

MEMORANDUM

To: Planning and Conservation
Lloydon-McBarnette

From: Director of Legal Services

cc:

Your Ref:

My Ref: LP/10022654
Ext: 2180

Date: 18 June 2001

FORMER KNIGHTSBRIDGE CROWN COURT
1 HANS CRESCENT AND 21-27A BASIL STREET
SECTION 106 AGREEMENT

Please find attached a copy of a Section 106 agreement dated 13th June 2001. I should be grateful if you could arrange for this agreement to be registered.

This Section 106 agreement supercedes the previous Section 106 agreement dated 19th September 1997. Reference to this previous agreement should be removed from the register.

If you have any queries in connection with the above please do not hesitate to contact me.

LeVerne Parker

LeVerne Parker
for Director of Legal Services

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THIS DEED is made the 15th day of June Two thousand and one

BETWEEN

- (1) **THE MAYOR AND BURGESSES OF THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA** of the Town Hall Hornton Street London W8 7NX ("the Council")
- (2) **HARRODS PROPERTY LIMITED** whose registered office is at 87-135 Brompton Road, London SW1X 7XL ("the Owner")
- (3) **BERKELEY HOMES (WEST LONDON) LIMITED** whose registered office is at Berkeley House 19 Portsmouth Road Cobham Surrey KT11 1JG ("Berkeley Homes")
- (4) **HARRODS LIMITED** whose registered office is at 87-135 Brompton Road London SW1X 7XL ("Harrods")

WHEREAS

- A The Council is the local planning authority for the administrative area of the Royal Borough of Kensington and Chelsea for the purposes of the Town and Country Planning Act 1990 (as amended)
- B The Council is the Highway Authority for Basil Street Hans Crescent and Hans Road and is authorised to execute the Highway Works under Part V of the Highways Act 1980
- C The Owner is registered at HM Land Registry with freehold title absolute in respect of the Land which is situated within the Council's area
- D By Deed of 29th January 2001 the Owner granted Berkeley Homes a lease in respect of part of the Land for a term of 999 years
- E On 15th November 2000 the Owner and Harrods entered into an agreement for a lease in respect of part of the Land for a term of 25 years
- F The Council is satisfied that the Highway Works are of benefit to the public

- G The Owner has agreed to pay the whole of the cost of the Highway Works as provided in this Deed
- H The First Planning Application was made to the Council
- I The Council resolved at a meeting of its Planning Services Committee on the 30th April 1997 to approve the First Planning Application following completion of an agreement for the purpose of making acceptable arrangements for the carrying out of the development between the Council and Harrods (being the Owner's predecessor in title) (the Deed of 19th September 1997)
- J The Second Planning Application was submitted
- K The Council resolved at a meeting of its Planning Services Committee on 17th October 2000 to approve the Second Planning Application following completion of this Agreement (this Deed)
- L National Westminster Bank Public Limited Company whose registered office is at 135 Bishopsgate London EC2M 3UR (Company registration number 00929027) has a benefit of a legal charge over the Land dated 15th November 2000 granted by the Owner and has consented to the Owner entering into this deed in the letter dated 11th June 2001 a copy of which is attached as Annex I

NOW THIS DEED WITNESSETH AS FOLLOWS:-

1. INTERPRETATION

- 1.1 In this Deed the following words and expressions shall unless the context otherwise requires have the following meanings:-

WORDS AND EXPRESSIONS MEANINGS

“Appropriate Inflation

“Supplement”

the sum to be applied to increase a sum payable under this Deed to compensate for the effects of inflation calculated in accordance with the Civil Engineering Formulae contained in

the Price Adjustment Formulae for Construction Contracts published from time to time by the DETR in respect of sums in connection with the Highway Works to be calculated between the date hereof and the date upon which a payment is made in the event of the above index ceasing to be published such other appropriate index as may be agreed between the parties hereto or determined by the Expert in default of agreement

“Car Park”

the car park forming part of the Development

“Certificate”

the Certificate mentioned in Clause 3.8 below.

“Development”

the development referred to in the Second Planning Application and described in the First Schedule

“Director”

the Council’s Director of Transportation and Highways and shall be deemed to mean the officer of the Council from time to time holding that appointment or (if no officer holds that appointment) carrying out the duties of the appointment

“Drawing Number 1”

the drawing numbered 6144/LA/01 annexed hereto

“Drawing Number 2”

the drawing numbered D5547/LA/02A annexed hereto

“Engineer”

the Council’s Director or such other qualified person as the Director shall appoint for the purposes of carrying out the functions of the Engineer herein contained

“Executive Director”	the Council’s Executive Director, Planning and Conservation, and shall be deemed to mean the Officer for the Council from time to time holding that appointment or (if no officer holds that appointment) carrying out the duties of the appointment
“Final Account”	an account in respect of the balance of the full cost of the works mentioned in Clause 5.6 below
“First Notice”	the notice mentioned in Clause 3.1 below being a notice or notices in respect of the whole or part of the Highway Works
“First Payment”	the payment mentioned in Clause 5.2.1 below
“First Planning Application”	the application for planning permission under the Council’s reference TP/96/1584/F/29
“Further Works”	the works and other matters described in the Fourth Schedule
“Further Works Estimate”	the estimated costs of the Further Works (if required) to be provided by the Director acting reasonably
“Highway Improvement Scheme”	the Scheme described in the Fifth Schedule
“Highway Works”	the works described in the Third Schedule and shown on Drawing Number 1

"Highway Works Estimate"

the estimated costs of the Highway Works at the date hereof namely £36,000

"Implementation"

the carrying out of any act pursuant to the Planning Permission which constitutes a material operation exclusively referable to the Planning Permission within the meaning of Section 56 of the Town and Country Planning Act 1990 excluding the construction of the Highway Works by the Council

"Land"

the land described in the Second Schedule and shown for the purposes of identification only edged in red on the filed plan and registered at H M Land Registry under title number BGL 12893 a copy of which is annexed hereto

"Occupation"

occupation of the Development:

- (a) for the residential use of the residential units; or
- (b) for commercial use of the commercial premises

"Planning Permission"

the planning permission to be granted pursuant to the Second Planning Application

"Second Notice"

the notice mentioned in Clauses 3.3 and 5.2.2 below

"Second Payment"

the payment mentioned in Clause 5.2.2. below

"Second Planning Application"

the application for planning permission for the Development

“Substantially Completed”

apart from minor defects and omissions having reached a stage of construction at which the Highway Works are substantially ready for use for the purposes for which they are designed and being free from known defects or omissions to the reasonable satisfaction of the Engineer and “Substantial Completion” shall be construed accordingly

1.2 Words in this Deed importing the singular meaning shall where the context so admits include the plural meaning and vice versa

1.3 Words in this Deed 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

1.4 References in this Deed 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

1.5 Covenants made hereunder if made by more than one person are made jointly and severally

2. LEGAL EFFECT

2.1 This Deed is made pursuant to Section 111 of the Local Government Act 1972, Section 16 of the Greater London Council (General Powers) Act 1974, Section 106 of the

Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 and all other powers so enabling

- 2.2 This Deed contains planning obligations made pursuant to the said Section 106 which are enforceable by the Council against the Owner Harrods and Berkeley Homes and their successors in title and against any Mortgagee in possession and which bind each and every part of the Land
- 2.3 The terms of this Deed (other than clause 12 below) shall come into effect upon the grant of the Planning Permission
- 2.4 Nothing contained or implied in this Deed 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 Deed
- 2.5 If any provision in this Deed shall be held to be invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions shall not in any way be deemed thereby to be affected or impaired
- 2.6 No waiver (whether express or implied) by the Council or the Owner, Harrods or Berkeley Homes of any breach or default in performing or observing any of the covenants, terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or the Owner Harrods or Berkeley Homes from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default

2.7 Nothing in this Deed shall be construed as a grant of planning permission

2.8 This Deed shall only be delivered as a Deed when dated

2.9 Before construction of any Highway Works commences the Council may terminate all or any of the terms of this Deed which relate to the construction of those Highway Works by giving the Owner notice of their decision to so terminate and on such termination by the Council the Owner shall have no further obligations in respect of those Highway Works and shall have no further liability under this Deed in respect of those Highway Works save in respect of any antecedent breaches of this Deed and the Council shall refund to the Owner the First Payment and the Second Payment (if the same has been made by the Owner to the Council) together with interest accrued thereon (calculated at the rate of Lloyds TSB Bank Plc's base rate from time to time for the period) and further the Council hereby agrees that the provisions of clause 6.1 shall cease to apply

2.10 Upon any termination under 2.9 above the Engineer shall give to the Owner an account of all abortive costs incurred by the Council in respect of this Deed and within 28 days from the date of the account

2.10.1 if the account shows that the payments made by the Owner under the provisions of this Deed have exceeded those costs the Council shall refund

calculated at the rate of Lloyds Bank Plc's base rate from time to time for the period)
that excess together with interest accrued on this account, and

2.10.2 if the account shows that those costs exceed the payment made by the Owner under the foregoing provisions of this Deed the Owner shall pay to the Council

a sum equal to that excess (~~calculated at the rate of Lloyds TSB Bank PLC's
base rate from time to time for the period~~).

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2.11 In the event that the Council makes a supply or is deemed to have made a supply by HM Customs and Excise to the Owner under this Deed and Value Added Tax is payable by the Council in respect of such supply the Owner shall pay to the Council upon the Council issuing a Value Added Tax invoice the amount of Value Added Tax so payable in addition to any amounts otherwise payable under this Deed

2.12 The Owner shall pay to the Council upon the Council issuing a Value Added Tax Invoice the Council's Value Added Tax input tax insofar as that tax is not recoverable by the Council on any transaction entered into by the Council in performing their obligations under this Deed

2.13 Headings in this Deed are not intended to be taken into account in its construction or interpretation

2.14 Where any consent agreement or approval is required or requested pursuant to this Deed such consent agreement or approval shall not be unreasonably withheld or delayed

3. HIGHWAY WORKS ARRANGEMENTS

3.1 Prior to Occupation the Owner shall serve notice ("the First Notice") upon the Council to commence the Highway Works and shall tender the First Payment to the Council together with the First Notice

- 3.2 Upon receipt of the First Notice and the First Payment the Council shall produce to the Owner within a reasonable time (which shall be interpreted as being not less than one nor more than two months) a design of the Highway Works together with bills of quantities
- 3.3 The Council shall make available to the Owner copies of all drawings, bills of quantities and other matters relevant to the Highway Works and shall afford the Owner an opportunity to comment thereon and shall consider any comments made within one month by the Owner on all such matters and the Engineer shall serve notice on the Owner that he proposes to let a contract for the execution of the Highway Works ("the Second Notice") within one month of receiving such comments
- 3.4 Within 28 days of receiving the Second Payment the Council shall instruct its approved contractor or let a contract on competitive terms at its own discretion to any contractor or agents ("the Highway Works Contract")
- 3.5 Subject to the performance by the Owner of its obligations under this Deed and subject to the Council obtaining any necessary Traffic Management Orders in respect of which it will use its reasonable endeavours the Council undertakes that it will carry out and complete the Highway Works and to use its reasonable endeavours to do so as cost effectively as practicable within four months of the Second Notice provided that the Council shall not be liable for any delay to the Highway Works or to the Development occasioned by works to statutory undertakers' and other bodies' services or by any other matter beyond the reasonable control of the Council arising in any way out of the Highway Works

3.6

The Engineer may from time to time make such alterations to the description of the works contained in the Highway Works Contract as he may reasonably consider desirable or necessary and so far as may be reasonably practicable the Engineer shall give the Owner an opportunity to comment upon any such alterations which he proposes to make **PROVIDED ALWAYS** that the Highway Works shall remain substantially the same and that the sums which the Owner is liable to pay in respect thereof do not as a result rise by more than 5% without the prior agreement of the Owner

3.7

During the construction of the Highway Works and subject to Clause 6.4 below the Owner shall permit the Council, its servants or agents to enter the Land in so far as is necessary to carry out the Highway Works at all reasonable hours and shall afford to the Council all reasonable assistance not involving expenditure of money other than for reasonable internal costs in order to carry out the Highway Works

3.8

Upon the Highway Works being Substantially Completed and upon all of the Council's costs payable pursuant to Clauses ~~5.2~~ ^{5.2.1 and 5.2.2.} and ~~5.6~~ (but only in so far as it applies to payment under Clause ~~5.2~~ ^{5.2.1 and 5.2.2.}) having been paid by the Owner the Engineer shall issue a certificate ("the Certificate") to that effect and the issue of the Certificate shall not be unreasonably withheld or delayed

4.

FURTHER WORKS

4.1

If within 12 months of service of the Occupation Notice in accordance with Clause 6.1 the Director is of the opinion acting reasonably and based upon the volume and type of service traffic attending the Development and its interaction with the general

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traffic flow in Hans Crescent that the Highway Works mentioned in paragraph 3 of the Third Schedule are contributing to or are not sufficient in dealing with then existing traffic problems in Hans Crescent then he shall at the latest within 28 days of the expiration of the said 12 months serve notice on the Owner ("First Further Works Notice") together with ^{a note of the amount of} the Further Works Estimate that the Council intends to carry out the Further Works mentioned in paragraph 1 of the Fourth Schedule and the Council shall not design or carry out the Further Works so as to require acquisition of any rights over land or the carrying out of any works to any structure in the ownership of any third parties.

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4.2 Upon the issue of the First Further Works Notice the Council shall produce to the Owner within a reasonable time (which shall be interpreted as being not less than one nor more than two months) a design of the Further Works together with bills of quantities

4.3 The Council shall make available to the Owner copies of all drawings bills of quantities and other matters relevant to the Further Works and shall afford the Owner an opportunity to comment thereon and shall consider any comments made within three months by the Owner on all such matters and subject to the Council or Owner not agreeing or electing to procure the Paragraph 2 Works in accordance with Clause 4.7 the Engineer/Council shall serve notice on the Owner that he/it proposes to let a Contract for the execution of the Further Works in paragraph 1 of the Fourth Schedule within one month of receiving such comments ("the Second Further Works Notice")

4.4 Within 28 days of receiving payment of the whole of the Further Works Estimate the Council shall instruct its approved contractor or let a contract upon competitive

terms at its own discretion to any contractor or agent ("the Further Works Contract")

- 4.5 Subject to obtaining any necessary Traffic Management Orders in respect of which the Council will use its reasonable endeavours the Council will carry out and complete the Further Works and use its reasonable endeavours to do so as cost effectively as practicable within three months of the Second Further Works Notice provided that the Council shall not be liable for any delay to the Further Works occasioned by the works to statutory undertakers' and other bodies' services or by any other matter beyond the control of the Council
- 4.6 The Engineer may from time to time make such alterations to the description of the works contained in the Further Works Contract as he may reasonably consider desirable or necessary and so far as may be reasonably practicable the Engineer shall give the Owner an opportunity to comment upon any such alterations which he proposes to make PROVIDED ALWAYS that the Further Works shall remain substantially the same and that the sums which the Owner is liable to pay in respect thereof do not as a result rise by more than 5% without the prior agreement of the Owner
- 4.7 If within two months of service of the First Further Works Notice the Director is of the reasonable opinion having consulted with the Owner and provided it with a reasonable opportunity to comment thereon that the Further Works mentioned in paragraph 1 of the Fourth Schedule are not feasible for engineering or other reasons (not including the cost of the Further Works) or if the Owner so elects within three months of service of the First Further Works Notice then the Further Works shall consist of the works mentioned in paragraph 2 of the said Schedule ("the Paragraph 2 Works")

4.8 Where in accordance with paragraph 4.7 above the Further Works consist of the Paragraph 2 Works the Owner shall procure that at the commencement of the Further Works three parking spaces are made available at all times for as long as the Car Park shall be operated within the Car Park for the parking of diplomatic motor cars

5 **PAYMENT**

Liability of Owner to Pay

5.1 The Owner shall be liable to pay to the Council:

5.1.1 the whole cost of the Highway Works and if applicable the Further Works subject always to the provisions of clauses 3.4 to 3.6 and 4.4 to 4.6 inclusive, including value added tax (if that tax is payable) on that cost which the Council incurs by or in preparation for the execution of the Highway Works and the Further Works and in connection with the execution of the Highway Works and the Further Works including all costs in respect of the administration design and supervision of the Highway Works and the Further Works required for the purposes of the Highway Works and the Further Works

5.1.2 the whole of any expense to which the Council is put in order to carry out the Highway Works and if applicable the Further Works (including without prejudice to the generality of the foregoing all costs or expenses incurred in obtaining any consent or making or confirming any Order including any necessary traffic management orders and satisfying claims made under Part 1 of the Land Compensation Act 1973 arising from the execution of the Highway Works and Further Works) and other than any expense to which the Council is put as a result of its negligence or default

5.1.3 interest at the rate of 4% above Lloyds TSB Bank PLC's base rate from time to time on any sum payable to the Council if such sum has not yet been received by the Council within 21 days of that sum becoming payable hereunder

Method of Payment

5.2 The Owner shall make the payments in respect of the sums referred to in Clause 5.1 and in respect of each Final Account as follows:-

5.2.1 a sum equal to one half of the Highway Works Estimate together with the Appropriate Inflation Supplement ("the First Payment") on the date on which the First Notice is served on the Council

5.2.2 a further sum equal to one half of the Highway Works Estimate together with the Appropriate Inflation Supplement ("the Second Payment") within 21 days of the date on which the Second Notice is served on the Owner pursuant to clause 3.3

5.2.3 a sum equal to one half of the Further Works Estimate within 21 days of the date on which the First Further Works Notice is served on the Owner pursuant to clause 4.1 PROVIDED ALWAYS that if the Director decides or the Owner elects that the Further Works shall consist of the Paragraph 2 Works pursuant to clause 4.7 then within 21 days of the date of such decision or election the Council shall repay to the Owner one half of the Further Works Estimate together with any interest accrued thereon (calculated at the rate of Lloyds TSB Bank Plc's base rate from time to time for the period)

5.2.4 a further sum equal to one half of the Further Works Estimate within 21 days of the date on which the Second Further Works Notice is served on the Owner pursuant to clause 4.3

5.3 Subject to clauses 3.4, 3.5, 3.6, 4.4, 4.5 and 4.6 if at any time after the payments referred to in 5.2.1 or 5.2.2, 5.2.3 or 5.2.4 have become payable the Engineer reasonably estimates that the costs of the works referred to in Clause 5.1 will exceed the Highway Works Estimate or the Further Works Estimate he may give notice to the Owner of the amount by which he then estimates those costs will exceed whichever estimate and the Owner shall pay to the Council within 21 days of the date of that notice a sum equal to that excess in so far as the same is due at the date of that notice

5.4 In addition to and together with each sum payable under the foregoing provisions the Owner shall pay to the Council a further sum equal to 15 per cent of that sum in respect of the Council's costs of administration design and supervision

5.5 Within a reasonable time after the Highway Works and the Further Works respectively have been Substantially Completed and the Engineer has issued the appropriate Certificate the Engineer shall give the Owner a final account of the Highway Works and the Further Works respectively ("Final Account")

5.6 Within 28 days from the date of a Final Account:-

5.6.1 if a Final Account shows a further payment due to the Council the Owner shall pay to the Council within 21 days the sum shown due to them in the Final Account; or

- 5.6.2 if a Final Account shows that the payment or payments previously made to the Council have exceeded those costs the Council shall refund that excess to the Owner within 21 days and any interest (calculated at the rate of Lloyds TSB Bank Plc's base rate from time to time for the period) accrued upon that excess
- 5.7 The amounts of payments due under Clause 5 shall be certified on behalf of the Council by the Engineer and the Engineer's decision as to the amounts shall be final subject only to review pursuant to Clause 7 in relation to the Final Accounts but he shall provide to the Owner any information relating to the amounts as the Owner may reasonably require.
- 5.8 The Council shall plan and carry out the Highway Works and Further Works in such a way as to minimise the Owner's liability under this clause, so long as reasonable and proper quality of the Highway Works and Further Works is achieved, and will not design or carry out the Highway Works so as to require entry into the premises of or acquisition of any rights over land of third parties unless to do so would be cheaper to the Owner hereunder than an engineered solution not including such entry or acquisition

Liability of Council to Pay

- 5.9 The Council shall be liable to pay to the Owner interest at the rate of 4% above Lloyds TSB Bank PLC's base rate from time to time on any sum payable to the Owner if such sum has not yet been received within 21 days of that sum becoming payable

6. OTHER COVENANTS RELATING TO THE HIGHWAY WORKS

The Owner Harrods and Berkeley Homes hereby covenant with the Council as follows:-

Restriction Upon Occupation

6.1 That Occupation of any part of the Development shall not (other than for the purpose of fitting out works) take place until such time as the Engineer has issued the Certificate under Clause 3.8 and the Owner shall serve notice on the Director when Occupation takes place("Occupation Notice")

6.2 In the event of the Occupation of the Development in breach of this Deed the Council without prejudice to any other remedy shall be at liberty to construct the Highway Works and enter the Land as necessary and the Owner shall be liable to pay to the Council the full cost of the Highway Works forthwith

Statutory Undertakers

6.3 The Owner shall be responsible for the payment of all charges by Statutory Undertakers in respect of the Highway Works

Access

6.4 The Council shall co-ordinate its times and periods for entering on the Land with all other contractors carrying out work thereon for the construction of the Development so as to minimise disruption and any effect on the cost of the Development and the Highway Works

EXPERT DETERMINATION

- 7.1 Any dispute arising between the Owner and the Council hereto in respect of the Highway Works and the Further Works including the Final Accounts shall be referred to a Chartered Civil Engineer (hereinafter called "the Expert") to be agreed between the parties hereto or failing agreement as to the same to be appointed upon the application of either party hereto by the President for the time being of the Institution of Civil Engineers
- 7.2 Any person appointed as the Expert under this Clause shall act as an independent expert and not as an arbitrator and once the Expert has expressed willingness so to act the following provisions shall apply:-
- 7.2.1 the Expert shall fully consider all written representations made by or on behalf of the Owner and the Council which shall be delivered to him within 28 days of notice of his appointment; and
- 7.2.2 he shall use all reasonable endeavours to give his decision as speedily as possible; and
- 7.2.3 his decision shall be final and binding on the parties hereto in respect of all matters referred to him; and
- 7.2.4 his fees shall be payable by the Owner and the Council in such proportions as he shall determine or in default of such determination equally between them provided that in the event of either party failing to pay its proportion within

28 days of determination then the other party shall be entitled to pay the whole of his fees and the proportion due from the other party shall be recoverable as a debt; and

7.2.5 if the Expert shall die or refuse or be unwilling to act, the procedure for appointment of another person in his place shall be repeated as often as may be necessary

7.3 The terms of the Expert's appointment shall require him to comply with Clauses 7.2.1 and 7.2.2

8 THE OWNER'S OTHER COVENANTS

Service Area

8.1 The Owner hereby covenants with the Council as follows:-

8.2 From the completion of the service area and thereafter for as long as the service area shall be operated not to use the service area shown shaded purple on Drawing Number 2("the Service Area") as a service area unless:-

8.2.1 a signal with a red default to control the exit of vehicles from the Service Area is located at its exit and installed so that the red default will operate to stop vehicles exiting from the Service Area in order to give priority to vehicles wanting to enter the Service Area and

8.2.2 a traffic marshal is on duty during times when Service Area exit is open equipped with a remote controller of the signal referred to in 8.2.1 above enabling him to operate the signal

or other such measures as may be approved in writing by the Director

9 COVENANTS RELATING TO THE HIGHWAY IMPROVEMENT SCHEME

9.1 The Owner hereby covenants with the Council that prior to completing and operating the Car Park that it will pay to the Council £200,000 in respect of a highway improvement scheme for the improvement of Hans Road, Hans Crescent, Brompton Road and Basil Street ("the Scheme") in accordance with the Fifth Schedule

9.2 The Council covenants with the Owner that it will consult with the Owner on the content of the Scheme and will take into account the Owner's views expressed within 21 days of such consultation in deciding what the Scheme is to include

9.3 The Council further covenants with the Owner that if it has not within 5 years of payment of the sum of £200,000 by the Owner completed the Scheme it will repay to the Owner the said sum of £200,000 or the unexpended balance thereof plus interest accrued on such unexpended balance (calculated at the rate of Lloyds TSB Bank Plc's base rate from time to time for the period)

10 SERVICE OF NOTICES

10.1 Any notice or certificate required to be served on the Council shall be in writing and shall be sufficiently served upon the Council if left at or posted by Recorded Delivery to the Director of Transportation and Highways Royal Borough of Kensington and Chelsea Town Hall Hornton Street London W8 7NX or in the case of the Owner

Harrods or Berkeley Homes if left at or posted by Recorded Delivery to the registered office or last known address of the Owner Harrods or Berkeley Homes as the case may be

10.2 Any payment required to be made to the Council shall be made to the Royal Borough of Kensington and Chelsea and shall be left at or (in the case of a cheque) posted by Recorded Delivery to the Director of Transportation and Highways at the above address and in the case of the Owner Harrods or Berkeley Homes if left at or posted by Recorded Delivery to the registered office or last known address of the Owner, Harrods or Berkeley Homes as the case may be

11 GENERAL

The Owner Harrods and Berkeley Homes hereby covenant that they and their assigns and all successors in title shall be bound observe and perform all covenants and stipulations herein contained but neither the Owner nor Harrods, nor Berkeley Homes nor any successor in title nor any person deriving title shall be liable for any breach of this Deed after parting with its interest unless at the date of breach it held such an interest

12 FURTHER TERMS

12.1 The Owner shall on the execution hereof pay the Council's costs incurred in the preparation and settlement of this Deed in the sum of £4,000

12.2 The covenants in this Deed shall be treated and registered

(a) forthwith by the Council as local land charges for the purpose of the Local Land

Charges Act 1975; and

(b) forthwith by the Owner in the Charges Register of the registered title number BGL 12893 at the H M Land Registry

(c) forthwith by Berkeley Homes in the Charges Register of the registered title number BGL 36848 at the HM Land Registry

12.3 Subject to the Planning Permission being granted:

12.3.1 the Owner Harrods and Berkeley Homes covenant not to continue to develop the Land pursuant to the planning permission under the Council's reference TP/96/1584/F/29;and

12.3.2 the Council agrees that the obligations contained in and the provisions of the Deed of 19th September 1997 shall cease and no longer have effect and the Council hereby releases and discharges the Owner Harrods and Berkeley Homes from all the covenants, agreements, conditions and obligations contained in the said Deed

12.3.3 the Council covenants with the Owner Harrods and Berkeley Homes without unreasonable delay to remove from the Local Land Charges Register all references to the Deed of 19th September 1997

12.3.4 the Council, the Owner Harrods and Berkeley Homes hereby jointly apply to the Chief Land Registrar to remove all references to the Deed of 19th September 1997 from the Register of Freehold and Leasehold Title to the Land Number BGL 12893 and BGL 36848

THIRD PARTY RIGHTS EXCLUSION

Except in relation to successor bodies and successors in title and assigns to the parties to this Deed it is agreed that nothing in this Deed or the Deed of the 19th September 1997 entitles a person who is not a party to the Deed of 19th September 1997 or this Deed to enforce any of the terms of those agreements

THE FIRST SCHEDULE**THE DEVELOPMENT**

Provision of basement car parking/servicing and new retail/restaurant floor space within Harrods Store and the redevelopment (retention of the Hans Crescent facade) of Knightsbridge Crown Court for basement car parking/servicing/residential/offices (ancillary to Harrods); clinic (ancillary to Harrods) and restaurant use (Class A3) at: Former Knightsbridge Crown Court, No1 Hans Crescent and Harrods Store, 87-135 Brompton Road, SW1 as shown on submitted drawings Nos:

TP/96/1584; TP/96/1584A; TP/96/1584B; TP/96/1584C; TP/96/1584D; and Applicants drawings Nos:

HC 020; HC 027B; HC 050G; HC 092C; HC 093D; HC 094E; HC 095D; HC 096E; HC 097E; HC 098F; HC 099G; HC 100G; HC 101C; HC 102D; HC 103D; HC 104D; HC 105D; HC 106D; HC 107D; HC 251E; HC 252F; HC 401D; HC 402E; HC 403E; HC 404E; HC 405F; HC 406E; HC 420E; HC 421A; HC 452A; 1108; 8527/ENW/02; 1110A; 1111; 1112; 8527/ENW/06; 1114; 1115; 8527/ENW/09; 1117; 1118; 1119; 1120; 1121; 5930-1; 5930-2; HSP-EX-047; HSP-EX-048; HSP-EX-049 AND HSP-EX-050 as amended as follows:

Provision of further storage space, reduction of car parking, a change in the number of residential units from 41 to 33 and other minor alterations including changes to the Basil Street Elevation at: Former Knightsbridge Crown Court, No 1 Hans Crescent and Harrods Store, 87-135 Brompton Road, SW1 as

Structured Finance

5th Floor
135 Bishopsgate
London EC2M 3UR

Telephone: 020 7375 5000
Facsimile: 020 7648 3728
Website: www.rbs.co.uk

The Mayor and Burgesses of the Royal Borough
of Kensington and Chelsea
Town Hall
Hornton Street
London
W8 7NX

11 June 2001

Dear Sirs,

Former Knightsbridge Crown Court – Section 106 Agreement

1. We refer to the deed to be entered into pursuant to section 106 of the Town and Country Planning Act 1990 between the Mayor and Burgesses of the Royal Borough of Kensington and Chelsea (1), Harrods Property Limited (2) and Berkeley Homes (West London) Limited (the "Deed"), a copy of which we have seen in final draft form. Expressions defined in the Deed shall have the same meaning in this letter.
2. We have the benefit of a legal charge over the Land dated 15 November 2000 and granted by Harrods Property Limited.
3. We consent to Harrods Property Limited entering into the Deed on the terms contained in the final draft that has been produced to us, and acknowledge that from the date of the Deed the Land shall be bound by the restrictions and obligations contained therein provided that we shall not be liable in respect of any breach of the terms of the Deed unless and until we take possession of the Land.

 **NatWest**
is a member of The Royal Bank
of Scotland Group

The Royal Bank of Scotland plc is registered in Scotland no 90312
Registered Office: 36 St Andrew Square, Edinburgh EH2 2YB

Regulated by IMRO, SFA and Personal Investment Authority

Agency agreements exist between members of

The Royal Bank of Scotland Group

4. We agree to the Chief Land Registrar noting the provisions of paragraph 3 of this letter in the Charges Register of the freehold title BGL 12893 and leasehold title BGL 363848.

Yours faithfully

SIGNED by *H.W. Astwin*)

Authorised Signatory for)
and on behalf of NATIONAL)
WESTMINSTER BANK PUBLIC)
LIMITED COMPANY)

H.W. Astwin
.....

Richard Jennings
.....

For and on behalf of/authorised signatory for
The Mayor and Burgesses of the Royal Borough of Kensington and Chelsea

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IN WITNESS of which this Deed has been executed on the first date before written

45881

THE COMMON SEAL of the MAYOR)
AND BURGESSES OF THE ROYAL)
BOROUGH of KENSINGTON AND)
CHELSEA was hereunto affixed)
in the presence of:-)

D. O'Brien

**ADMINISTRATION
MANAGER**

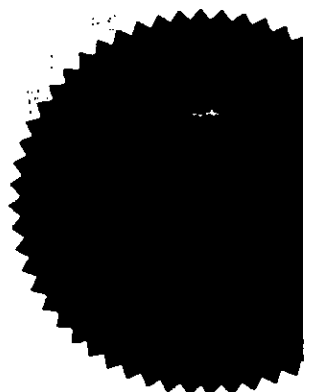
THE COMMON SEAL of)
HARRODS PROPERTY LIMITED)
was affixed)
in the presence of:-)

Director

J. [Signature]

Secretary

W. [Signature]



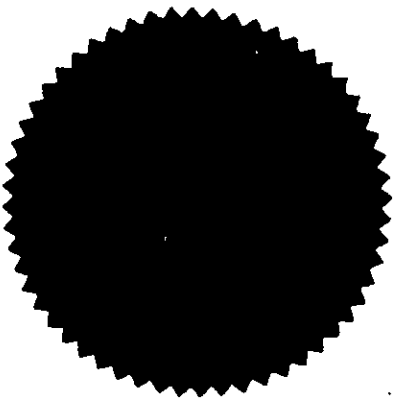
THE COMMON SEAL OF)
BERKELEY HOMES)
(WEST LONDON) LIMITED was affixed)
in the presence of:-)

Director

[Signature]

Secretary

[Signature]



THE COMMON SEAL OF HARRODS)
LIMITED was affixed in the presence of:-)

Director

Secretary

Dated 13th June 2001

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**THE MAYOR AND BURGESSSES
OF THE ROYAL BOROUGH OF
KENSINGTON AND CHELSEA**

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2. Legal Effect

and -

3. Highways Works Arrangements

4. Further Works

**BERKELEY HOMES (WEST LONDON)
LIMITED**

5. Payment

and -

6. Other Highway Works Covenants

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7. Expert Determination

8. The Owner's Covenants

9. Highway Improvement Scheme

10. Service of Notices

11. General

AGREEMENT

12. Further Terms

**Under Section 106 of the Town and Country
Planning Act 1990 (as amended by the
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Land at Hans Crescent, Knightsbridge**

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1. The Development

2. The Land

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5. Highway Improvement Scheme

Annexes

Plan

Drawing Number 1

Drawing Number 2

Letter of Consent

**Richard Hemmings
Director of Legal Services
The Town Hall
Hornton Street
London W8 7NX**

Tel: 020 7361 2614

Ref: LP/10022654

