

PLANNING OBLIGATION

**UNDER SECTION 106 OF THE TOWN & COUNTRY PLANNING ACT 1990 AS
AMENDED BY SECTION 46 OF THE PLANNING AND COMPULSORY
PURCHASE ACT 2004**

**RELATING TO LAND AND PREMISES AT MARL HILL HOUSE,
ROMAN ROAD, COW ARK, CLITHEROE (the "Site")**

THIS UNILATERAL UNDERTAKING is given this fifth day of April 2005

BY

**HOWARD & SARAH STALKER of Marl Hill House, Roman Road, Cow Ark,
Clitheroe, Lancashire, "the Owners")**

TO

**RIBBLE VALLEY BOROUGH COUNCIL of Civic Offices, Church Walk,
Clitheroe, BB7 2RA ("the Council").**

RECITALS

- (A) The Council is the local planning authority in respect of the Site for the purposes of the Act and by whom the Planning Obligations contained in this Deed are enforceable
- (B) The Owners are the owner of the freehold interest in the Site under title number LA 793954
- (C) The owners wish to undertake alterations and extensions to the site including the erection of a free-standing stables building (the "**Development**") in accordance with details contained in planning application reference number 3/2005/0150/P and Listed Building Consent application reference number 3/2005/0151/P.
- (D) Relevant planning and listed building application for the development dated 15th February 2005 have been lodged with the Council ("**the Applications**")
- (E) The Site enjoys the benefits of planning permission and Listed Building Consent reference 3/96/0112/P and 3/96/0113/P which relate to "Extension, alteration of farmhouse and construction of a double garage. Change of use of adjacent land into residential at Marl Hill Farm, Roman Road, Cow Ark".
- (F) Permissions 3/96/0112/P & 0113/P permit (amongst other things) the erection of a two-storey extension onto the south-west elevation of the property. Although each of the permissions has been taken up, the extension has not yet been built. The proposed extension constitutes the "**Unfinished works**" for the purpose of this undertaking.

NOW THIS DEED WITNESSETH as follows:-

1 DEFINITIONS

In this Deed where the context so admits the following expressions shall have the following meanings:

the "**Act**"

means the Town and Country Planning Act 1990 as amended by The Planning and Compulsory Purchase Act 2004

the "Applications"	means planning application reference 3/2005/0150/P and Listed Building application reference 3/2005/0151/P
the "Development"	means alterations and extensions to Marl Hill House (including the crection of a free-standing stables building) as described and illustrated within planning and listed building applications reference 3/2005/0150/P & 3/2005/0151/P
the "Council"	means the Ribble Valley Borough Council and includes any successor body in which the functions of Ribble Valley Borough Council as local planning authority shall be vested
the "Deed"	means this Deed of Undertaking
the "Owners"	means Mr & Mrs H Stalker of Marl Hill House, Roman Road, CowArk, Clitheroe
the "Unfinished Works"	means the two-storey extension proposed to be added to the south-west elevation of Marl Hill House on planning permission 3/96/0112/P & Listed Building Consent 3/96/0113/P.
the "Owner"	includes the owner's successors in title and assigns
the "Plan"	means the plan annexed to this Deed
the "Planning Obligation"	means the undertakings specified in Clause 4 hereof
the "Planning Permission"	means planning permission and Listed Building Consent for the development granted pursuant to the Applications
the "Site"	means the land and buildings located at Marl Hill House, Roman Road, Cow Ark, Clitheroe (shown edged in red on the Plan for identification purposes only

2 INTERPRETATION

- 2.1 The provisions of this Deed shall unless the context otherwise requires be construed as follows:
- 2.2 Words denoting the singular shall include the plural and vice versa words denoting any gender shall include all genders and words denoting persons shall include bodies corporate and vice versa
- 2.3 Any reference to any enactment regulation order includes any statutory modification or re-enactment thereof for the time being in force
- 2.4 The headings are for case of reference only and shall not affect the construction or interpretation hereof

3 STATUTORY PROVISIONS

3.1 This Planning Obligation:-

- (a) is given by the Owner to the Council
- (b) is given pursuant to the provisions of Section 106 of the Act
- (c) is a planning obligation for purposes of section 106 of the Act
- (d) is given with the intent to bind the Owner's freehold interest in the Site
- (e) shall be enforceable by the Council as local planning authority

4 UNDERTAKINGS

4.1 The Owners hereby undertake to the Council that in the event of the Planning Permission being granted and materially commenced, the Owners shall comply with the following Planning Obligation

- 4.1.1 undertake not to implement the unfinished works.

5 NOTICE

- 5.1 Any notice consent for Approval required to be given pursuant to this Deed shall be in writing and shall be delivered personally or sent by first-class pre-paid recorded delivery post or special delivery or facsimile transmission
- 5.2 The address for service of any such notice consent or approval as aforesaid shall:-
- 5.2.1 in the case of service upon the Council be upon the Chief Planning Officer at Civic Offices, Church Walk, Clitheroe, BB7 2RA or such other address for service and shall have been previously notified in writing by the Council to the Owner;
- 5.2.2 in the case of service upon the Owner, be upon Mr & Mrs H Stalker at Marl Hill House, Roman Road, Cow Ark, Clitheroe or such other address for service and shall have previously been notified in writing by the Owner to the Council.

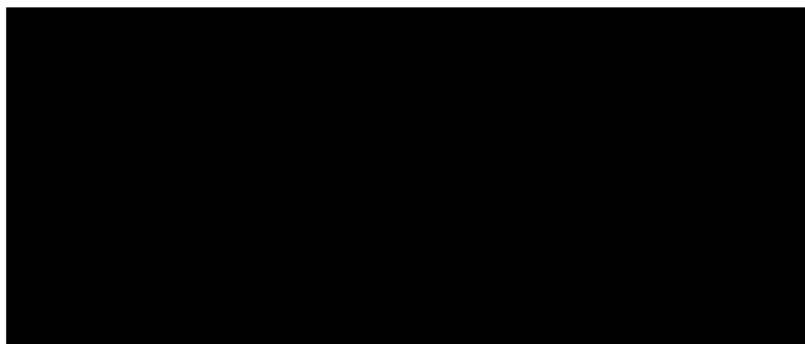
6 MISCELLANEOUS

- 6.1 No person shall be liable for any breach of this Planning Obligation after he shall have parted with all interest in the Site but without prejudice to his liability for any subsisting breach of covenant prior to parting with his interest in the Site
- 6.2 Nothing in this Deed shall prohibit or limit the right to develop any part of the site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed
- 6.3 In the event that the Planning Permission is quashed as a result of legal proceedings or if the Planning Permission shall expire before the commencement of development or shall at any time be revoked then this Deed shall cease and determine and be of no further effect
- 6.4 This Deed is a local land charge and the Council is entitled to register it as such
- 6.5 Nothing in this Deed shall fetter or restrict the Council in the exercise of its powers under any enactment statutory instrument regulation order or power for the time being in force
- 6.6 The Contracts (Rights of Third Parties) Site Act 1999 shall not apply to this Deed

IN WITNESS whereof the Owner has executed this Deed the day and year first
before written

HOWARD AND SARAH STALKER

in the presence of:-



1)



2)

**RECOMMENDATION FOR PLANNING AND DEVELOPMENT COMMITTEE
APPROVAL**

DATE: 29 MARCH 2005
REF: SW/JS
CHECKED BY:

APPLICATION NO: 3/2005/0150/P & 3/2005/0151/P (LISTED BUILDING CONSENT)
(GRID REF: SD 6828 4745)
PROPOSED EXTENSION AND ALTERATION OF HOUSE PLUS SEPARATE TIMBER STABLES
(RESUBMISSION) AT MARL HILL HOUSE, ROMAN ROAD, COW ARK, CLITHEROE

PARISH COUNCIL: No comments received.

ENVIRONMENT
DIRECTORATE
(COUNTY
ARCHAEOLOGIST): No objection subject to imposition of conditions.

ENVIRONMENT AGENCY: No objections subject to imposition of conditions.

NEARBY RESIDENTS: No comments received.

Proposal

Consent is sought for a number of works to a Grade II Listed building and also for works within land adjacent to its driveway.

In terms of the works to the building itself (which are also the subject of the Listed Building Application), these can be broken down into three component parts. Firstly an existing porch on the rear is to be demolished and replaced with a larger single storey dining area/snug, having approximate dimensions of 4.8m x 7.8m x 3.3m to the apex of its pitch. It would be constructed of stone under a slate roof with glazed folding doors in the south western elevation leading out onto an existing patio area.

The second element is the change of use of the basement level garage at the rear to a family room, which necessitates the replacement of existing garage doors by glazed panels. The flat roof of the garage forms part of the upper terrace area at the same level as the ground floor of the dwelling.

The third aspect is the provision of replacement garage facilities which, due to the sloping nature of the site can be provided next to the existing garage below the terrace area. The garage would measure approximately 6m width x 7m depth but given some of it is cut into the land form it would only extend part of the existing terrace to the side of the proposed dining area/snug by approximately 3.5m. Even at this the newly formed terrace area would still not extend as far back from the rear building line of the dwelling as that which exists already.

The works set to the south of the house and subject of the planning application only are the provision of a stable and feed store structure. Approximate dimensions of this aspect are 9.8m x 5m x 4m to its ridge height being constructed of timber under a slate roof.

Site Location

This property lies to the northwest of Roman Road within the Area of Outstanding Natural Beauty. To its northeast are two dwellings, the result of barn conversions with open land to its other aspects.

Relevant History

3/04/1160/P – Alterations and ground floor extension. Listed Building Consent. Withdrawn.

3/04/1161/P – Extension and alteration of house, plus separate garage/stables within extended curtilage. Withdrawn.

3/02/0870/P – Erection of large lean-to garden shed to cover existing oil tank. Listed Building Consent refused 26 November 2002.

3/02/0869/P – Erection of large, lean-to garden shed to cover existing oil tank. Refused 26 November 2002.

3/97/0085/P – Creation of drive utilising existing field access. Erection of double garage and adjacent terrace. Approved with conditions 17 March 1997.

3/97/0084/P – Creation of drive utilising existing field access. Erection of double garage. Approved with conditions 17 March 1997.

3/96/0113/P – Major repair and alteration with extension and provision of double garage. Listed Building Consent. Approved with conditions 15 April 1996.

3/96/0112/P – Extension and alteration of farm house and construction of double garage. Approved with conditions 15 April 1996.

Relevant Policies

Policy G1 - Development Control.

Policy G5 - Settlement Strategy.

Policy ENV1 - Area of Outstanding Natural Beauty.

Policy ENV19 - Listed Buildings.

Policy H10 - Residential Extensions.

Policy SPG – "Extensions and Alterations to Dwellings"

Policy RT16 - Development Involving the Keeping or Riding of Horses.

Policy 22(a) Heritage – Lancashire Structure Plan 1991 – 2006 Greening the Red Rose County.

Environmental, Human Rights and Other Issues

Matters for consideration relate to the visual impact of the works, their impact on the Listed Building and on adjacent residential amenity.

In respect of amenity, the dining area/snug has been designed with a blank elevation facing towards neighbouring dwellings. Therefore, there should not be any increased overlooking from this aspect of the scheme over neighbouring garden areas. The proposal would provide for an increased area of terrace, but to the south west of that which exists on the common boundary. Whilst I acknowledge that this may

enable some overlooking it will not, in my opinion, prove to be significantly different from that which is already experienced.

Turning to the potential impact of the works on the Listed Building, the scheme has been revised since the previous withdrawn submission to incorporate the use of more traditional materials. The north eastern elevation is of stone construction, with the south western incorporating more glazing, but this in itself is screened from long range views by existing stone walls. The existing rear porch is an addition to this building which does not enhance its rear elevation. The works here, both in terms of the dining area and basement works, seek to make the optimum use of what are modest physical additions. The applicant has submitted a draft Unilateral Undertaking relinquishing the 1996 approval that included the provision of a two storey extension to its gable elevation which remains live due to works already undertaken on the building. It is considered that the works proposed here represent a more sympathetic additive form than that which was approved previously.

The final element of the scheme is the provision of stables and these are of modest proportions and set close enough to the dwelling so as not to appear remote, yet a sufficient distance away so as not to adversely affect the setting of the Listed Building. Therefore, having regard to all of the above, I am of the opinion that the works would not significantly harm visual or residential amenity and thus recommend accordingly.

SUMMARY OF REASONS FOR APPROVAL

The proposal has no significant detrimental impact on nearby residential amenity nor would it have an adverse visual impact or detrimental impact on the character and setting of the listed building.

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

1. Precise specifications and samples of walling and roofing materials and details of any window and door surrounds including materials to be used shall have been submitted to and approved in writing by the Local Planning Authority before their use in the proposed works.

REASON: In order that the Local Planning Authority may ensure that the materials to be used are appropriate to the locality in accordance with Policy G1 of the Ribble Valley Districtwide Local Plan and the adopted Supplementary Planning Guidance – "Extensions and Alterations to Dwellings".

2. Notwithstanding the specification indicated on the submitted drawings, all new and replacement rainwater goods shall be in cast iron or cast aluminium.

REASON: In order to preserve the special architectural and historic interest of the building in accordance with Policies G1 and ENV19 of the Ribble Valley Districtwide Local Plan and the adopted Supplementary Planning Guidance – "Extensions and Alterations to Dwellings".

3. All doors and windows shall be in timber and retained as such in perpetuity.

REASON: To comply with Policies G1 and ENV19 of the Ribble Valley Districtwide Local Plan to ensure a satisfactory standard of appearance in the interests of visual amenity.

4. All new and replacement door and window head and sills shall be natural stone to match existing.

REASON: To comply with Policies G1 and ENV19 of the Ribble Valley Districtwide Local Plan to ensure a satisfactory standard of appearance in the interests of visual amenity.

5. Notwithstanding the details shown upon the approved plans, the proposed Velux roof lights shall be of the Conservation Type, recessed with a flush fitting, details of which shall be further submitted to and approved by the Local Planning Authority before development commences upon the site.

REASON: In the interests of visual amenity in order to retain the character of the building and to comply with Policies G1 and ENV19 of the Ribble Valley Districtwide Local Plan.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) the building(s) shall not be altered by the insertion of any window or doorway without the formal written permission of the Local Planning Authority.

REASON: In order to safeguard nearby residential amenity in accordance with Policies G1 and H10 of the Ribble Valley Districtwide Local Plan and the adopted Supplementary Planning Guidance – "Extensions and Alterations to Dwellings".

7. No development shall take place until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

REASON: The site is of archaeological importance and archaeological recording will be necessary during any ground disturbance associated with the development to ensure that anything of archaeological importance may be adequately recorded as required by Policies G1, ENV14 and ENV15 of the Ribble Valley Districtwide Local Plan.

8. No development approved by this permission shall be commenced until a scheme for the containment and storage of manure has been approved by the Local Planning Authority. Such a scheme shall be constructed and completed in accordance with approved plans.

REASON: To prevent pollution of the water environment in accordance with Policy G1 of the Ribble Valley Districtwide Local Plan.

9. This permission shall be read in conjunction with the unilateral undertaking dated

REASON: To comply with Policy G1 of the Districtwide Local Plan for the avoidance of doubt as the unilateral undertaking restricts previous past unimplemented planning consents.

NOTE(S):

1. This site is of archaeological importance as reflected in its Listed status. Archaeological recording of the affected parts of the main building and archaeological watching brief during works to the building and any ground disturbance associated with development. Specifications and a list of archaeological contractors for appropriate works can be obtained from the Lancashire Archaeology Service.