

Dated 28TH OCTOBER

2005

LONDON BOROUGH OF HARROW (1)

-and-

TRY HOMES LIMITED (2)

-and-

HSBC BANK PLC

-and-

TESCO STORES LIMITED

DEED

Relating to land referred to as 375-379 Uxbridge Road Hatch End Harrow
in the London Borough of Harrow

Directorate of Legal Services
London Borough of Harrow
PO Box 2
Civic Centre
Harrow
Middlesex
HA1 2UH

DX 30450 HARROW 3

Tel: 020 8424 7663

Fax: 020 8424 1557

Ref: LP/AK/PAG-13534

THIS DEED is made the 28TH day of OCTOBER Two thousand and five BETWEEN (1) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF HARROW of PO Box 2 Civic Centre Station Road Harrow Middlesex HA1 2UH ("the Council") and (2) TRY HOMES LIMITED (company registration number 01108676) whose registered office is at Cowley Business Park Cowley Uxbridge Middlesex UB8 2AL ("the Developer") and (3) HSBC BANK PLC (company registration number 00014259) whose registered office is at 8 Canada Square London E14 5HQ ("the Mortgagee") and TESCO STORES LIMITED (company registration number 00519500) whose registered office is at Tesco House Delamare Road Cheshunt Hertfordshire EN8 9SL (" the Lessee")

INTERPRETATION

1. In this Agreement the following words and expressions shall unless the context otherwise requires have the following meanings: -

WORDS AND EXPRESSIONS

MEANINGS

"Affordable Housing Unit"

means not less than 4 (four) x 1 bedroom flats on the Land being Shared Ownership Units which are accessible to people whose incomes are insufficient to enable them to otherwise afford housing locally on the open market as defined in the Harrow Council Unitary Development Plan July 2004 to be occupied by persons nominated by the Council to the Nominated RSL at a cost to the occupier which is comparable with the rents of other social landlord accommodation in the London Borough of Harrow of similar size and quality and location in accordance with the Nomination Agreement and "Affordable Housing Units" shall be construed accordingly

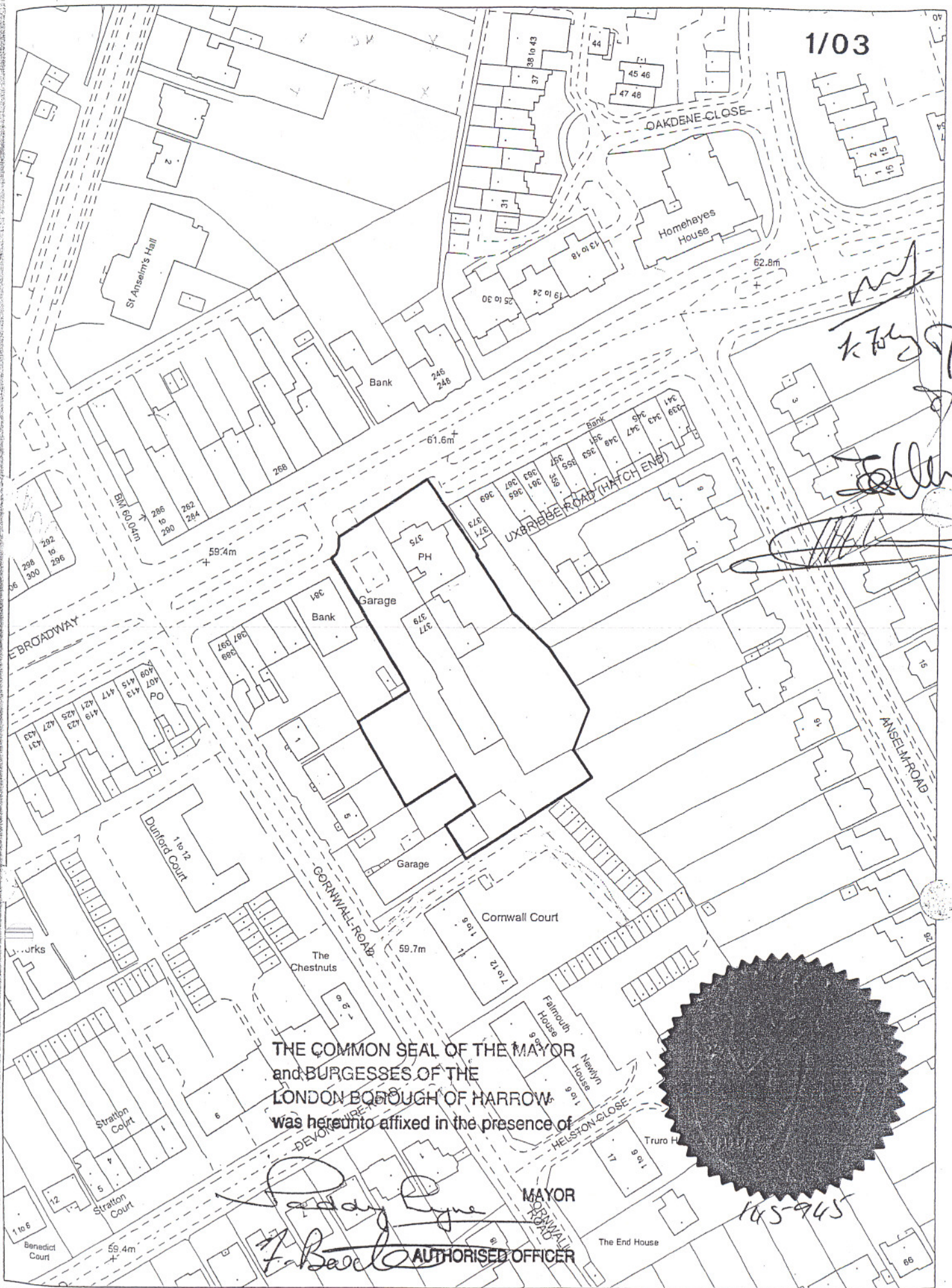
"the Application Plan"

the plans and drawings forming part of the Planning Application bearing the following reference P/2935/04/CFU



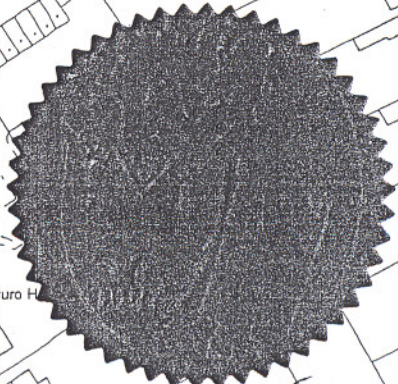
"the Development"	the development referred to in the Planning Application and described in the First Schedule and permitted by the Planning Permission
"the Land"	the land referred to as 375-379 Uxbridge Road Hatch End Harrow Middlesex shown for identification purposes only edged with a bold black line on the Plan
"the Model Planning Notice"	the form of notice of grant of planning permission annexed hereto
"Nomination Agreement"	The Agreement entered into between the Council and the Nominated RSL prior to occupation of the Affordable Housing Units a draft of which is annexed hereto for illustrative purposes only
"the Nominated RSL"	Any Registered Social Landlord (as defined in the Housing Act 1996) and as approved in writing by the Council such approval not to be unreasonably withheld or delayed
"the Operative Acts"	Section 106 of the Town and Country Planning Act 1990 (as amended) and Section 111 of the Local Government Act 1972
"the 1990 Act"	the Town and Country Planning Act 1990 as amended
" the Plan"	the plan annexed hereto
"the Planning Application"	the application for planning permission statutorily acknowledged by the Council on 12 th November 2004 under the Council's reference P/2935/04/CFU

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THE COMMON SEAL OF THE MAYOR
 and BURGESSES OF THE
 LONDON BOROUGH OF HARROW
 was hereto affixed in the presence of

[Signature]
 MAYOR
[Signature]
 AUTHORIZED OFFICER



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Date: 14 December 2004 Scale: 1:1250

"the Planning Permission"

the planning permission to be granted pursuant to the Planning Application in the precise form of the Model Planning Notice

"Shared Ownership Units"

housing units provided initially on the basis of shared equity allowing the occupiers to buy what they can afford with flexibility to increase the degree of ownership if they so wish as defined in the Harrow Council Unitary Development Plan July 2004 and Shared Ownership Unit shall be construed accordingly

2. Words in this Agreement importing the singular meaning shall where the context so admits include the plural meaning and vice-versa
3. Words in this Agreement of the masculine gender shall include the feminine and neuter genders and vice versa and words denoting natural persons shall include corporations and vice versa
4. References in this Agreement to any statutes or statutory instruments shall include and refer to any statute or statutory instrument amending consolidating or replacing them respectively from time to time and for the time being in force
5. Covenants made hereunder
 - (i) if made by more than one person are made jointly and severally and
 - (ii) are to the intent that the same shall bind whomsoever shall become a successor or successors in title to the Land and
 - (iii) are to the intent that the same shall operate as a charge on the Land and shall be registered in the Register of Local Land Charges and
 - (iv) are to the intent that each of the same shall be a planning obligation for the purposes of S.106 of the 1990 Act



RECITALS

- (1) The Council is the Local Planning Authority for the purposes of this Agreement
- (2) The Developer is the freehold owner of the Land and is registered at HM Land Registry with freehold title absolute NGL797271 in respect of the Land
- (3) The Developer as freehold owner of the Land has charged the Land to the Mortgagee
- (4) By a lease dated 4th July 2005 the Developer leased part of the Land to the Lessee
- (5) The Council decided at a meeting of its Development Control Committee on 11th January 2005 to grant planning permission for the Development in the form of the Model Planning Notice subject to the completion of an agreement under the Operative Acts for the purpose of making acceptable arrangements in conjunction with the carrying out of the Development pursuant to the Planning Permission
- (6) The parties hereto have accordingly agreed to enter into this Agreement pursuant to the provisions of the Operative Acts upon the terms and conditions hereinafter appearing with the intent that it should be binding not only upon the said parties but also upon their successors in title and any persons claiming through under or in trust for them

NOW THIS DEED WITNESSES as follows: -

1. This Agreement is completed pursuant to the Operative Acts and the covenants by the Parties hereinafter contained shall be ones to which the provisions of section 106 of the 1990 Act shall apply and shall be binding and enforceable against the Developer and its successors in title to the Land
2. Each of the obligations created by this Agreement constitutes a planning obligation for the purpose of section 106 of the 1990 Act and shall be enforceable by the Council as such
- 3.1 This Agreement is a conditional agreement and shall become binding upon both of the following two conditions being satisfied



- (a) the granting of the Planning Permission and
 - (b) the Development having been implemented pursuant to the Planning Permission by the carrying out of any of the material operations referred to in Section 56(4) of the 1990 Act
- 3.2 For the purposes of determining whether or not a material operation has been carried out there shall be disregarded such operations as archaeological investigation demolition site clearance site preparation diversion and laying of services erection of fences and boardings and construction of access or service roads
4. Subject as hereinafter provided the Developer hereby for itself and its successors in title to the Land undertakes agrees declares and covenants with the Council that the Land shall be subject to the terms conditions restrictions and obligations as to the manner of carrying out the Development and otherwise contained in the Second Schedule
- 5 The Mortgagee and the Lessee hereby consent to the Developer entering into this Agreement and accept that the burden of the covenants by the Developer hereinafter contained binds the Land as if this Agreement has been executed immediately prior to the Mortgagee's charges and the Lessee's interest
- 6 If the Planning Permission expires within the meaning of Section 91 of the 1990 Act or is revoked or otherwise withdrawn or modified by any statutory procedure without the consent of the Developer or its successors in title this Agreement shall cease to have effect
7. IT IS HEREBY AGREED that: -
- (a) Nothing contained or implied in this Agreement shall prejudice or affect the rights powers duties and obligations of the Council in the exercise of their functions as Local Planning Authority and their rights powers duties and obligations under all public and private statutes byelaws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement

- (b) The provisions hereof shall be enforceable by the Council against the Developer and all persons deriving title through or under the Developer but so that the Developer shall cease to be liable for any part disposed of by it from the date of such disposal
- (c) If any provision in this Agreement shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired
- (d) The headings appearing in this Agreement are for ease of reference only and shall not affect the construction of the Agreement
- (e) The obligations contained in the Second Schedule to this Agreement shall not be binding on a mortgagee or chargee lending money to the Nominated RSL on the security of the Affordable Housing Units or any of them as relevant or any person deriving title from or by them through such mortgagee or chargee PROVIDED THAT such mortgagee or chargee or any receiver or manager appointed by such mortgagee or chargee shall notify the Council in writing of its desire to sell the said Affordable Housing Units and despite using all reasonable endeavours is unable within a period of 12 months from the date of such notification to the Council to enter into a binding contract to dispose of the said Affordable Housing Units to another Nominated RSL then the Council hereby agree and declare that the provisions of the Second Schedule shall forthwith be released and such mortgage or chargee or its receiver or manager shall be entitled to dispose of the said Affordable Housing Units discharged from the provisions of the Second Schedule of this Agreement
- (f) For the avoidance of doubt the obligations contained in paragraphs 1, 1.1 1.2 and 1.3 of the Second Schedule of this Agreement shall cease to apply to any part of the Affordable Housing Units where (1) the Nominated RSL shall be required to dispose of any part pursuant to a right to buy under Part V of the Housing Act 1985 or section 16 of the Housing Act 1996 or any similar or substitute right applicable or (2) the Nominated RSL shall be required to sell a further and/or final tranche of equity to a tenant pursuant to terms of any shared equity lease granted in respect of any part or (3) the Nominated RSL shall be required to sell to a tenant with the benefit of a voluntary purchase grant provided under sections 20 and 21 of the Housing Act 1996 (or any similar provision in any subsequent legislation) PROVIDED THAT the total



proceeds of sale including those of all tranches in the case of a shared equity lease shall be applied to the purchase of another property in the London Borough of Harrow to which the Nomination Agreement shall apply SAVE THAT if the proceeds of sale were not sufficient to buy a property these proceeds shall be put into an interest bearing account until enough money accumulates to buy another property these proceeds shall be applied to the purchase of another property in the London Borough of Harrow to which the Nomination Agreement shall apply

8. No waiver (whether express or implied) by the Council of any breach or default by the Developer in performing or observing any of the terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereof by the Developer
9. The Contracts (Rights of Third parties) Act 1999 (hereinafter called "the 1999 Act") shall not apply to this Agreement AND FOR THE AVOIDANCE OF DOUBT the exclusion of the application of the 1999 Act shall not prevent all or any future successors in title to any of the parties to this Agreement from being able to benefit or to enforce any of the provisions of this Agreement as provided for by Section 106 of the 1990 Act
10. Any notice to be given hereunder shall be in writing and shall either be delivered personally or sent by first class pre-paid post to the address for service referred to in paragraph ¹⁰ 9.1
- 10.1 The address for service for the Developer the Council the Mortgagee and the Association or the Nominated RSL shall be the address stated in this Agreement or such other address in England for service as the party to be served shall have previously notified in writing
- 10.2 Any notice served hereunder shall be deemed to have been given or made and delivered if by letter 48 hours after posting and if by delivery when left at the relevant address
11. The Developer shall on the execution hereof pay the Council's costs incurred in the preparation and settlement of this Agreement initially limited to £2,264.50



THE FIRST SCHEDULE

The Development

Redevelopment of the Land to provide a 4 storey building retail on ground floor with 12 flats above and 7 houses in 3 storey terrace and 4 flats in 2 storey building with access and parking

THE SECOND SCHEDULE

Obligations Affecting the Development

The Developer with the intent that any expense arising from its covenants shall be for it and its successors in title to bear hereby covenants with the Council and so as to bind successors in title to all or any part of the land with the intent of binding each and every part of the Land as follows:

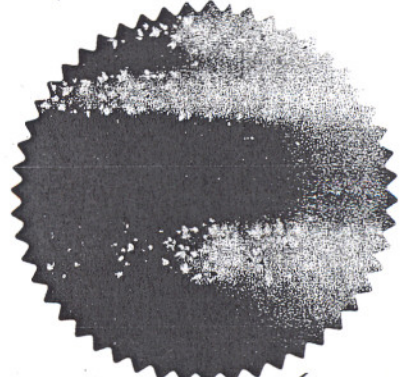
1. Not to commence the Development until there shall have been submitted to and approved by the Council (such approval not to be unreasonably withheld or delayed) a scheme which:
 - 1.1 provides on the Land not less than 4 x 1 bedroomed Affordable Housing Units for shared ownership occupation ALL the said units to be managed by the Nominated RSL
 - 1.2 ensures that the Affordable Housing Units are available for occupation in accordance with a building and occupation programme
 - 1.3 secures the continued occupation of the Affordable Housing Units by people regarded by the Council as in need of affordable housing subject to the terms of the Nomination Agreement with the Nominated RSL
2. The Developer shall secure that the Nominated RSL enters into the Nomination Agreement prior to occupation of the Affordable Housing Units
3. The Developer shall provide to the Council prior to completion of this Agreement a commuted sum of £200,000 to be used by the Council solely for the provision of affordable housing in the London Borough of Harrow
4. The Developer shall fund all necessary costs relating to the provision of a speed table in the service road fronting the Land and the adoption of the section of new service road/footway



between the existing service roads to the east and west of the Land under section 38 of the Highways Act 1980 up to a maximum of £10,000 which sum is to be provided to the Council prior to completion of this Agreement

EXECUTED AS A DEED but not delivered until the day and year first before written

THE COMMON SEAL OF THE MAYOR)
AND BURGESSES OF THE LONDON)
BOROUGH OF HARROW was hereunto)
Affixed to this Deed in the presence of: -)



Mayor Paddy Byrne

Authorised Officer A. Beards

145-9144

THE COMMON SEAL OF TRY HOMES)
LIMITED was hereunto affixed to this)
Deed in the presence of: -)

Director

K. Johns
[Signature]

Secretary

In witness whereof this document which intended to have the effect of a Deed has been duly executed by a duly authorised officer of the bank as Attorney for the bank

The day and the year first above written

Signed and delivered by David Mowatt

in presence of [Signature]

~~THE COMMON SEAL OF TESCO STORES)
LIMITED was hereunto affixed to this)
Deed in the presence of: -)~~

~~Director~~ OWISOWA [Signature]

~~Divisional Secretary~~ [Signature]