Dated 11th April 2002

Between:

(1) The Owners: BELLWAY HOMES LIMITED

(2) The Council: HORSHAM DISTRICT COUNCIL

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AGREEMENT

under Section 106 of the Town and Country Planning Act 1990 and other powers
Land at:
Cordek Building
Brookers Road
Billingshurst
West Sussex

---

I R Davison MA
Head of Legal Services
Horsham District Council
Park House
North Street
Horsham
West Sussex RH12 1RL
DX 57609 HORSHAM 6

Reference:AKH/P(AGT)662
Committee:Area 1 Development Control Sub-Committee
Date:3.7.2001
Minute No: DCN/79
Ref: T:\home\C_WP\Legal\Planning\Section 106 Agreements\cordek

01737646316

# Horsham District Council

Park House
North Street
Horsham
West Sussex RH12 1RL

Tel: (01403) 215100
Fax: (01403) 215487
DX 57609 HORSHAM - 6
Direct Line: (01403) 215507

*Legal Department*
I.R. Davison, MA
Head of Legal Services

PERSONAL CALLERS SHOULD COME TO PARK NORTH

Our reference AKH/P(agt)662 Your reference

If calling please ask for MRS A HEALY Date 22 July, 2002

Email:

RECEIVED
23 JUL 2002

Dear Mr Everett

**RE: THE CORDEK SITE BROOKERS ROAD BILLINGSHURST**

Further to our conversation this morning concerning para 3 of your letter to Alan Brierley of the 18th July 2002, I confirm that I can see the problem of referring to 'freehold' in clause 6.7.

The interest being transferred to the RSL is leasehold and instead of saying 'freehold' in clause 6.7 it should have said 'leasehold'. The Agreement can be amended to correct the error and I am happy to arrange for the amendment to be made to the various parts and have them initialled should this letter not be sufficient for your purposes.

Please let me know if you want the amendment made. In the meantime I confirm that a copy of this letter has been placed with the Councils' part of the Agreement.

Yours sincerely

[redacted]

I.R. Davison
**Head of Legal Services**

HORSHAM DISTRICT COUNCIL
LEGAL DEPARTMENT
RECEIVED 19 AUG 2002

**cc Alan Brierley**

**BY FAX 01737-646316**

**Attn of Mr B Everett**
**Bellway**
**Bellway Homes**
**South East**
**Bellway House**
**London Road**
**Merstham**
**Surrey**
**RH1 3YU**

Lexcel
PRACTICE MANAGEMENT STANDARD
THE LAW SOCIETY

100% Recycled Paper

This Agreement is dated 11th April 2002 and is made between

(1) BELLWAY HOMES LIMITED (CO REGN NO 760176) whose registered office is at Seaton Burn House Dudley Lane Seaton Burn Newcastle Upon Tyne ('the Owners"')

(2) HORSHAM DISTRICT COUNCIL of Park House North Street Horsham West Sussex RH12 1RL ('the District Council')

## 1. Background

1.1 The Owners are the registered proprietors with freehold absolute of the Land registered at H M Land Registry under title number WSX 164713

1.2 The Council is the local planning authority and the local housing authority

1.3 The Owners have by the Application applied to the Council for planning permission to develop the Land

## 2. Definitions

In this Agreement:

2.1 Words importing the masculine include the feminine and vice versa

2.2 Words importing the singular include the plural and vice versa

2.3 Words importing persons include companies and corporations and vice versa

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually

2.5 Any reference to a clause or schedule or plan is to one in to or attached to this Agreement and the headings of clauses and schedules are for ease of reference and do not form part of this Agreement

2.6 Any reference to a colour or letter is to be on the plans attached to this Agreement

2.7 In the absence of contrary provision any reference to a statute includes any statutory modification or re-enactment of it and every statutory instrument, direction, specification made or issued under the statute or deriving validity from it

2.8 References to any party to this Agreement shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council the successors to its functions as local planning authority and local housing authority

2.9 'the Act' means the Town and Country Planning Act 1990

2.10 'agreed' or 'approved' means agreed or approved in writing and given for the purpose of this Agreement

2.11 'the Application' means the planning application number BL/64/01 made by the Owners to develop the Land by the erection of a block of 40 flats

2.12 "the Contract Date" means the 30th September 2003

2.13 'the Development' means the development of the Land proposed by the Application or permitted by planning permission granted pursuant to the Application or carried out substantially in accordance with such planning permission

2.14 'Dwelling' means any residential unit to be constructed on the Land

2.15 'Education Payment' means the contribution of [redacted] to be used solely towards education provision

2.16 'Highway Payment' means the contribution of [redacted] to be used soley towards highway improvements at the junction of Brookers and Station Roads

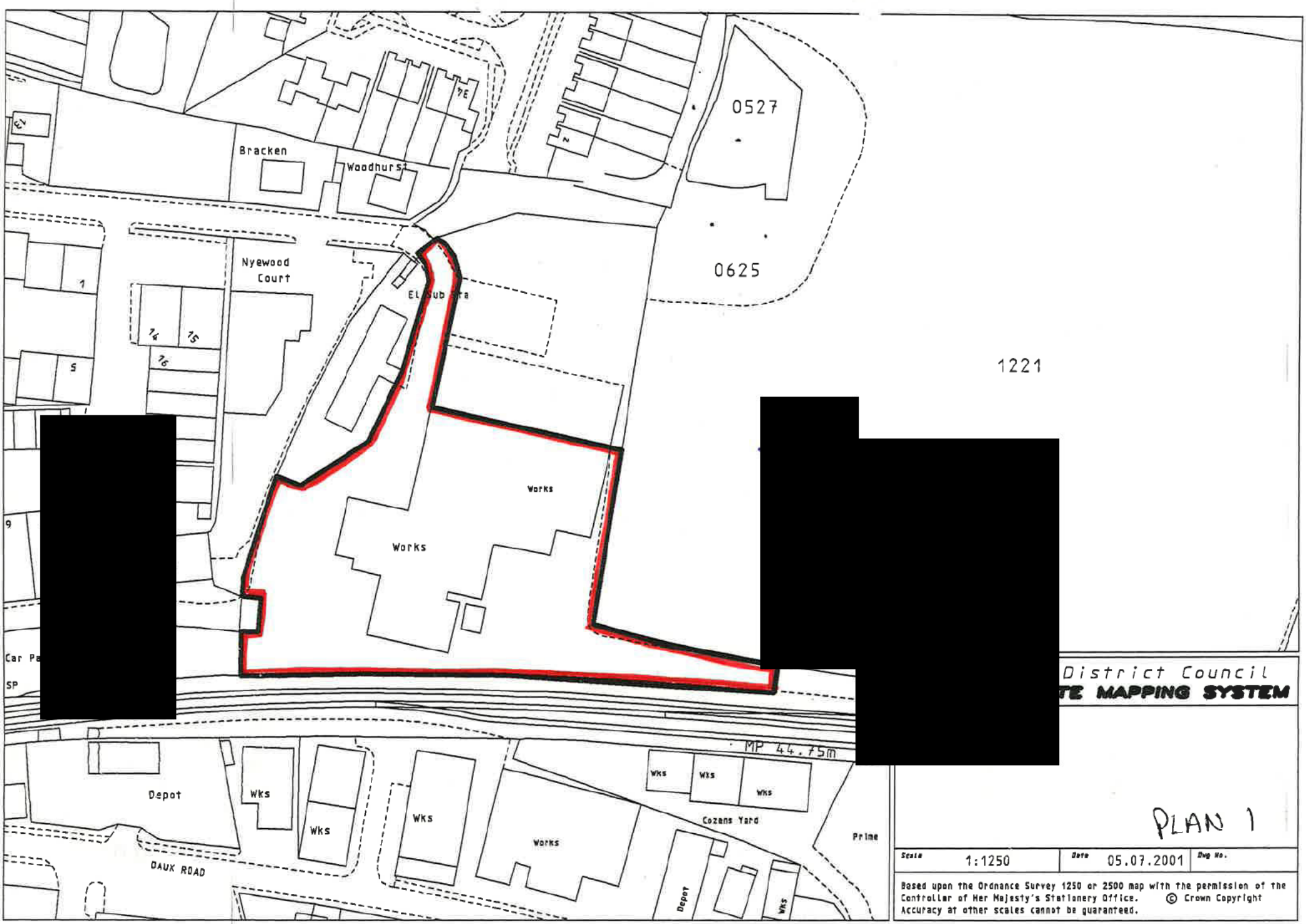
2.17 'Interest' means a rate of interest being 4% above the base rate of National Westminster Bank Plc from time to time in force such interest to be apportioned on a daily basis from the Specified Date to the date of actual payment

2.18 'the Land' means the land known Cordek Building Brookers Road Billingshurst West Sussex and shown for identification purposes edged red on Plan 1

2.19 'Plan 1' means the Plan marked Plan 1" annexed hereto

2.20 'Registered Social Landlord' means a registered social landlord within the meaning of the Housing Act 1996 and agreed as determined pursuant to Clause

2.21 'Social Housing Units' means the 10 (ten) units of affordable housing to be available for renting consisting of 5 x one bed flats and 5 x two bed flats all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Scale 1:1250
Date 05.07.2001
Dwg No.
Based upon the Ordnance Survey 1250 or 2500 map with the permission of the Controller of Her Majesty's Stationery Office. © Crown Copyright
Accuracy at other scales cannot be guaranteed.

to be located within the same wing of the single building xomprised in the Development

2.22 'Specified Date' means the date upon which an obligation arising under this Agreement is due to be performed

2.23 'Unit' means any individual flat within the single building block comprised in the Development

**3. Enabling Provisions**

This Agreement is made pursuant to s106 of the Act, s111 of the Local Government Act 1972, and all other enabling powers and has been entered into by the Council pursuant to its Area 1 Development Control Sub-Committee's resolution of the 3rd July 2001 (Minute No. DCN/79)

**4. Commencement**

This Agreement shall come into effect upon the date of this Agreement

**5. Education and Highway Payments**

5.1 The Owners covenant as follows:-

5.1.1 to pay the Council the Education Payment on the sale or other disposal of the first Unit

5.1.2 to pay the Council the Highway Payment on or before completion of this Agreement

5.2 The Council confirms as follows:-

5.2.1 the Education Payment shall be expended towards the provision of additional places at the Schools which serve this Development

5.2.2 the Highway Payment shall be expended towards the provision of improvements to the junction of Brookers Road and Station Road which will include the repositioning and repainting of the 'Give Way Line' and the realignment of the kerb adjecent to the footway in Station Road on either side of its junction with Brookers Road

5.2.3 that it shall provide or procure the provision if the Education and Highway Payments' are not expended directly by itself of audited accounts showing the expenditure of the payments referred to

5.2.4 if the Education and Highway Payments are not expended within 5 years of payment or that no arrangements or agreements have been reached as to expenditure then any monies not expended in accordance with the provisions of clause 5 shall be repaid to the Owners at the expiration of the 5 year period

5.3 In the event that the Education Payment is not paid on the Specified Date then Interest shall be paid on the sum outstanding

5.4 The parties agree that the Education and Highway Payments may be spent in accordance with the requirements of West Sussex County Council as the local education and the local highway authority for the area in which the land is situate

## 6. SOCIAL HOUSING

6.1 The Owners covenant with the Council to provide the Social Housing Units

6.2 With regard to the Social Housing Units the Owners covenant with the Council as follows:

6.2.1 to provide a pedestrian and (as far as the same is provided for in the Development)vehicular access foul and surface water sewers and water electricity and telecommunication service systems for the Social Housing Units linking in each case to the estate roads sewers and service systems to be constructed and laid as part of the remainder of the Development and connected ultimately to highways and sewers maintainable at the public expense

6.2.2 to endeavour to agree with the Council the identity of the Registered Social Landlord or such other body to which the Social Housing Units are to be transferred within the period of 12 months from the date of this Agreement but if no such agreement has been reached at the expiration of such period of 12 months and the Council (acting reasonably) shall be entitled to nominate a registered social landlord or other appropriate body for the purpose PROVIDED ALWAYS that such nomination shall be subject to the Owners prior written approval such approval not to be unreasonably delayed or withheld

6.2.3 prior to the Contract Date to use best endeavours to enter into a contract with the Registered Social Landlord agreed or determined in accordance with clause 6.2.2 and thereafter (and in accordance with such contract) to transfer either the freehold of or a long leasehold interest (such interest to be not less than a 125 year lease) in the Social Housing Units to such Registered Social Landlord at the purchase price as determined in accordance with clause 6.2.4 within one month of completion of the Social Housing Units such that they are suitable for occupation PROVIDED

ALWAYS that nothing in this Agreement including this clause 6.2.3 shall oblige the Owners

(a) to transfer any interest in any or all of the Social Housing Units until the same has or have been completed and are ready for occupation the same to be agreed between the Owners and the Registered Social Landlord) and/or

(b) to transfer any interest in more than one or all of the Social Housing Units at the same time if the same are completed and made ready for occupation at different times and/or a different rate of hand over of any of the same is agreed between the Owners and the Registered Social Landlord

6.2.4 that the purchase price for the Social Housing Units (and each of them if appropriate) shall be calculated in accordance with the Total costs Indicators being applied by the Housing Corporation at the time of such transfer with reference to the then appropriate Total Cost Indicators Base Table published by the Housing Corporation at 100% of the values indicated in the said Table after the appropriate costing multipliers and ongoing costs have been taken into account in accordance with the 'New Building Acquisition and Works' category of the Guidance Notes on Total Cost Indicators Grants Rates Rent Caps and Administrative Allowances 2002/2003 as published by the Housing Corporation or where such guidance is no longer being used such other similar yardstick as is being applied by the Housing Corporation at the time of such transfer

6.2.5 if the Owners have not entered into a binding contract with the Registered Social Landlord as provided for in clauses 6.2.3 and 6.2.4 by the Contract Date to pay to the Council by no later than 31st October 2003 a sum representing the Total Cost Indicators as applied in clause 6.2.4 less 'The New Build Works Only' category in the said Guidance Notes PROVIDED ALWAYS and the parties hereby agree that upon payment of such sum

(whether in respect of some or all of the Social Housing Units) the provisions and planning obligations in this Agreement shall cease to apply to and be of no further effect in respect of all or if appropriate such number of Social Housing Units as shall have been the subject of such payment whereupon the Owners shall be free to sell all or any such Social Housing Units to which this clause 6 applied and the obligations contained herein have been so dis-applied to such persons and at such price or other consideration as the Owners shall in their absolute discretion determine

6.2.6 in the event that the sum referred to in clause 6.2.5 is due for payment and is not received by the Specified Date then Interest shall be paid on the outstanding sum

6.3 The Owners covenant with the Council not to dispose of or cause or allow the disposal of any individual Social Housing Unit other than:

6.3.1 by way of an assured tenancy agreement complying with the guidance given by the Housing Corporation under Section 36 of the Housing Act 1996 and

6.3.2 to a person who satisfies the qualifications set out as follows:

(i) is an individual and

(ii) is considered by the Registered Social Landlord in accordance with its rules to be in need of the accommodation provided by the dwelling and

(iii) is not able to easily compete in the open market for housing accommodation in the district of Horsham

(iv) before taking up occupation of the social housing unit has never owned a freehold or a lease exceeding three years within the last 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 in need of housing) and

(vi) intends to occupy and subsequently occupies the social housing unit as his only or principal home

(v) and falls within the local lettings policy agreed between the parties and set out in Schedule 1 (the Deed of Nomination) at clause 1.3

6.4 The Owners covenant with the Council that upon transfer of the Social Housing Units (or any of them) to the Registered Social Landlord or other body agreed or determined in accordance with clause 6.2.2 to use all reasonable endeavours to procure the execution by the Registered Social Landlord and delivery to the Council of a deed of nomination substantially in the form set out in Schedule 1

6.5 The Owners further covenant to take all reasonable and prudent steps to avert the repossession of the Social Housing Units or any one or more of them by any chargee or mortgagee or the exercise by 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 Social Housing Units with sitting tenants to another registered social landlord or (at the Council's option) to the Council and in particular shall inform the Council immediately in the event of the Owner's receiving notification from

such chargee or mortgagee of any breach or alleged breach by the Owners of any of its obligations under its security

6.6 The Owners covenant and the Council agrees that in the event of a default under any security referred to in clause 6.7 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 6.3 shall not prevent the transfer of the freehold of or at the Owners discretion a long leasehold interest in the Social Housing Units or any one or more of them to another registered social landlord

6.7 The Owners covenant and the Council agrees that subject to and without prejudice to the powers and requirements of the Housing Corporation under the Housing Act 1996 that in the event of a default under any security referred to in clause 6.5 then clause 6.3 shall not prevent the sale of the freehold of the Social Housing Units or of any social housing unit 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 6.8

6.8 The Owners covenant that the procedure referred to in clause 6.7 shall be as follows:

6.8.1 the chargee or mortgagee shall give not less than six weeks prior notice to the Council of its intention to exercise its power of sale to enable the Council to secure the transfer of the Social Housing Units to another registered social landlord or to the Council

6.8.2 the Council shall then have six weeks from the notice given pursuant to Clause 6.8.1 within which to respond indicating that

arrangements for the transfer of the Social Housing Units can be made in such a way as to safeguard the social housing character of the Social Housing Units

6.8.3 if within the six weeks the Council does not serve its response to the notice served under clause 6.8.1 then the chargee or mortgagee shall be entitled to exercise its power of sale free of the restrictions set out in clauses 6.6 to 6.5 inclusive

6.8.4 if within six weeks of the date of receipt by it of the notice served under clause 6.8.1 the Council serves its response indicating that arrangements can be made in accordance with clause 6.8.2 then the chargee or mortgagee shall co-operate with such arrangements and use its best endeavours to secure such transfer

6.8.5 the Council shall in formulating or promoting any arrangements referred to in clauses 6.6.2 and 6.6.4 give full consideration to protecting the interest of the chargee or mortgagee in respect of moneys outstanding under the charge or mortgage

6.8.6 if the Council or any other person cannot within six weeks of the date of service of its response under clause 6.6.4 secure such transfer then provided that the chargee or mortgagee shall have complied with its obligations under clause 6.6.4 the chargee or mortgagee shall be entitled to exercise its power of sale free of the restrictions set out in clause 6.3

6.8.7 if the chargee or mortgagee does not wish to exercise its power of sale at any time after the giving of notice under clause 6.8.1 or the Council does not wish to continue with the exercise of its

powers under clause 6.8.4 after the giving of its response under clause 6.8.2 that party shall give to the other not less than seven days' written notice of its intention to discontinue

6.8.8 in the event of the chargee or mortgagee exercising its power of sale the Owners shall 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 in respect of the Social Housing Units pursuant to s22 of the Housing Act 1996 PROVIDED ALWAYS that this clause shall not apply in any circumstances prior to the transfer of the Social Housing Units in accordance with clause 6.2.3 (or in the case of any separate such transfer(s) of one or more (but not all) of the Social Housing Units prior to such separate transfer(s)

6.8.9 without prejudice to the provisions of clause 6.3 the Owners shall notify the Council immediately in the event of service of any notice under ss40 and 41 of the Housing Act 1996 or any notice order or direction served made or given under Schedule 1 Part IV to the Housing Act 1996

6.9 The Owners and the Council agree that the provisions of clauses 6.3-6.8 inclusive shall cease to apply to any individual dwelling in respect of which the right to acquire under the Housing Act 1996 Part 1 Chapter II has been validly exercised

7. Certificates

The Owners agree with the Council:

7.1 where this Agreement imposes a requirement for the making of a payment or the undertaking of an act or the cessation of an activity on a Specified Date the Owner shall give to the relevant Council notice of the Specified Date not more than seven days after such Specified Date

7.2 if the Owner fails to give the notice required under clause 7(1) the relevant Council shall be entitled in its absolute discretion to determine the Specified Date and shall give notice to the Owner of its determination

8. Index Linking

The Owners agree with the Council that any sums payable by the Owner under clauses 5.1 and if applicable clause 6.2.5 shall be increased by the application of the following formula:

$$A = B \times \frac{C}{D}$$

where A is the sum actually payable on the Specified Date

B is the original sum mentioned in this Agreement

C is the General Index of Retail Prices (All items) for the month two months before the Specified Date

D is the General Index of Retail Prices (All items) for the month two months before the date of this Agreement

$\frac{C}{D}$ is equal to or greater than 1

**9. Costs**

The Owners agree with the Council to pay to the Council their proper and reasonable legal costs incurred in preparing and entering into this Agreement

**10. General**

The parties agree that:

10.1 nothing in this Agreement constitutes or constitutes an obligation to grant planning permission

10.2 nothing in this Agreement grants planning permission or any other approval consent or permission required from the Council in the exercise of any other statutory function

10.3 nothing in this Agreement fetters or restricts the exercise by the Council of any of their powers

10.4 the obligations contained in clauses 5 and 6 are planning obligations for the purpose of s106 of the Act

10.5 this Agreement constitutes a deed

10.6 this Agreement is enforceable by the Council

10.7 nothing in this Agreement confers or is intended to confer a benefit on a third party under the Contracts (Rights of Third Parties) Act 1999 with exception of clause 5

10.8 No person shall be liable for breach of any covenant contained in this Agreement after he shall have parted with all interest in that part of the Land in respect of which such breach occures but without prejudice to

liability for any subsisting breaches of this Agreement arising prior to parting with such interest EXCEPT for the Owners whose liability under this Agreement in relation to the Education Payment under clause 5 and any payment that may be due under clause 6.2.5 shall remain until such time the Council confirms in writing that it has in the case of the Education Payment received such payment or in the case of the sum due under clause 6.2.5 hereof that such payment has either been paid or that it is no longer due

SEALED with the CORPORATE SEAL of )
BELLWAY HOMES LIMITED in the )
presence of: [redacted]

[redacted]

SEALED with the COMMON SEAL of )
HORSHAM DISTRICT COUNCIL in the )
presence of: [redacted] )

Head of Legal Services

S:\legal\planning\Cordek

SCHEDULE 1

DATED 2001

(1)

and

HORSHAM DISTRICT COUNCIL (2)

**DEED OF NOMINATION**

**for**

**ten rented units**

**at**

[ ]

I R Davison, Head of Legal Services
Horsham District Council
Park House
North Street
Horsham
West Sussex RH12 1RL
DX 57609 HORSHAM 6

T:\Legal/planning/S106 agreements/Nom.Deed rented

THIS DEED OF NOMINATION RIGHTS is made the day of 2002

BETWEEN (1) [ ] whose registered address is at [ ] ("the RSL") and (2) HORSHAM DISTRICT COUNCIL of Park House North Street Horsham West Sussex ("the Council")

**1. Definitions**

In this Deed :-

1.1 'Initial Let' means the first tenancy (or sub-tenancy as the case may be) of such newly constructed and previously unoccupied Rented Unit

1.2 'Local Connection' means in relation to an individual

1.2.1 that such individual

1.2.1.1 immediately before taking up occupation of a Rented Unit had his only or principal home in the District of Horsham for a continuous period of not less than 12 months or

1.2.1.2 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 12 months in the District 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 12 months

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 taking a Tenancy Agreement of a Rented Unit it is agreed between the parties that 'Suitable' will be judged in the following context:-

1) Any children permanently living in the Rented Units shall be aged 8 years or over at the time of the letting, and

2) Preference will be given to nominees from the following catergories of applicant:-

(i) tenant's seeking transfers within RSL stock in the District of Horsham

(ii) single people and childless couples on the Council's Housing Register

(iii) single parents with visiting rights in respect of their children

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 'Rented Units' means [ ] residential units in the form of [ ]

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

1.7 'Tenancy Agreement' means an assured Tenancy Agreement in a form prepared by the RSL and containing terms which accord with the form of Tenancy Agreement being used by the RSL from time to time for its general lettings

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

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

1.9.1 moved to other accommodation either by transfer or decant provided by the RSL;

1.9.2 moved to other accommodation under a reciprocal arrangement provided by another registered social landlord registered with the Housing Corporation under the Housing Act 1996

1.10 'Void Notice' means a written notice given by the RSL to the Council (in a form to be agreed between the RSL 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. Enabling Provisions

This Agreement is made pursuant to s111 of the Local Government Act 1972 s33 of the Local Government (Miscellaneous Provisions) Act 1982 and all other enabling powers

## 3. Procedure

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

Initial Lets

3.1 The RSL shall give the Council not less than four months' written notice of the date when the Initial Let units will be ready for occupation

3.2 The RSL shall serve on the Council Vacancy Notice in respect of each Rented Unit not less than three months prior to such newly constructed and previously unoccupied Rented Unit becoming available for occupation

3.3 The Council shall within five working days of receipt of a Vacancy Notice serve upon the RSL the Nomination List setting out a list of Nominees who in the Council considers have a Local Connection

3.4 The Nomination List to be served by the Council under Clause 3.3 shall:

3.4.1 specify the appropriate category of Rented Unit to which it relates and

3.4.2 indicate the priority for the housing of the Nominees

3.5 The RSL shall have the right to let the Initial Let in respect of the Rented Units to persons of its own choosing in the event of the Council's failure to serve the Nomination List referred to in Clause 3.3 within the period of five working days of receipt of the Vacancy Notice

3.6 The RSL shall within five working days of the date of receipt of the Nomination 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

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

3.8 In the event of the second selected Nominee failing to accept the RSL's offer of a Tenancy Agreement within the time prescribed by Clause 3.7 then the RSL shall make an offer to a third Nominee and the procedure set out in Clauses 3.6 and 3.7 shall apply but in the event of such third selected Nominee failing to accept the RSL's offer of a Tenancy Agreement within the prescribed time limits the RSL 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

3.9 The RSL's obligations under Clauses 3.1 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

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

3.10.1 the RSL shall serve a Void Notice in respect of the relevant vacant Rented Unit and

3.10.2 within ten working days of receipt of the said notice the Council shall serve upon the RSL the Nomination List setting out a list of Subsequent Nominees whom the Council considers to have a Local Connection and which shall contain the information referred to in Clause 3.4

3.11 The RSL 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 Nomination List referred to in Clause 3.10 within ten working days of receipt of the Void Notice

3.12 Upon receipt of the Nomination List referred to in Clause 3.10 the RSL shall follow the procedure mutatis mutandis set out in Clauses 3.6 to 3.8

3.13 The RSL 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 being nominated for more than 75 per cent of the Rented Units available after the Initial Let

Provision of information and alteration of lists

3.14 The RSL shall give notification to the Council of the occurrence of the following events within five working days of their occurrence:

3.14.1 a Nominee or Subsequent Nominee failing to view a Rented Unit within 10 working days of an offer being made

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

3.14.3 a Nominee or Subsequent Nominee accepting an offer of a Tenancy Agreement

3.14.4 a person accepting an offer of a tenancy from the RSL

3.14.5 the RSL rejecting a Nominee or Subsequent Nominee in accordance with Clause 3.20

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

3.16 Within ten 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 the RSL the name and address of a Nominee or Subsequent Nominee to add to the Nomination List such notice to include the information set out in Clause 3.4

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

3.18 The RSL shall have the right to let a Rented Unit to a person of its choosing if the Council's failure to provide a Nominee or Subsequent Nominee creates a Void in respect of that Rented Unit

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

3.20 The RSL shall have the right to interview and make enquiries of each Nominee or Subsequent Nominee and by serving written notice upon the Council to that effect to reject any Nominee or Subsequent Nominee if in the opinion of the RSL the grant of

an Assured Tenancy to such Nominee would be in contravention of the RSL's registered rules or its letting criteria

3.21 The Council shall immediately notify the RSL in writing if any Nominee or Subsequent Nominee is withdrawn from the Nomination List

3.22 When calculating a 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

3.23 The Council and the RSL agree that the nomination rights contained in this Deed may be varied from time to time but only by agreement in writing by the parties

4. **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

5. **Transfers to other Registered Social Landlords**

The RSL shall ensure that any registered social landlord to which any Rented Units 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

6. **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

7. **Costs**

The RSL agrees with the Council to pay the legal costs which the Council incurs in preparing and entering into this deed

## 8. Agreements and declarations

The parties agree that:

8.1 nothing in this deed fetters or restricts the exercise by the Council of any of its powers

8.2 the obligations contained in this Deed are covenants for the purpose of s33 of the Local Government (Miscellaneous Provisions) Act 1982

THE COMMON SEAL of

was hereunto affixed in the
presence of:-

Director

Secretary

SEALED WITH THE COMMON SEAL OF
HORSHAM DISTRICT COUNCIL in the
presence of

Head of Legal Services