Dated 6th March 1998

(1) HORSHAM DISTRICT COUNCIL

(2) WESTWOOD ESTATES LIMITED

(3) TOWER HOUSING ASSOCIATION LIMITED

DEVELOPMENT AGREEMENT

RE: Land on the south-east side of
A29 Stane Street Billingshurst
West Sussex

I R Davison
Chief Solicitor
Horsham District Council
Park House
North Street
Horsham
West Sussex RH12 1RL
DX 57609 HORSHAM - 6
IRD/CON(S)1126
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I R Davison to Page 62

THIS AGREEMENT is made the 6th day of March 1998 Between (1) HORSHAM DISTRICT COUNCIL of Park House North Street Horsham West Sussex RH12 1RL ('the Council') (2) WESTWOOD ESTATES LIMITED (reg. no. 2438715) whose registered office is at 9/10 Romney Place Maidstone Kent ME15 6LE ('Westwood') and (3) TOWER HOUSING ASSOCIATION LIMITED whose registered office is at Osborn House Osborn Terrace London SE3 9DR ('Tower')

1. **DEFINITIONS**

In this Agreement the following expressions shall have the following meanings:

1.1 'Agreed Start Date' means the actual date as notified to the Council by Westwood of the intention to commence construction works on the Site but which shall in any event be on or before the expiration of the Specified Time

1.2 'Appendix 1' means the draft transfer of the Site referred to in Clause 3

1.3 'Appendix 2' means the draft Nomination Deed AT

1.4 'Appendix 3' means the specification for the Children's Play Area

1.5 'Appendix 4' means the draft transfer of the Children's Play Area

1.6 'Dwellings' refers to all or any of the 24 housing units to be constructed on the Site

1.7 'Children's' Play Area' means the children's play area to be provided in accordance with Clause 4

1.8 'the Contractor' means any Contractor or Contractors with whom Tower enters into building contracts for the construction of the Development

1.9 'the Council's Solicitor' means I R Davison MA of Council Offices Park North North Street Horsham West Sussex RH12 1RL

1.10 'the Development' means the total of 24 Dwellings to be constructed on the Site together with driveways roads footpaths verges parking spaces services landscaping and other works intended to be constructed or executed on the Site in accordance with the Planning Permission

1.11 'Development Completion Date' means the [31st March 1999]

1.12 'the Employer's Agent' means the employer's agent within the meaning of the JCT Contract namely Calford Seaden

1.13 'the General Conditions' means the Standard Conditions of Sale (3rd Edition)

1.14 'the Highway Authority' means West Sussex County Council of County Hall Chichester West Sussex PO19 1RQ

1.15 'JCT Contract' means the building contract in the Standard Form JCT Building Contract with the Contractors Design 1981 Edition in the form agreed between Tower and the Contractor as at the date of this Agreement

1.16 'Nomination Deed' means the form of Agreement attached as Appendix 3 which shall be entered into between Tower and the Council in respect of the Dwellings whereby the Council shall acquire 100% initial nomination rights to the 24 Dwellings and thereafter 75% nomination rights in perpetuity

1.17 'Nominated Person' means a person nominated by the Council pursuant to the Nomination Deed

1.18 'Plan No 1' means the plan numbered 1 attached to this Agreement

1.19 'Plan No 2' means the plan numbered 2 attached to this Agreement

1.20 'Planning Permission' means the planning permission (reference BL/91/97) granted by the Local Planning Authority for construction of the Development on the Site and any substitute therefor approved by the Council for the purposes of this Agreement (for the avoidance of doubt any planning permission granted by the Local Planning Authority which does not permit construction of the Development on the Site shall not be deemed to be a planning permission for the purposes of this Agreement)

1.21 'Site' means the freehold land at Billingshurst shown edged red on Plan No 1

1.22 'Specified Time' means the period of time within which works are to commence on the Site being a date which is no later than 31st March 1998

1.23 'Tower's Solicitor' means Price Evans Solicitors of 77 Uxbridge Road Ealing London W5 5ST which firm represents the interests of Tower for the purpose of this Agreement

1.24 'Westwood's Solicitor' means Church Adams Tatham Solicitors of Chatham Court Lesbourne Road Reigate Surrey RH2 7FN

2. **INTERPRETATION**

2.1 All references to approval or consent of any party pursuant to any provisions of this Agreement are subject to the qualification that such approval or consent shall not be delayed or withheld unreasonably

2.2 Words importing the singular number include the plural number and vice versa and words importing gender include any other gender

2.3 References to any statute include a reference to any statutory amendment modification replacement or re-enactment for the time being in force and to every instrument or direction regulation byelaw permission licence consent condition scheme and matter made in pursuant of any statute

2.4 Any obligation of a party not to do anything shall be deemed to include an obligation not to permit or suffer such thing to be done

2.5 References to any party shall unless otherwise stated be deemed to include the successors in title and assigns of that party

3. MATTERS OF TITLE AND TRANSFER

3.1 In consideration of the sums specified the Council agrees to sell the Site to Westwood and Tower shall pay to the Council the consideration in the sum [redacted] plus VAT on 15th March 1998

3.2 The Site shall at the request and direction of Westwood be transferred to Tower on the date of this Agreement with full title guarantee in pursuance of its powers under Section 233 of the Town and Country Planning Act 1990

3.3 The Site will be transferred with vacant possession

3.4 Title to the Site shall comprise that part of Title No WSX 215482 shown edged red on Plan No 1

3.5 A copy of the Title having been supplied to Westwood or Westwood's Solicitor and Tower's Solicitor Westwood and Tower shall be deemed to take the Site with full knowledge of all matters disclosed within the Title and shall not be entitled to raise any requisitions or objections in respect thereof save in relation to previously undisclosed matters revealed by the usual pre-completion searches at HM Land Registry

3.6 The Council is not aware of any rights easements or covenants (except mentioned in the documents referred to in Clause 3.4) or of any overriding interests as defined by the Land Registration Act 1925 affecting the Site but Westwood and Tower acknowledges that the title to the Site is subject to any such rights easement or interests as may exist

3.7 The Site shall be transferred subject to all service providers' plant and equipment which may exist in on over or under the Site and to the rights of such service providers

3.8 The Site shall be transferred without the benefit of any right to light and air

3.9 The Council has confirmed the routes of any gas electricity and telephone supply pipes wires and cables passing through under or over the Site and the route of any private or public foul and or surface water sewers passing through or under the Site so far as is known and Westwood and Tower should carry out its own enquiries of relevant service providers and where appropriate a survey of the Site to confirm the route of any such matters

3.10 The transfer of the Site shall be in the form of transfer attached as Appendix 1

3.11 The Site shall be transferred with the benefit of the rights and easements but subject to the exceptions reservations covenants conditions and stipulations contained in the transfer

3.12 The General Conditions shall apply to this Agreement in so far as they are applicable to a sale by private treaty and are not varied or inconsistent with the terms of this Agreement

4. **COVENANTS AS TO CONSTRUCTION OF THE DEVELOPMENT**

Tower covenants with the Council for itself and on behalf of its successors in title and those claiming through or under it and with intent to bind the Site and each and every part pursuant to Section 106 of the Town and Country Planning Act 1990 as follows

4.1 to provide within the Site for the construction of 24 social housing dwellings to be of such size and type as approved by the Council

4.2 to commence the construction of the Development under the JCT Contract on the Agreed Start Date and thereafter regularly and diligently proceed with the construction in a good and workmanlike manner in accordance with the Planning Permission Provided that all of the following matters shall have been completed to the reasonable satisfaction of Tower namely:

4.2.1 satisfactory site and geotechnical surveys have been obtained

4.2.2 subject to the provisions of Clauses 3.6 and 3.7 of this Agreement legal investigation of title has been undertaken and approval of necessary third

parties has been obtained and consents in respect of easements and covenants and other matters have been obtained

4.2.3 satisfactory details and consents have been obtained from the services providers and statutory authorities in respect of the services normally supplied by them including (without prejudice to the generality) the sewerage undertaker and the Environment Agency

4.2.4 the availability of technical data and cost of any off-site drainage works is established

4.2.5 satisfactory statutory consents (including building regulation approvals) have been obtained

Provided that if there shall be any delay arising through no fault of Tower in commencing the construction of the Development within the Specified Time Tower shall notify the Council of the circumstances of such delay immediately it becomes aware of the same and thereupon the Council shall grant an appropriate revision or extension to the Specified Time as may be fair and reasonable in the circumstances

4.3 to provide vehicular access foul and surface water sewers and water gas electricity and telecommunications service systems to be constructed and laid and connected ultimately to highways and sewers maintainable at the public expense

4.4 during the construction of the Development

4.4.1 to provide wheel washing facilities at the entrance of the Site for the purpose of cleaning the wheels of all contractors' vehicles leaving the Site

4.4.2 not to permit any heavy plant equipment and machinery equipped with metal chain tracks to pass over any road whether a highway maintainable at public expense or not unless have first obtained (in the case of a public highway) appropriate consent from the Highway Authority or from the Council as the case may be

4.4.3 not to place or suffer to be placed on the Site or any parts any noticeboard advertisement or other announcement of any kind (except the usual noticeboards identifying Tower as developer of the Site the contractor and/or professional teams the Housing Corporation as funder of the Development the Council and any other private funders) provided that so

far as reasonably possible and subject to all such approvals or consents as may be necessary advertising of the Council and Tower (including the persons involved in the Development of the Site) on the Site shall have equal prominence and before any advertisements are placed on the Site or any part all necessary consents under the Town and Country Planning (Control of Advertisements) Regulations 1992 shall have been obtained

4.4.4 not to do or permit or suffer to be done in or upon the Site or any parts anything which may be or become a nuisance or cause damage to the Council or the owners tenants or occupiers of any neighbouring or adjoining property provided that this Clause 4.4.4 shall not operate so as to prevent Tower constructing the Development in accordance with this Agreement

4.4.5 to pay and indemnify the Council against the payment of all rates taxes and levies and other outgoings assessed on the Site or any part

4.4.6 to permit the duly authorised officers servants and agents of the Council at all reasonable times and upon reasonable notice to enter upon the Site to view the state of progress of the Development and to ascertain generally whether Tower has complied and is complying with the provisions of this Agreement provided that all such officers servants and agents shall report to the site office of the Contractor forthwith upon entering the Site and shall comply with all reasonable instructions and requirements of the Contractor's site staff in order to enable Tower and the Contractor to discharge their obligations relating to the safety of persons on the Site

4.4.7 to indemnify the Council against all liability at law for loss claim or proceedings damage and injury to or the death of any persons or property in any way caused by or arising out of the design or construction of the Development or in respect of the design and construction of any materials used in the dwellings

4.4.8 to insure or to procure the Development to be fully insured from the commencement of the construction by the Contractor (the interest of Tower and any mortgagee of Tower to be endorsed on the policy) and kept insured until completion of the Development against damage or

destruction by all risks normally covered by a Course of Construction Policy and from any other reasonably insurable cause in such sums as Tower and the Contractor shall from time to time agree to be the full reinstatement value together with site clearance and professional fees and in the event of the Development or any parts being destroyed or damaged by any of the insured risks then Tower shall procure the restoration of the Development by the Contractor

4.4.9 to procure that the Contractor in accordance with the JCT Contract obtains and keeps in full force and effect policies of insurance covering public liability and property damage and employer's liability with policy limits of at least 10 million pounds for any one claim or series of claims arising out of one event

4.4.10 to produce to the Council on demand for inspection the policies of insurance and the receipts for the premiums for such insurance

4.5 to use best endeavours to ensure that the Development is completed by the Development Completion Date provided that if there shall be any delay arising through no fault of Tower in completing the construction of the Development by the Development Completion Date Tower shall notify the Council of the circumstances of such delay immediately it becomes aware of the same and thereupon the Council shall grant an appropriate revision or extension of the Development Completion Date as maybe fair and reasonable in the circumstances

4.6 to use all reasonable endeavours to procure the issue of NHBC cover or equivalent in respect of each Dwelling to be constructed on the Site

4.7 to erect fencing and/or boundary treatment along all of the boundaries of the Site indicated with inward facing 'T' marks shown on Plan No 2 to a specification to be submitted to and approved by the Council and to the reasonable satisfaction of the Council and thereafter to repair and maintain the same

4.8 to take all reasonable precautions in the interest of safety to ensure that during the course of works for the Development the Site is adequately secured against unauthorised entry in particular by the general public and children and that any contractors' plant vehicles and equipment are immobilised when not in use

4.9 to provide layout and equip a Children's Play Area in accordance with the Specification attached as Appendix 3 substantially in the position shown edged green on the Plan No 2 and to the Council's reasonable satisfaction

4.10 to complete the Children's Play Area in accordance with Clause 4.9 and to make the same available for use by the public before the completion of the Development or the first occupation of the tenth dwelling erected on the Site (whichever is sooner) or such other time as may be agreed with the Council

4.11 within two months of completion of the Children's Play Area in accordance with Clause 4.11 to transfer the same to the Council (or to such other body as it may direct) substantially in the form attached as Appendix 4 although the Children's Play Area may by agreement with the Council be handed over to the Council or other nominated body for public use and for maintenance purposes in advance of the completion of the transfer

4.12 upon the handover or transfer of the Children's Play Area referred to in Clause 4.12 (whichever shall be the earlier) to pay to the Council or other nominated body the sum [redacted] by way of commuted sum for future maintenance of the Children's Play Area

4.13 that all artefacts discovered on any part or parts of the Site prior to completion of the Development shall remain the absolute property of the Council and Tower shall take every reasonable precaution in constructing and completion the Development to prevent such artefacts being removed or damaged and shall immediately upon discovery of any such artefacts acquaint the Council and at the reasonable expense of the Council carry out its instructions as to the protection and/or removal from the Site as the case may be and disposal of such artefacts

5. **GENERAL PROVISIONS**

Tower covenants with the Council

5.1 to procure the issue prior to commencement of any work on site of a guarantee or performance bond by a reputable surety and in a form then currently reflecting the market guaranteeing due performance by the Contractor of its obligations under the building contracts relating to the construction of the Development

5.2 to use all reasonable endeavours to procure and the Council shall use all reasonable endeavours to assist in obtaining all such consents and approvals as

may be necessary for the purpose of the Development including the consent or agreements of any service providers for supplies of gas electricity water and telecommunications (except insofar as the same may have been obtained prior to the date of this Agreement) and to undertake such technical tests as may be appropriate and to comply with and give all notices required by any statute applicable to the Development and to pay any appropriate fees and charges

5.3 within 14 days of the date of charging this Agreement to any person or persons providing funding for the Development to give notice in writing to the Council and to produce on request a certified copy of the instrument creating such charge

5.4 subject to Clauses 6 7 and 8 not to assign or part with its interest or possession under this Agreement in respect of the whole or any part of the Site except to London and Quadrant Housing Trust

5.5 not to make any claim under the Land Compensation Act 1973 in respect of the construction or use of the Billingshurst Bypass intended to be constructed on land adjoining the Site and to take all reasonable steps in the design and construction of the Development to obviate any such claims by any occupant of any dwelling erected on the Site

6. **RESTRICTIONS ON OCCUPATION AND DISPOSAL ETC.**

Tower covenants with the Council for itself and on behalf of its successors in title and those claiming through or under it with intent to bind the Site and each and every part of it pursuant to Section 106 of the Town and Country Planning Act 1990

6.1 not to occupy or cause to be occupied any of the Dwellings constructed on the Site unless the Nomination Agreement has been entered into

6.2 not to dispose of or cause or permit the disposal of any individual Dwelling other than by way of a mortgage or charge an assured tenancy or such other form of weekly tenancy agreement complying with the guidance of the Housing Corporation given under Section 36 of the Housing Act 1996 and such disposal shall be to a person who satisfies the following conditions:

6.2.1 is an individual and

6.2.2 is considered by a registered social landlord (within the meaning of the Housing Act 1996) in accordance with its rules to be in need of the accommodation provided by the dwelling and

6.2.3 is not easily able to compete in the open market for housing accommodation in the district of Horsham and has a local connection within the meaning of Clause 6.3 and

6.2.4 before taking up occupation of the dwelling has not owned a freehold or a lease exceeding three years within the immediately preceding 12 months (save that the condition shall not apply where the Council is satisfied that the circumstances of that person are such as to put him or her in need of housing) and

6.2.5 intends to occupy and subsequently occupies the dwelling as his or her only principal home

6.3 for the purpose of Clause 6.2 local connection means in relation to an individual that such individual

6.3.1 immediately before taking up occupation of a Dwelling had his or her only or principal home in the district of Horsham for a continuous period of not less than three years or

6.3.2 a member of his or her household has a parent adult child brother or sister whose only principal home is and has been for a continuous period of not less than three years in the district of Horsham and he or she wishes to be near that relative or

6.3.3 is and has been permanently employed in the district of Horsham for a continuous period of not less than three years

6.4 to take all reasonable and prudent steps to avert the repossession of the Site or of any dwelling erected thereon by any chargee or mortgagee or by the exercise of any chargee or mortgagee of a power of sale and for these purposes in the event of default under the security or likely default to co-operate fully with the Council and the Housing Corporation to arrange a transfer of the Site with or without sitting tenants to a registered social landlord or (at the Council's option) to the Council and in particular shall inform the Council immediately in the event of Tower receiving notification from such chargee or mortgagee of any such breach or alleged breach by Tower of any of its obligations under the security

6.5 that in the event of a default under any security referred to in Clause 6.4 or in other circumstances warranting the intervention of the Housing Corporation

(whether or not under Chapter IV of Part 1 of or Part IV of Schedule 1 to the Housing Act 1996) Clause 6.2 shall not prevent the transfer of the freehold of the Site or any part to a registered social landlord

6.6 subject to and without prejudice to the power and requirements of the Housing Corporation under Chapter IV of Part I of or Part IV of Schedule 1 to the Housing Act 1996 that in the event of a default under any security referred to in Clause 6.4 Clause 6.2 shall not prevent the sale of the freehold of the Site or of any Dwelling by the chargee or mortgagee in the exercise of its power of sale provided that the chargee or mortgagee shall have first followed the procedure set out in Clause 6.7

6.7 the procedure referred to in Clause 6.6 shall be as follows:

6.7.1 the chargee or mortgagee shall give not less than three months' prior notice to the Council of its intention to exercise its power of sale to enable the Council to secure the transfer of the Site to a registered social landlord or to the Council

6.7.2 the Council shall then have three months from the notice given pursuant to Clause 6.7.1 within which to respond indicating that arrangements for the transfer of the Site can be made in such a way as to safeguard the social housing character of the Site and of any dwelling erected thereon

6.7.3 if within three months the Council does not serve its response to the notice served under Clause 6.7.1 then the chargee or mortgagee shall be entitled to exercise its powers of sale free of the restrictions set out in Clauses 6.2 and 6.3

6.7.4 if within three months of the date of receipt by it of the notice served under Clause 6.7.1 the Council serves its response indicating that arrangements can be made in accordance with Clause 6.7.2 then the chargee or mortgagee shall co-operate with such arrangements and use its best endeavours to secure such transfer

6.7.5 the Council shall in formulating or promoting any arrangements referred to in Clauses 6.7.2 and 6.7.4 give full consideration to protecting the interests of the chargee or mortgagee in respect of monies outstanding under the charge or mortgage

6.7.6 if the Council or any other person cannot within three months of the date of service of its response under Clause 6.7.4 secure such transfer then provided that the chargee or mortgagee shall have complied with its obligations under Clause 6.7.4 the chargee or mortgagee shall be entitled to exercise its power of sale free of the restrictions set out in Clauses 6.2 and 6.3 and the requirements of Clauses 6.8 and 6.9

6.7.7 if the chargee or mortgagee does not wish to exercise its power of sale at any time after giving the notice under Clause 6.7.1 or the Council does not wish to continue with the exercise of its powers under Clause 6.7 after the giving of its response under Clause 6.7.2 that party shall give to the other not less than 7 days' notice of its intention to discontinue

6.8 in the event of the chargee's or mortgagee's exercising its power of sale to pay to the Council no later than 14 days after the date of any such sale the whole amount of any grant or loan made by the Council pursuant to Section 22 of the Housing Act 1996 together with interest thereon at the National Westminster Bank plc base rate plus 4% from the date such payment is due until actual payment to the Council

6.9 that in the event of the Housing Corporation's exercising its right to require payment of social housing grant made in respect of the Site in accordance with Section 27(2) of the Housing Act 1996 to pay to the Council on the date upon which the payment of social housing grant falls due in accordance with the Housing Corporation's direction the whole amount of any grant or loan made by the Council pursuant to Section 22 of the Housing Act 1996 together with interest thereon at the National Westminster Bank plc base rate plus 4% from the date of the event giving rise to the Housing Corporation's powers under the said Section 22 to the date of payment to the Council

6.10 without prejudice to Clauses 6.5 to 6.9 to notify the Council immediately in the event of the service of any notice under Sections 40 and 41 of the Housing Act 1996 or any notice order or direction served made or given under the Part IV of Schedule 1 to the Housing Act 1996

6.11 the previous provisions of this Clause 6 shall cease to apply to any individual dwelling in respect of which the right to acquire under Chapter II of Part I of the Housing Act 1996 has been validly exercised

6.12 Clause 6.2 shall not prevent the sale or disposal of the freehold of the Site or the landlord's interest in any individual dwelling to London and Quadrant Housing Trust

7. **SALE BY WESTWOOD TO TOWER**

7.1 Westwood shall sell and Tower shall purchase the Site

7.2 The transfer of the Site to Tower shall take place on the date of this Agreement and upon that date Tower shall enter into the JCT Contract and Tower shall enter into the Deed of Nomination and shall thereafter be observed and performed by Tower

7.3 The purchase price for the Site shall be [redacted] plus VAT which shall be paid on 16th March 1998

7.4 The Site shall be transferred with full title guarantee

7.5 The provisions contained in Clauses 3.3-3.9 (inclusive) and 3.11 shall apply to the transfers of the Site as if reference to Westwood were replaced by Tower and references to the Council were replaced by Westwood

7.6 The transfer of the Site shall be in the form as contained in Appendix 1

8. **COUNCIL'S COVENANTS AND AGREEMENTS**

8.1 The Council hereby covenants with Tower and its successors in title to the Site to use reasonable endeavours to lay and construct the following mains services

8.1.1 foul drainage and electricity

8.2.1 gas and water supply

8.3.1 surface water drainage

to Point marked X on Plan No 1 so that such services are installed and operational so as to serve the site by 30th April 1998

8.2 The Council hereby agrees to release absolutely the Site from the planning obligations contained in the planning agreement of 9th January 1997 so that henceforth the Site and the owners and occupiers shall cease to be bound by the obligations contained in such planning agreement

8.3 The Council hereby covenants to observe and perform the Council's requirements in an agreement dated 5th September 1998 and made between (1) Taywood Homes Limited (2) the Highway Authority and (3) the Council and to take reasonable steps to secure the adoption of the roadworks described in that agreement (southern roundabout works) as highway maintainable at public expense

9. **NON MERGER ON COMPLETION**

The provisions of this Agreement shall not merge on the completion of the transfer of the Site to Westwood (nor on a subsequent transfer to Tower) so far as the provisions remain to be performed

10. **DISPUTES**

Without prejudice to the provisions of this Agreement any dispute or difference which may arise between any of the parties to this Agreement during construction of the Development or after completing the same in respect of or in consequence of the provisions of this Agreement (other than disputes or differences in respect of public liability and property damage employer's liability or compliance with the rules or requirements of the National House Builders Council) shall be referred to an expert to be agreed between the parties In the event of a failure to agree on the appointment the expert shall be appointed on the request of any party by the President for the time being of the Royal Institution of Chartered Surveyors The award of such expert shall be final and binding on the parties to this Agreement The expense of the expert to be at the equal expense of the parties in dispute and the conduct of such dispute to be otherwise in accordance with such statutory or other procedure as may for the time being be in force or recommended by the Royal Institute of Chartered Surveyors

11. **VARIATIONS**

It is hereby agreed and declared between the parties that in the event of any alteration or addition to the terms of this Agreement being subsequently agreed between parties that such alterations or additions shall be recorded in correspondence between the parties and copies of such correspondence shall be attached to this Agreement and be deemed to be read and construed in all respects as if such correspondence formed part of the original agreement

12. **NOTICES**

Any notice to be given by a party to another pursuant to this Agreement shall be deemed to have been validly served in the case of the Council if it is sent by pre-paid post to Westwood or Tower at their respective registered offices or such other address or addresses for service as Westwood or Tower may from time to time notify in writing to the Council or in the case of the Council if addressed to the Chief Executive at the address given in this Agreement or such other address as the Council may from time to time notify in writing to Westwood and Tower

13. **AGREEMENTS AND DECLARATIONS**

The parties agree that:

13.1 nothing in this Agreement constitutes planning permission

13.2 nothing in this Agreement or implied in consequence of it shall prejudice or affect the performance of the Council's rights powers duties and obligations in the due and proper exercise of its functions as a local authority or a local planning authority

14.3 the obligations in Clauses 4 and 6 are planning obligations for the purpose of Section 106 of the Town and Country Planning Act 1990

13.4 this Agreement constitutes a deed

13.5 this Agreement is enforceable by the Council as Local Planning Authority

Sealed with the Common Seal of
HORSHAM DISTRICT COUNCIL
in the presence of: [redacted]

~~Director of Law and Economic Development~~/Chief Solicitor

Sealed with the Common Seal of
WESTWOOD ESTATES LIMITED in the
presence of:

Director [redacted]

Secretary

Sealed with the Common Seal of
TOWER HOUSING ASSOCIATION LIMITED
in the presence of:



[redacted]

Authorised Signatory

Authorised Signatory



PLAN 1



Fencing schedule

site boundaries B to F in 1.8m close boarded fence

——— 1.8m close boarded fence

- - - - 2.1m height brick piers at 2.25m centres with 1.2m height fence panels between over 0.45m brick plinth

Accommodation Schedule - for rent

B=2no.2 bedroom /3p bungalow
80 squ.m. gross int.



C=2no.1 bedroom /2p flat, 46 squ.m. gross int. (8 no.)



E= 3 bedroom/4p house, 77 squ.m. gross int. (4 no.)



D= 2 bedroom/4p house, 77 squ.m. gross int. (4 no.)

F= 3 bedroom/5p house, 87 squ.m. gross int. (4no.)



G= 4 bedroom/6p house, 97 squ.m. gross int. (2no.)



24 no. dwellings for rent
8562 squ.m. 2.11 acres

N

Plots 1,2,3,4,6,7,15,16,19 - 24 roofed in plain clay tiles
Plots 5,8,9,10,11,12,13,14,17,18 roofed in plain concrete tiles

E= garden to flats and play space shown gb-12-1-98
D= bungalows attached and road moved gb-11 12-97
c= flats and road alt.gb-24-10-97
b= new house plans, gb-30-9-97

PLAN 2

CLIENT: TOWER / L & Q
PROJECT: BILLINGSHURST H5 B
TITLE: LAYOUT + house plans
SCALE: 1:500 DATE: 7-97 DRAWN: GB CHECKED:
DRAWING NUMBER 97-11-01 - E

Appendix 2

NOMINATION DEED

DATED 6th March 1998

(1) TOWER HOUSING ASSOCIATION LIMITED

and

(2) HORSHAM DISTRICT COUNCIL

DEED OF NOMINATION RIGHTS

for
rented units
at
land south-east of Stane Street
Billingshurst West Sussex

I R Davison, Chief Solicitor
Horsham District Council
Park House
North Street
Horsham
West Sussex RH12 1RL
IRD/CON(S)1126

THIS DEED OF NOMINATION RIGHTS is made the 6th day of March 1998 BETWEEN (1) TOWER HOUSING ASSOCIATION LIMITED whose registered address is at Osborn House Osborn Terrace London SE3 9DR ('Tower') and (2) HORSHAM DISTRICT COUNCIL of Park House North Street Horsham West Sussex RH12 1RL ('the Council')

IT IS AGREED pursuant to Section 111 of the Local Government Act 1972 as follows:

1. **DEFINITIONS**

In this Deed :-

1.1 'Initial Let' means the first tenancy of such newly constructed and previously unoccupied Rented Units

1.2 'Local Connection' means

1.2.1 such individual

1.2.1.1 immediately before taking up occupation of a social housing dwelling had his or her only or principal home in the district of Horsham for a continuous period of not less than three years

1.2.1.2 or a member of his household has a parent adult child brother or sister whose only or principal home is and has been for a continuous period of not less than three years in the parish of Horsham and he wishes to be near that relative or

1.2.1.3 is and has been permanently employed in the district of Horsham for a continuous period of not less than three years

1.3 'Nominee' means a person named in the Nomination List who satisfies the Local Connection and is specified by the Council as being suitable for the category of Rented Unit in respect of which Tower is in accordance with this Deed to select a person from the Nomination List to offer a Tenancy Agreement

1.4 'Nomination List' means the list to be supplied by the Council pursuant to Clauses 3.3 and 3.10 (as may be updated from time to time in accordance with Clause 3.16)

1.5 'Property' means the land south-east of Stane Street Billingshurst shown for the purpose of identification edged red on the Plan

1.6 'Rented Units' means 24 residential units in the form of 1 2 and 3 bedroom homes to be erected on the Property

1.7 'Subsequent Nominee' means a Nominee to be offered a Tenancy Agreement pursuant to Clause 3.12

1.8 'Tenancy Agreement' means an assured Tenancy Agreement in a form complying with the guidance of the Housing Corporation given under Section 36 of the Housing Act 1996

1.9 'Vacancy Notice' means a written notice given by Tower to the Council (in a form to be agreed between Tower and the Council within five weeks from the date of this Deed) the function of such notice being the notification to the Council by Tower that the construction and fitting out of the Rented Unit is completed

1.10 'Void' means a Rented Unit which is vacant otherwise than as a result of the tenant having:-

1.10.1 moved to other accommodation either by transfer or decant provided by Tower;

1.10.2 moved to other accommodation under a reciprocal arrangement provided by a housing association registered with the Housing Corporation under the Housing Association Act 1985 Section 5

1.11 'Void Notice' means a written notice given by Tower to the Council (in a form to be agreed between Tower and the Council within five weeks from the date of this Deed) the function of such a notice being the notification to the Council of a Void

2. **PROCEDURE**

The parties agree that the following nomination procedure shall apply to the nomination of persons in respect of the Rented Units

Initial lets

2.1 Tower shall give the Council not less than four months' written notice of the date when the Initial Let Units will be ready for occupation

2.2 Tower shall serve Vacancy Notices in respect of the Rented Units not earlier than two months prior to such newly constructed and previously unoccupied Rented Units becoming available for occupation

2.3 The Council shall within five days of receipt of a Vacancy Notice serve upon Tower a list of the names of persons whom the Council considers have a Local Connection

2.4 The list to be served by the Council under Clause 3.3 shall:

3.4.1 specify the appropriate category of Rented Unit

3.4.2 indicate the priority for the housing of the persons named

2.5 Tower shall have the right to let the Initial Lets in respect of the Rented Units to persons of its own choosing in the event of the Council's failure to serve the list of names referred to in Clause 3.3 within the period of five working days of receipt of the Vacancy Notice

2.6 Tower shall within 10 working days of the date of receipt of the list referred to in Clause 3.3 select a Nominee from the Nomination List taking into account the priority for housing indicated by the Council and shall use its reasonable endeavours to arrange viewing of the relevant Rented Unit and offer a Tenancy Agreement to such selected Nominee

2.7 If the selected Nominee fails to enter into a Tenancy Agreement within three working days of receipt of Tower's offer of a Tenancy Agreement such selected Nominee shall be deemed to have rejected Tower's offer and Tower shall select another Nominee whereupon the procedure set out in Clause 3.6 and this Clause shall be repeated

2.8 In the event of the second selected Nominee failing to accept the Association's offer of a Tenancy Agreement within the time prescribed by Clause 3.7 then Tower shall make an offer to a third Nominee and the procedure set out in Clauses 3.6 or 3.7 shall apply but in the event of such third selected Nominee failing to accept Tower's offer of a Tenancy Agreement within the prescribed time limits Tower shall not be bound to make any further offers of accommodation to Nominees in respect of such vacancy of the Rented Unit but shall be entitled to let the Rented Unit to a tenant of its own choosing

2.9 Tower's obligations under Clauses 3.3 to 3.8 shall cease when all of the Rented Units have been offered to Nominees in accordance with Clauses 3.6 to 3.8

Voids

2.10 Should a Rented Unit become a Void after the Initial Let or Tower has reasonable cause to believe it will become a Void then and in each case

2.10.1 Tower shall serve a Void Notice in respect of the relevant vacant Rented Unit and

2.10.2 within five working days of receipt of the said notice the Council shall serve upon the Association a list of the names of persons whom the Council considers to have a Local Connection and which shall contain the information referred to in Clause 3.4

2.11 Tower shall have the right to let the relevant vacant Rented Unit to a person of its own choosing in the event of the Council's failure to serve the list referred to in Clause 3.10 within five working days of receipt of the Void Notice

2.12 Upon receipt of the list referred to in Clause 3.10 Tower shall follow the procedure mutatis mutandis set out in Clauses 3.6 to 3.8

2.13 Tower shall not be obliged to follow the procedure set out in clauses 3.10 to 3.12 if it would result in the Subsequent Nominees exceeding 50 per cent of the Rented Units available after the Initial Let

Provision of information and alteration of lists

2.14 Tower shall give notification to the Council of the occurrence of the following events within five working days of their occurrence:

2.14.1 a Nominee failing to view a Rented Unit within the time limit prescribed by this Deed

2.14.2 a Nominee failing to accept the offer of a Tenancy Agreement within the time limit prescribed by this Agreement

2.14.3 a Nominee accepting an offer of a Tenancy Agreement

2.14.4 a person accepting an offer of a tenancy from Tower

2.14.5 the Association rejecting a Nominee in accordance with Clause 3.20

2.15 In the event of a notice being served pursuant to Clause 3.14 then the name of such Nominee shall be removed from the Nomination List

2.16 Within five working days of the Council receiving notice served in accordance with Clause 3.14 above save for notice under 3.14.4 the Council shall serve upon

Tower the name and address of a Nominee to add to the Nomination List such notice to include the information set out in Clause 3.4

2.17 If the Council shall within the period mentioned in Clause 3.16 notify Tower that the Council then has no suitable Nominee the Council shall advise Tower of a suitable replacement Nominee as soon as reasonably practicable

2.18 Tower shall have the right to let a Rented Unit to a person of its choosing if the Council's failure to provide a Nominee creates a Void in respect of that Rented Unit

2.19 On 1st April 1st July 1st October and 1st January in each year Tower shall serve the Council with details of the letting activities of the Rented Units in a format to be agreed between Tower and the Council

2.20 Tower shall have the right to interview and make enquiries of each Nominee and by serving written notice upon the Council to that effect to reject any Nominee if in the opinion of Tower the grant of an assured tenancy to such Nominee would be in contravention of Tower's registered rules charitable objects or its letting criteria or Housing Act 1996

2.21 The Council shall immediately notify Tower in writing if any Nominee is withdrawn from the Nomination List

2.22 When calculating percentage for the purposes of this Deed percentage in excess of 0.5 shall be rounded up and percentages equal to or less than 0.5 shall be rounded down

2.23 The Council and Tower agree that the nomination rights contained in this Deed may be varied from time to time by agreement in writing by the parties

3. **NOTICES**

Any notice required to be served hereunder shall be sufficiently served on the parties at the address indicated above or such other address notified by one party to the other and any notice shall have been deemed to have been served two working days after posting

4. **TRANSFERS TO OTHER REGISTERED SOCIAL LANDLORDS**

Tower shall take all reasonable steps to ensure that any registered social landlord to which the Property and Rented Units erected thereon are transferred otherwise than by direction of the Housing Corporation under its statutory powers shall enter into a similar agreement mutatis mutandis with the Council

5. **DISPUTES**

Where any matters fail to be agreed between the parties or any dispute or difference occurs the question shall be referred on the application of either party for the determination of a single expert to be agreed between the parties or in default of agreement to be nominated by the President for the time being of the Chartered Institute of Housing

6. **AGREEMENTS AND DECLARATIONS**

The parties agree that nothing in this Deed fetters or restricts the exercise by the Council of any of its powers as a local authority

Sealed with the Common Seal of
TOWER HOUSING ASSOCIATION
LIMITED in the presence of:-

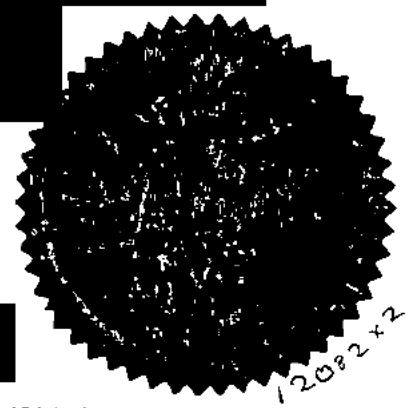


Authorised Signatory

[redacted]

Authorised Signatory

Sealed with the Common Seal OF HORSHAM
DISTRICT COUNCIL in the presence of:-



[redacted]

~~Director of Law and Economic Development~~/Chief Solicitor