H shall not be carried out without the formal consent of the Local Planning Authority.
3. Prior to occupation; further details of the curtilage area and boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority.

The reason(s) for the condition(s) are:

1. Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.
2. In the interests of the amenity of the area.
3. In the interests of clarity and residential amenity.

Note(s)

1. For the rights of appeal in respect of any condition(s) or reason(s) attached to the permission see the attached notes.
2. The applicant is advised that should there be any deviation from the approved plan the local planning authority must be informed. It is therefore vital that any future Building Regulation application must comply with the approved planning


CHIEF PLANNING OFFICER

**DRAFT RECOMMENDATION FOR PLANNING AND DEVELOPMENT COMMITTEE
APPROVAL**

DATE: 28 NOVEMBER 2000
REF: AR/JS
CHECKED BY:

APPLICATION NO: 3.00.0627/P (GRID REF: SD 6867 3328)
PROPOSED VARIATION OF SECTION 106 AGREEMENT AND CONDITION 3 OF 3.95.0325 TO PERMIT THE BUNGALOW TO BE LET SEPARATELY FROM THE FOLLIES AT THE BUNGALOW, THE FOLLIES, VICARAGE LANE, WILPSHIRE FOR MR AND MRS J JEFFERSON

PARISH COUNCIL: Wilpshire Parish Council feel that Ribble Valley clearly had reasons for the drawing up of the Section 106 Agreement which provided that The Bungalow should not be sold or let as a separate dwelling. The Parish Council believes that this agreement should not be varied unless the reasons for the drawing up of the Section 106 Agreement no longer has any planning significance in the Year 2000.

**ENVIRONMENT
DIRECTORATE
(COUNTY SURVEYOR):** Comments awaited.

NEARBY RESIDENTS: One letter of support received making the following point.

The Bungalow is a beautiful building in an idyllic setting within the grounds of The Follies itself and people walking the public footpaths stop to admire and appreciate the setting. The respondent is in full agreement with the wishes of the applicants and ask the Committee to approve their application.

Proposal

This application seeks to remove the restricted occupancy of a detached annex building to allow independent letting. The restricted occupancy arises from a Section 106 Agreement which reads "not to allow the annex to the subject of the development to be sold or let as a separate dwelling, or used other than as an annex accommodation forming part of the property known as Sharples Farm, Vicarage Lane, Wilpshire".

In support of the application the applicant's agent asserts that personal circumstances have changed since the original grounds of consent, effectively Mr Jefferson senior was originally intended to occupy the bungalow with the son and daughter-in-law residing in the principal dwelling. Consequent upon a change in personal and financial circumstances; the daughter and son-in-law never occupied the house which was subsequently adapted to suit Mr and Mrs Jefferson senior. The property has been marketed for over twelve months since the applicant cannot continue to maintain both properties. Relaxation of the Section 106 and condition would allow occupation of the bungalow by a housekeeper or friends. No change is proposed to the open-plan curtilage and no division or change in the parking arrangements is anticipated.

Site/Location

The application site comprises a substantial detached annexe building situated to the east of and within the curtilage of, The Follies. The site stands on the northern side of Vicarage Lane, a single track, unadopted road which departs Wilpshire Village in a north eastern direction before terminating in open countryside at Tippings Farm.

Relevant History

3:95:0325 - Retirement annexe (granny annexe). Approved 15.8.95.

3.94 0448 - Special Needs residential annex (Resubmission). Refused 5.1.1995.

3.94 0187 - Erection of dwelling. Refused 21.6.1994

3.93.0799 - Detached four car garage and garden store. Approved 11.1.1994

3.93 0380 - Demolish farmhouse and rebuild dwelling. Approved 20.7.1993.

3.93.0065 - Outline application to demolish farmhouse and reconstruct dwelling. Approved 20.3.1993

Relevant Policies

Policy H9 - Extended Family Accommodation - Districtwide Local Plan.

Environmental, Human Rights and Other Issues

The principal issues for consideration relate to policy issues and whether the modification or discharge of the Section 106 and Condition results in demonstrable harm in planning terms. With respect to policy; both national and local guidance seek to resist new dwellings in the open countryside; hence the reason for the imposition of the original restrictions. The annex affords generous accommodation including a large double bedroom; large kitchen and lounge/diner; large utility; bathroom and garaging facilities. As built, it would clearly conflict with the terms of present policy, namely Policy H9 in that it does not provide a modest level of accommodation and it is difficult to envisage an alternative use which would be incidental to the dwelling house as such when the building was no longer needed for annex accommodation.

To my mind, occupation by a house keeper or au pair or similar would comply with the terms of the Section 106 Agreement provided that there remained a functional link with the main dwelling. It could be said, however, that the building provides such a generous standard of accommodation that such a use would prove unlikely. Even in the event it was utilised for this purpose, it is highly probable that any occupants would have their own vehicles and social arrangements to the extent that occupancy on these terms would be tantamount to normal residential occupancy. Hence, whilst I do not disagree with the view that Vicarage Lane is unsuitable to take additional vehicular movements, it seems to me that occupancy of The Bungalow, even on the terms approved under the original application would effectively generate the same amount of traffic movements as a typical dwelling house.

The converse of the above arguments of course is the fundamental conflict with policy and the fact that the application could be regarded as a "back door" means of obtaining an independent dwelling. Moreover, the issue of precedent is important to consider. However, mere generalised fear of precedent is rarely upheld on appeal and I consider it unlikely that there will be many instances where the planning circumstances are closely similar to the present case.

For the reason outlined above I feel the precedent issue is not overriding and would prove difficult to defend on appeal due to the relatively unique circumstances in terms of the size of the building and level of accommodation afforded and the fact it is physically isolated from the main dwellings.

RECOMMENDATION: That planning permission be GRANTED subject to the following condition(s):

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) any future extensions and/or alterations to the dwelling including any development within the curtilage as defined in Schedule 2 Part 1 Classes A to H shall not be carried out without the formal consent of the Local Planning Authority.
2. Prior to occupation; further details of the curtilage area and boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority.

REASON(S):

1. In the interests of the amenity of the area.
2. In the interests of clarity and residential amenity.

Planning Application

Town and Country Planning Act 1990
 Please read the accompanying notes, form P1B, before answering each question. Please complete in BLOCK LETTERS.

Application No. 3 00 0 6 2 7 P
 Date received
 Fee paid
 Receipt No.

Question 1

Name and Address of Applicant

MR & MRS J JEFFERSON

THE FOLLIES, VICARAGE LANE

WILPSHIRE

Postcode BB1 9FY

Tel. No.

Question 1a

Name and Address of Agent (if any)

JANET DIXON, CHARTERED TOWN PLANNER

PEEL HOUSE, ALDERFORD CLOSE

CLITHEROE

Postcode BB7 2QP

Tel. No. 01200 425051

(Contact's name)

Question 2

Address or Location of Application

Site - indicate on the plan any adjoining land in the applicants control

THE BUNGALOW AT THE FOLLIES
 VICARAGE LANE
 WILPSHIRE

Question 3

Accurate description of the proposed development (including site area if known)

VARIATION OF SECTION 106 AGREEMENT AS PLANNING CONDITION 3 OF 3/95/325 TO PERMIT THE BUNGALOW TO BE LET SEPARATELY FROM THE FOLLIES

Question 4

29 AUG 2000

Please state yes in the appropriate box

Type of application

a. Full application for a change of use ~~not involving~~ any building works

b. Full application for a change of use and/or new building/engineering work or alterations

c. Outline application for the erection of building(s)

(i) Please state yes/no which matters, if any, are being applied for

Siting Design Means of Access External Appearance Landscaping

(ii) For residential development give number and type of dwellings (indicate on separate sheet if necessary).

d. Reserved Matters application

(i) Please give reference number of outline permission.....

(ii) Please state yes/no which reserved matters are being dealt with in this application

Siting Design Means of Access External Appearance Landscaping

e. Continuation of Temporary Permission

Please give reference number of previous permission.....

f. Modification or Removal of a Condition

Please give the number of the planning permission and the relevant condition.....

3 OF 3/95/325

YES