

Dear Sirs

Planning Application no: 24/00109/FUL

**Application for Retrospective Consent for the Erection of a Close Board Boundary Fence:
Land to South of Maidenhall, Highnam**

Highnam Parish Council objects to this retrospective planning application in the strongest possible terms. Every so often an incident galvanises widespread local opposition which has proved to be the case in this instance. A local petition, currently with 1,041 signatories, has been drawn up objecting to this egregious planning breach, and to date over 50 formal objections to this application have been lodged on the Borough Council's Planning Portal.

The reasons cited for this application are completely spurious. The applicant claims the erection of the fence has prevented dog fouling and fly tipping on the land. Not only have there been no known incidences of either activity on this land but, as the attached photo illustrates, there is a dog waste bin situated immediately adjacent to this site which caters for such eventuality if needed. The village prides itself on its well maintained and responsibly used open spaces so there is no need for this sort of "protection."

Highnam's character is largely defined by its intimate labyrinth of inter connected closes and network of small green open spaces of which this is an important one. They provide enjoyment for residents and provide a safe, attractive lived space, especially for younger members of the community. This particular site sits alongside an important well used footpath leading to the village primary school, and is a well patronised meeting point for families. This fence not only precludes continuing community use of this amenity, but its ugly, stark, unsightly, incongruous, overbearing and inappropriate appearance glaringly clashes with the attractive local street scene. The land was open grassland and contains three trees all subject to preservation orders. The fence is also highly visible to all passers-by.

The ownership and use of this land has had a somewhat confusing and chequered past. For at least the last 40 years the land has been actively maintained by Tewkesbury Borough Council (see penultimate paragraph of attached letter dated 10 August 2009 on behalf of the Borough Solicitor) against an originally presumed ownership by Gloucestershire County Council. In 2019 the Parish Council sought, and received, the Borough Council's consent to plant up part of this site as a pollinator patch as one of its networks of similar patches around the village (see attached photo of local residents enjoying this facility before the land was fenced off). It has been used for this purpose ever since.

Such is the strength of local concern that at its meeting on 19 September 2023 the Parish Council resolved to apply to Gloucestershire County Council for the land to be formally designated as a Village Green to protect it in perpetuity against predatory enclosure or development. This application was validated on 27 October (Ref: JB/80168), and we currently await progress in processing this application. As this planning application was submitted well after the Village Green application was lodged, it will not be treated as a trigger event so will not compromise its validity.

The Parish Council wishes to express its concern and disappointment at the lack of effective enforcement action being taken against this breach. In his e mail of 30 November 2023 (copy attached) the Borough's Planning Enforcement Officer acknowledged that a planning breach had occurred but has not subsequently sought to pursue formal action to remedy this, indeed the land owners have been advised to seek retrospective planning consent to legitimise the erection of the fence, hence this application. Action could, and should, have been taken by the Borough to secure the removal of this fence months ago. Instead, this breach continues without resolution.

The erection of this fence breaches a number of Borough Council planning policies and covenants as the following briefly summarises:

- *TBC Open Estates – General Planning Guidance April 1979*: (see attached). This states that boundary fencing should be no more than 0.5m high. This fence is 2 m high, well in excess of this limit. This Guidance should be applied to refuse this application.
- *TBC 2011-2031 Local Amenity Space Policy (Policy LAN4 adopted 8 June 2022)* – This clearly designates part of this site as “a locally important open space.” Again, this designation provides ammunition for this application to be refused as it is contrary to Borough planning policy. This states that *“open spaces will be protected from new development that would adversely affect their open character and appearance. Development resulting in an adverse effect on the open character and appearance of a locally important open space will only be permitted where it would result in benefits to the community that would outweigh the importance of the open space.”* Manifestly not the case in this instance.
- The land is subject to a covenant dated September 1983, made between Bovis Homes, Lovell Homes and the Borough Council (Title ref; GR53030, GR57883, and GR59625) This states that:
 - Any application for planning consent for development or change of use is not to be made.
 - Such land is to remain in use as agricultural land or be used and maintained for the enjoyment of the public as open space land.
 - The land is not to be sold or disposed of without first obtaining a covenant from the purchaser in favour of the Council in similar terms.

On these grounds, therefore, this application must be refused.

The Parish Council is determined to protect its network of attractive open spaces around the village which bring such pleasure and enjoyment to so many people. Were this application to be permitted it is possible this could create an unfortunate precedent which could encourage further predatory and inappropriate land enclosure to take place and could also lead to other retrospective planning applications being made to rectify previous planning breaches. We urge the Borough Council to take a strong stance in this matter by refusing this application. We would also request that should this application be refused appropriate

enforcement measures be immediately enacted to secure the early removal of this fence and the reinstatement of the site.

We shall be asking our Borough Councillors to request that this application be determined at planning committee rather than under officer delegated powers in order that we have the opportunity to present our concerns in open committee forum.

Yours Faithfully




CLlr Charlie Coats Chair: Highnam Parish Council



Adele Beaumont
30 May 2020 · 🌐

Thought I'd do a tour of the 'pollinator patches' this week after the exciting discovery of the bee orchid in one. These photos are from the Maidenhal/Oakridge patch. This had wildflower seeds and plug plants sown just before lockdown but I can't see much sign of growth. Maybe it's been too dry? Or out-competed by the grasses? Let's keep looking! There are however some lovely buttercups and red clover and the foxgloves donated by a resident have come up beautifully! What is the red 'grass'? I see it on Monkey bank too.



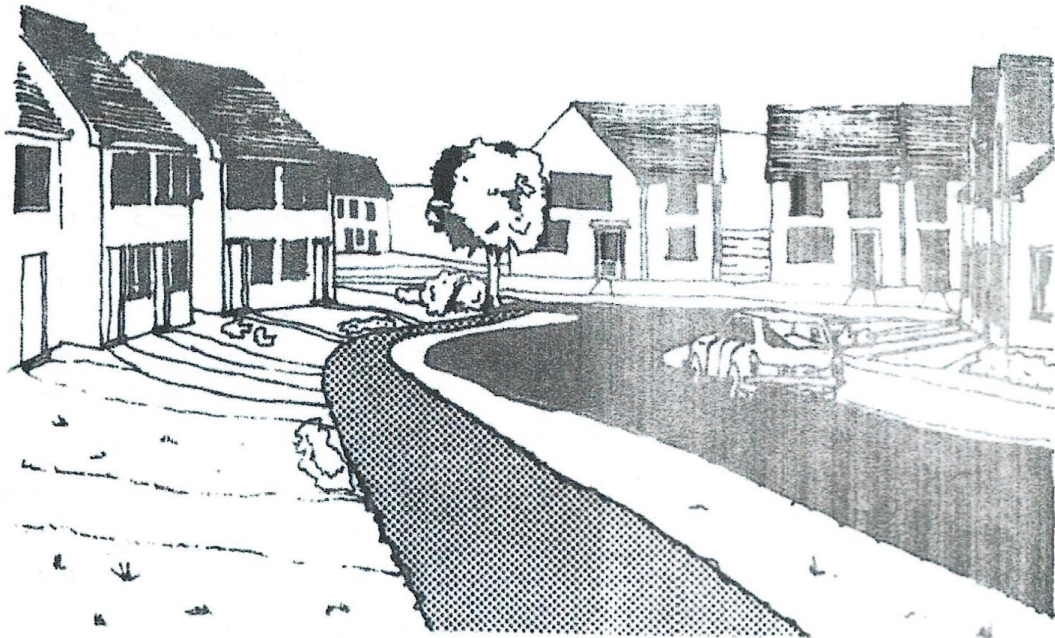
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OPEN PLAN ESTATES

A General Planning Guide to
Owners and Occupiers



TEWKESBURY BOROUGH COUNCIL

INTRODUCTION

In March, 1974, the Tewkesbury Borough Council, as District Planning Authority, adopted Formal Planning Policies for Development Control. In relation to residential development in urban areas Policy No. 5.10 states that the "granting of permission for new housing estates may be subject to conditions restricting 'permitted development' relating to the erection of means of enclosure, garages and other ancillary building".

This policy was originally formulated as a result of experience of the former Local Planning Authority gained over many years of considering applications for new housing layouts in an attempt to ensure as high as possible standards of visual amenity in the completed development.

Besides being one of the biggest users of land, housing is, perhaps more than anything else, the physical expression of planning. Well planned and laid out housing developments can be pleasant to live in and good to look at. Quality of design and appearance, together with the provision of amenity and play areas suitably landscaped are the essentials of a housing estate if a pleasing and socially acceptable environment is to be created for the future owners and occupiers of the dwellings.

It is therefore essential that some degree of planning control should be retained over future developments on open plan estates to ensure that the standards of amenity created by the original development are maintained for the future enjoyment of all the residents, and there can be little disagreement with this desire to seek a high standard for the benefit of the community as a whole.

Effort has been made to set out helpful information in a simple and straightforward way and it is hoped that you will find the contents of this booklet useful if and when you may wish to carry out any alterations, extensions or improvements to your property, and save you any embarrassment in not knowing the planning position with regard to development on your estate.

PLANNING POSITION

When the proposals for the development of your estate were granted planning permission, a condition was imposed removing the rights of future owners and occupiers to carry out small-scale works to their property normally permitted by virtue of the provisions of Article 3(1) and of the First Schedule to the Town and Country Planning General Development Order, 1977 or the provisions of a similar earlier Order. This has the effect that no private car garages, extensions, sheds, gates, fences, walls, other means of enclosure, or structures of any kind (other than those permitted as forming part of the original application for the estate) can be erected or constructed on your estate without the prior express permission of the Local Planning Authority i.e. Tewkesbury Borough Council.

As your estate was designed and laid out on "open plan" principles it is most unlikely that the Authority will accept any form of development in your front garden for the reasons set out in the Introduction, with the exception of the boundary markers referred to in Figure 1 and within the following Guidelines.

The planting of trees and shrubs does not require the permission of the Authority, and much can be done by an owner or occupier to improve the amenities of the dwelling or counter the effects of trespass by less considerate members of the community by landscaping in the front garden with shrubs, hedging and other plants, especially on corner plots.

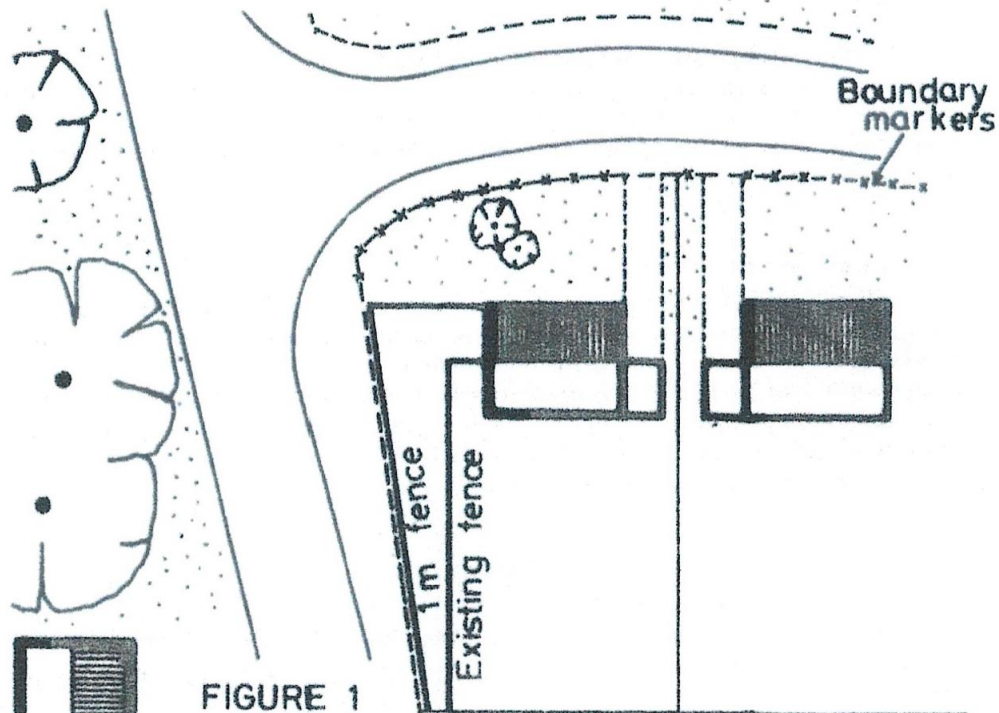


FIGURE 1

So far as corner plots are concerned, the Authority has agreed that suitable fences and walls of up to 1m in height will, subject to planning permission, be acceptable on the side boundary of the property provided they do not project in front of the forward-most elevation of the dwelling as indicated in Figure 1 and provided no obstruction is created to the visibility splay at the road junctions, and amenity open space areas are not lost.

In order to assist you in planning any alterations or extensions to your property and to try and avoid the abortive submissions of planning applications which are unlikely to be acceptable to the Local Planning Authority, the type of materials and finishes of various developments which will be sympathetically considered by the Authority are listed in the following "General Guidelines".

If it is your wish or intention to carry out any of the listed developments in differing materials or designs to those indicated then you may include this in your planning application but it may be advantageous to discuss your proposals with an officer of the Borough Planning Department. The guidelines will be taken into account by the Authority when determining your proposals.

NOTE : It may also be necessary for Building Regulation permission to be obtained for your proposal, especially where the erection of buildings or extensions is concerned, and advice on this aspect can be obtained from the Building Control Section of the Technical Services Department at the address indicated on the frontispiece.

(Planning and Building Regulation Application Forms may be obtained from this address).

GENERAL GUIDELINES FOR DEVELOPMENT ON OPEN PLAN ESTATES

These should generally be erected behind the building line and preferably be constructed in an appropriate brickwork or stonework to match the adjoining dwelling and have a roof covered in either tiles to match the dwelling or grey roofing felt in the case of flat roofs. Alternatively, an approved design of pre-cast concrete garage with a "Sparlite" or similar type finish may be acceptable.

Permanent Extensions

These should be in materials to match the existing dwelling. If of two-storey construction, the roof should be double pitched and covered with matching tiles or otherwise suitably integrated with the dwelling. Single-storey extensions can be flat roofed with roofing felt and chipping finish. Generally, extensions should not project more than 4 metres from the rear of the dwelling. Extensions on the front elevations other than small porches, will not generally be acceptable unless there is considerable variation in the existing "building line".

Conservatories, Sun rooms, Porches, etc.

These should preferably be erected in materials to match the existing dwelling, especially if a porch is to be on the front elevation. Alternatively, pre-built extensions of a good standard of finish and materials will generally be acceptable on rear elevations.

Greenhouses

These should be in the rear garden and preferably of a proprietary make with a stained timber, white painted timber or aluminium frame.

Car Ports

These may be acceptable in certain locations provided they are sited behind the "building line" and constructed with a horizontal fascia board.

Sheds

These should be erected in the rear garden and constructed with timber boarding in a finish similar to that for the fences. If it is proposed to construct a shed adjoining the dwelling this could be constructed in brickwork to match the house. Roofs should be double pitched and covered with grey mineralised roofing felt.

Boundary Walls

These should be constructed in brickwork or blockwork to match the adjoining dwelling and if erected as an extension to existing screen and boundary walls on the estate they should be constructed in the same manner and design as the existing. In certain cases, the use of screen blocks as part of the wall may be acceptable. It is desirable that the wall be erected with suitable coping to minimise the effects of damp and frost.

Boundary Fences

Within front gardens boundary markers consisting of white painted, plastic or brown stain treated hardwood posts with white or black chainwork not exceeding 0.5m in height will be accepted as indicated in Figure 1. With the exception of the above, fences should be erected within the rear garden only (except where flanking a corner plot as illustrated in Figure 1) and should be constructed of vertical feather edge or similar close-boarding and finished in a natural brown stain or preservative. It is considered that an appropriate height would be 1.8m with a possible step down to 1.25m somewhere along its length if desired. Preferably there should not be more than one increase in height along any length of fence.

Gates

If it is proposed to construct a new gateway in an existing or proposed fence it should be of a matching finish. If in a wall then either the use of timber or wrought iron for the gates would be acceptable. New gateways will not be acceptable in locations where their use will be dangerous on road safety grounds.

Accessways

An access way is a small informal cul-de-sac with a joint use pedestrian/vehicular surface which is presently being introduced into the majority of new estate layouts. Pedestrians have no legal precedence over vehicles on these roads, but distinctive design features encourage drivers to give way to pedestrians.

A footway is not necessary and statutory undertakers apparatus such as water mains, gas mains, electricity cables and telephone wires are layed under an adopted grass verge which will be contiguous with private front gardens to avoid the need for regular grass cutting by a local authority. Such an area is identified by "GCC" marker blocks where a boundary between dwellings intersects the highway boundary and at each side of each driveway.

It must be emphasised that these verges are not the property of the adjoining householder who only has a "licence" to maintain them. Ideally they should be left as open lawn and most certainly trees, shrubs, fences or rockeries should not be planted or erected on them as these could eventually interfere with and possibly damage the underground services to your dwelling or that of your neighbours. Flower beds, which are unlikely to damage underground services may be removed or damaged if there is a need for a statutory undertaker to remove his underground apparatus to execute repairs or carry out replacement or new connections.

NOTE : The grant of planning permission for development does not over-ride any private restrictive covenant which may relate to your property and you are advised to check your title deeds in this connection.

Should you require any further assistance you may either write to the Borough Planning Officer, telephone an officer of the Planning Department or visit the Planning Office by prior appointment.

OPEN PLAN ESTATES

A General Planning Guide to
Owners and Occupiers

September, 1978
(Revised April, 1979)

Borough Planning Officer,
Tewkesbury Borough Council,
P.O. Box 7,
Council Offices,
Gloucester Road,
Tewkesbury, Glos. GL20 5TT,
(Tel. : Tewkesbury (0684) 295010).

Corporate Services



Sara Freckleton
Borough Solicitor



YJL Homes Limited
Yew Trees
Main Street North
Aberford
West Yorkshire
LS25 3AA

Our Contact: Kaveena Patel
Telephone – Direct Dial: 01684 272016
Our Ref: T1(8)1A
Email: kaveena.patel@teewkesbury.gov.uk
Your Ref: Aitken/OPP291A

10 August 2009

Dear Sirs

Land lying to the South of Maidenhall, Highnam, Gloucester

I have been notified about a letter dated 1st July 2009 which was delivered to Mr D and Ms D Dowsett of 43 Maidenhall, Highnam, Gloucester, GL2 8DJ. The letter was sent by Renew Holdings plc who I believe is the holding company for YJL Homes Ltd. I enclose a copy of the letter for your information.

The reason for writing to you is twofold.

Firstly I understand from reading the letter that your company are proposing to dispose of some land adjacent to number 43 Maidenhall, Highnam.

I would like to inform and highlight to you that any sale or disposal of the land would be subject to covenants stated within a Deed dated 5th September 1983 and made between Bovis Homes Limited (1) Lovell Homes Limited (2) and the Council for the Borough of Tewkesbury (3). The covenants briefly state that:-

- Any application for planning consent for the development or change of use of the land is not to be made.
- That such land is to remain in use as agricultural land or be used and maintained for the enjoyment of the public as open space land.
- That the land is not to be sold or disposed of without first obtaining a covenant from the purchaser in favour of the Council in similar terms.

For your records I enclose a copy of the abovementioned Deed.



Corporate Services

Sara Freckleton
Borough Solicitor



Secondly after having a conversation with the Grounds Maintenance Officer at this Council I have been informed that this Council have been and is maintaining the land which your company are proposing to dispose. As the Council have been maintaining the land I am wondering whether YJL Homes Ltd would be willing to negotiate a transfer of the land to Tewkesbury Borough Council.

I look forward to hearing from you on the above.

Yours faithfully

K. Patel

For Borough Solicitor
Encl.

C.C. Renew Holding Plc Property Department
39 Cornhill, London, EC3V 3ND



2 copies 50p

H.M. LAND REGISTRY

LAND REGISTRATION ACTS 1925 to 1971

5 18
+ 2 large plans



COUNTY AND DISTRICT : GLOUCESTERSHIRE - Tewkesbury
TITLE NUMBER : GR 53030 GR 57883 and GR 59625
PROPERTY : Maidenhall Farm, Highnam Green

THIS DEED made the 5th day of September One thousand nine hundred and eighty three BETWEEN

- (1) BOVIS HOMES LIMITED of Bovis House Winchcombe Street Cheltenham Gloucestershire (hereinafter called "Bovis")
- (2) LOVELL HOMES LIMITED of Marsham House Gerrards Cross Buckinghamshire (hereinafter called "Lovell")
- (3) TEWKESBURY BOROUGH COUNCIL of Gloucester Road Tewkesbury Gloucestershire (hereinafter called "the Council")

RECITING THAT :-

- (1) This deed is supplemental to :-
 - (A) An Undertaking (hereinafter called "the Undertaking") dated the 30th day of August 1974 given pursuant to Section 19 of the Gloucestershire County Council Act 1956 by Bovis (then known as Bovis Homes Western Limited) and B.J.D. Properties Limited to the Council
 - (B) An Agreement (supplemental to the Undertaking) made the 29th day of April 1977 between Bovis (then known as Bovis Homes South West Limited) of the first part the said B.J.D. Properties Limited of the second part and the Council of the third part

- (C) A Deed of Grant of rights of way and passage (hereinafter called "the Grant") also dated the 29th day of April 1977 but made between Bovis (then known as Bovis Homes South West Limited) of the first part Barclays Bank Limited of the second part the said B.J.D. Properties Limited of the third part and Schlesinger Limited of the fourth part
- (2) Bovis is the Registered Proprietor with title absolute of the land more particularly referred to in the first recital to the Undertaking being the land now or formerly comprised in the above-mentioned title number GR 53030 (hereinafter referred to as "the Bovis land")
- (3) Lovell is the Registered Proprietor with title absolute of the land more particularly referred to in the second recital to the Undertaking being the land comprised in the above-mentioned titles numbered GR 57883 and GR 59625 (hereinafter referred to as "the Lovell land")
- (4) The parties hereto have agreed to vary the terms of the Undertaking and the Grant as hereinafter appears

WITNESSETH as follows :-

1. THIS deed has been executed in pursuance of Section 19 of the Gloucestershire County Council Act 1956
2. IN consideration of the covenants on the part of Lovell next hereinafter appearing the Council as Beneficial Owner HEREBY SURRENDERS AND RELEASES unto Lovell ALL AND SINGULAR the covenants in favour of the Council contained in Clauses (b) and (g) of the Undertaking to the intent that the Lovell land and each and every part thereof shall henceforth stand free and released from the said covenants
3. LOVELL on behalf of itself and its successors in title to the lands shown respectively coloured blue and green on the plan number 6450/13C annexed hereto (part of the Lovell land) HEREBY COVENANTS with the Council in manner following that is to say :-

- (a) Upon completion of the development of the whole of the land hatched red on the plan annexed to the 1974 Undertaking or earlier by arrangement at the request of the Council to form level lay out and grass in accordance with the specification for such works prepared by the Borough Technical Officer the lands shown coloured blue on the said plan number 6450/13C and edged green on the supplementary plans numbered 6236/7M and 6450/8D respectively and also annexed hereto and when called upon so to do by the Council within a period of 21 years from the date of the completion of such works to convey free of charge by way of gift to the Council all of such lands coloured blue on the said plan annexed hereto which do not form part of the public highway to the intent that such lands may thereafter become public open spaces and no building or structure whatsoever shall be erected thereon
- (b) Not to make any application for planning consent for the development or change of use of the land coloured green on the said plan annexed hereto to the intent that the said land shall either remain in use as agricultural land or be used and maintained for the enjoyment of the public as open space land and not to sell or dispose of the said land coloured green without first obtaining a covenant from the Purchaser in favour of the Council in similar terms
- (c) To dedicate to the Council within 21 years of the date hereof such ancillary public open space within the residential areas of Phases IV and V of the said development as shall be agreed with the Council

4. IN consideration of the easements hereinafter granted by Lovell Bovis as Beneficial Owner HEREBY SURRENDERS AND RELEASES unto Lovell in fee simple ALL AND SINGULAR the rights contained in Clause 2 of the Grant to the intent that the Lovell land and each and every part thereof shall henceforth stand free and released from the burden of the said rights

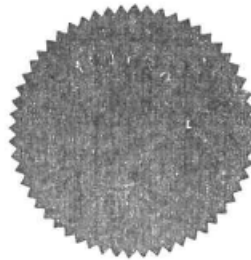
5. IN consideration of the surrender and release contained in Clause 4 of this deed Lovell as Beneficial Owner HEREBY GRANTS unto Bovis FULL RIGHT



AND LIBERTY for Bovis and its successors in title the owners and occupiers of the Bovis land and each and every part thereof and its or their respective servants and licensees (in common with all others having the like right) at all times hereafter by day or night to pass and repass along over and upon the roadway or intended roadway shown coloured brown on the said plan annexed hereto with or without vehicles of any description and with or without animals pending its adoption as a public highway for all purposes connected with the use and enjoyment of the Bovis land other than building construction work TO HOLD the said right of way unto Bovis in fee simple

6. THE parties hereto of the first and second parts HEREBY APPLY to the Chief Land Registrar to note as he considers appropriate on the Registers of the Titles above mentioned the provisions of clauses 4 and 5 of this deed

IN WITNESS whereof the parties hereto have caused their respective Common Seals to be hereunto affixed the day and the year first above written

THE COMMON SEAL of BOVIS HOMES)
LIMITED was hereunto affixed in)
the presence of :-)



 Director
 Authorized
Signatory
Secretary

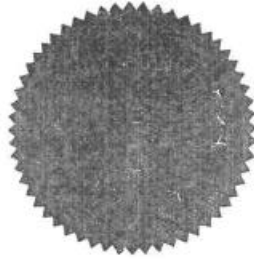
THE COMMON SEAL of LOVELL HOMES)
LIMITED was hereunto affixed in)
the presence of :-)



Director

P.C. Bailey

Secretary



THE COMMON SEAL of THE COUNCIL)
FOR THE BOROUGH OF TEWKESBURY)
was hereunto affixed in the)
presence of :-)



Mayor



Borough Secretary

