

DATED

22 March

2009/10

**(1) RAVENHART SERVICES (NO.4) LIMITED**

and

**(2) COUTTS & COMPANY**

and

**(3) GAGOSIAN GALLERY OF LONDON**

and

**(4) THE MAYOR AND BURGESSES OF  
THE LONDON BOROUGH OF CAMDEN**

Ground floor,

**AGREEMENT  
relating to land known as  
4 BRITANNIA STREET  
LONDON WC1X 9JD**



**pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended) and  
Section 278 of the Highways Act 1980**

Andrew Maughan  
Head of Legal Services  
London Borough of Camden  
Town Hall  
Judd Street  
London WC1H 9LP

Tel: 020 7974 5826  
Fax: 020 7974 2962

G:\case files\culture & env\planning\Imm\s106 Agreements\Section 106 Agreement 4 Britannia Street  
2008-4902-P  
CLS/COM/DR/1685.65

THIS AGREEMENT is made the 22<sup>nd</sup>. day of March 2009

**B E T W E E N:**

1. **RAVENHART SERVICES (NO.4) LIMITED** (Co. Regn. No. 3723479) whose registered office is at 82 St John Street, London, EC1M 4JN (hereinafter called "the Owner") of the first part
2. **COUTTS & COMPANY** (Co. Regn. No. 36695) whose registered office is at 440 Strand, London WC2R 0QS (hereinafter called "the First Mortgagee") of the second part
3. **GAGOSIAN GALLERY OF LONDON** a corporation incorporated in accordance with the laws of and existing in the state of New York in the United States of America and whose address for service is 4 Britannia Street, London WC1X 9JD (hereinafter called "the Lessee")
4. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third part

1. **WHEREAS**

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number LN122175 subject to a charge to the Mortgagee.
- 1.2 The Owner is the freehold Owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 The Lessee has a leasehold interest in the Property which is registered under Title Number NGL836545 and is interested in the Property for the purposes of Section 106 of the Act.
- 1.4 A Planning Application for the development of the Property was submitted to the Council on behalf of the Lessee and validated on 24 November 2008 and the Council

resolved to grant permission conditionally under reference number 2008/4902/P subject to conclusion of this legal Agreement.

- 1.5 The Council is the local planning authority for the purposes of the Act for the area in which the Property is situated and considers it expedient in the interests of the proper planning of its area that the development of the Property should be restricted or regulated in accordance with this Agreement.
- 1.6 For that purpose the Owner and the Lessee are willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.7 The Mortgagee as mortgagee under a legal charge registered under Title Number LN122175 and dated 22 July 2008 is willing to enter into this Agreement to give its consent to the same.

## 2. **DEFINITIONS**

In this Agreement the following expressions (arranged in alphabetical order) shall unless the context otherwise requires have the following meanings:-

- 2.1 "the Act" the Town and Country Planning Act 1990 (as amended)
- 2.2 "the Agreement" this Planning Obligation made pursuant to Section 106 of the Act
- 2.3 "the Development" the retention of enlarged loading bay entrance to Art Gallery (Class D1) as shown on drawing numbers 251/LO2/01, 251/A04/01, 251/LO5/01, 251/L12/01, 251/A14/01, 251/L15/01
- 2.4 "the Highways Contribution" the sum of £3,600.00 (Three thousand six hundred pounds) to be paid by the Lessee to the Council in accordance with the terms of this Agreement and to be applied by the Council in event of receipt for the carrying out works to the

public highway and associated measures in the vicinity of the Property such works to include the following: widening the vehicular crossover in order to match the new widened bay opening ("the Highways Works") all works will be subject to final measure and any level adjustment required and for the avoidance of doubt the Council in accepting this sum does not undertake any responsibility in connection with any required statutory undertakers works and excludes any statutory undertakers costs

2.5 "the Implementation Date"

the date of implementation of the Development by the carrying out of a material operation as defined in Section 56 of the Act and references to "Implementation" and "Implement" shall be construed accordingly

2.6 "the Level Plans"

plans demonstrating the levels at the interface of the Development the boundary of the Property and the Public Highway

2.6 "Occupation Date"

the first date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly

2.7 "the Parties"

mean the Council the Owner the Lessee and the Mortgagee

2.8 "the Planning Application"

a planning application in respect of the development of the Property submitted to the Council and validated on 24 November 2008 for which a resolution to grant permission has been passed conditionally under reference number

2008/4902/P subject to conclusion of this Agreement

2.9 "Planning Obligations Monitoring Officer"

a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof

2.10 "the Planning Permission"

a planning permission granted for the Development substantially in the draft form annexed hereto

2.11 "the Property"

the land known as <sup>Ground floor</sup> 4 Britannia Street, London WC1X 9JD the same as shown edged in red on the plan annexed hereto

2.12 "the Public Highway"

any carriageway footway and/or verge adjoining the Property maintainable at public expense

3. **NOW THIS DEED WITNESSETH** as follows:-

3.1 This Agreement is made in pursuance of Section 106 of the Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and shall be enforceable by the Council against the Owner and the Lessee as provided herein and against any person deriving title to any part of the Property from the Owner or the Lessee and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.

3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies corporations and other artificial persons.

- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction of interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7 and 8 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner and the Lessee upon the Implementation Date.
- 3.6 The Council hereby agrees to grant the Planning Permission on the date hereof.
- 3.7 The Parties save where the context states otherwise shall include their successors in title.

4. **OBLIGATIONS OF THE OWNER AND THE LESSEE**

The Owner and the Lessee hereby covenant with the Council as follows:-

- 4.1 On or prior to Implementation to pay to the Council the Highways Contribution in full.
- 4.2 Not to Implement or to permit Implementation until such time as the Council has received the Highways Contribution in full.
- 4.3 On completion of the Highway Works the Council may provide to the Owner or the Lessee a certificate specifying the sum ("the Certified Sum") expended by the Council in carrying out the Highway Works.
- 4.4 If the Certified Sum exceeds the Highway Contribution then the Owner or the Lessee shall within fourteen days of the issuing of the said certificate pay to the Council the amount of the excess.

**5. NOTICE TO THE COUNCIL/OTHER MATTERS**

- 5.1 The Lessee shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken or is about to take place.
- 5.2 Within seven days following completion of the Development the Lessee shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting planning reference 2008/4902/P the date upon which the Development is ready for Occupation.
- 5.3 The Owner and Lessee shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner and the Lessee shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's or the Lessee's possession (at the Lessee's expense) for the purposes of monitoring compliance with the obligations contained herein.
- 5.4 The Owner and the Lessee agree declare and covenant with the Council that they shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall jointly and severally indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner or the Lessee of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.
- 5.5 Payment of the Highways Contribution pursuant to Clause 4.1 of this Agreement shall be made by the Lessee to the Council sending the full amount in the form of a Banker's Draft to the Planning Obligations Monitoring Officer referring to the names dates and Parties to this Agreement and citing the specific clause of this Agreement to which such Contribution relates quoting the Income Code ZM602ZL065 or by Electronic Transfer directly to the Co-Operative Bank plc of 1 Islington High Street London N1 9TR quoting Sort Code 08-90-33 and London Borough of Camden General Account No. 61030019 and to inform the Planning Obligations Monitoring

Officer of such payment quoting the above details as if the payment had been made by Banker's Draft.

5.6 All consideration given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable in respect thereof and all Parties other than the Council shall pay and indemnify the Council against any such value added tax properly payable on any sums paid to the Council under this Agreement upon presentation of an appropriate value added tax invoice addressed to the Owner and/or the Lessee.

5.7 Any sums referred to in this Agreement as payable or to be applied by any party other than the Council under this Agreement shall be paid or applied TOGETHER WITH if such payment or application is made more than three months from the date of this Agreement a further sum ("A") being equal to the original sum payable ("B") multiplied by a figure being a fraction of which the All Items of Retail Prices ("the AIIRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AIIRP figure published before the date such payment or application is made ("Y") less the last published AIIRP figure at the date hereof ("X") is the numerator so that

$$A = B \times \frac{(Y-X)}{X}$$

5.8 All costs and expenses payable to the Council under this Agreement shall bear interest at the rate of 4% above the Base Rate of the National Westminster Bank plc from time to time being charged from the date such payment is due until payment is made.

6. **IT IS HEREBY AGREED AND DECLARED** by the Parties hereto that:-

6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Urban Design and Renewal, Planning and Public Protection, Culture and



Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 2008/3161/P and in the case of any notice or approval or agreement from the Council this shall be signed by a representative of the Council's Environment Department.

- 6.2 This Agreement shall be registered as a Local Land Charge.
- 6.3 The Lessee agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement on or prior to the date of completion of the Agreement in the sum of £1,020.00.
- 6.4 The Owner and the Lessee hereby covenant with the Council that they will within 28 days from the date hereof apply to the Chief Land Registrar of the Land Registry to register this Agreement in the Charges Register of the freehold and the Lessee's leasehold titles to the Property respectively and will furnish the Council forthwith on written demand with official copies of such title to show the entry of this Agreement in the Charges Registers of the freehold and the Lessee's leasehold title to the Property.
- 6.5 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.
- 6.6 Neither the Owner the Lessee nor the Mortgagee nor their successors in title nor any person deriving title from them shall be bound by the obligations in this Agreement in respect of any period during which it no longer has an interest in the Property but without prejudice to liability for any breach committed prior to the time it disposed of its interest.

6.7 For the avoidance of doubt the provisions of this Agreement (other than those contained in this sub-clause) shall not have any effect until this Agreement has been dated.

6.8 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of development or is modified (other than by agreement with or at the request of the Owner and the Lessee) this Agreement shall forthwith determine and cease to have effect and the Council will effect cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

## 7. **MORTGAGEE EXEMPTION**

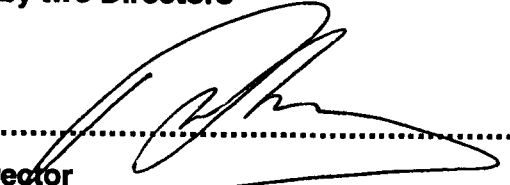
7.1 The Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 hereof and for the avoidance of doubt agrees to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.


## 8. **RIGHTS OF THIRD PARTIES**

8.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

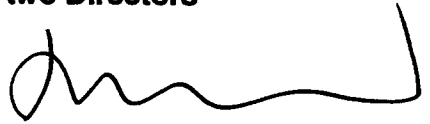
IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owner the Lessee and the Mortgagee have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY )  
RAVENHART SERVICES (NO.4) LIMITED )  
acting by a Director and its Secretary )  
or by two Directors )

  
.....  
Director

  
.....  
Director/Secretary

EXECUTED AS A DEED BY )  
GAGOSIAN GALLERY OF LONDON )  
acting by a Director and its Secretary )  
or by two Directors )

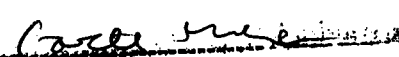
  
.....  
Director

.....  
Director/Secretary

EXECUTED AS A DEED BY )  
COUTTS & COMPANY )  
in the presence of:- )

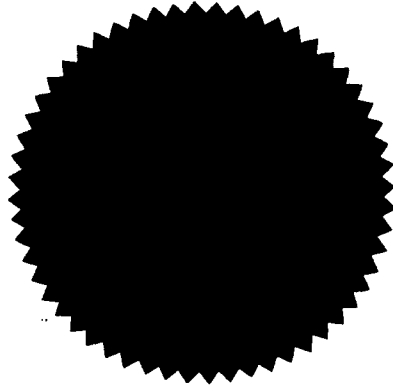
.....

The common seal of Coutts & Co was here to affixed in the presence of:-

  
Sealing Officer

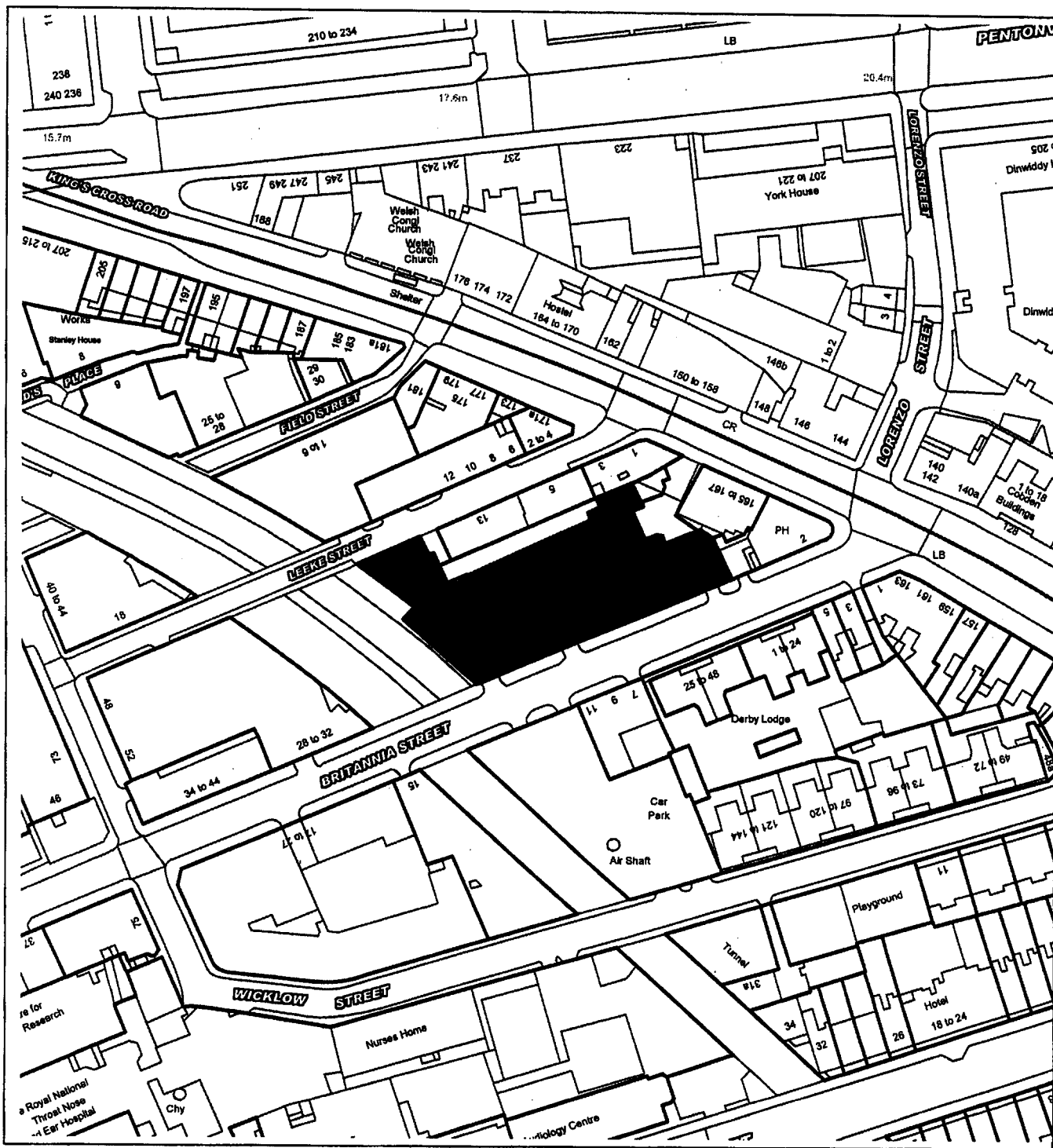
(Continuation of Section 106 Agreement, 4 Britannia Street, London WC1X 9JD)

THE COMMON SEAL OF THE MAYOR )  
AND BURGESSES OF THE LONDON )  
BOROUGH OF CAMDEN was hereunto )  
Affixed by Order:- )



.....  
**Authorised Signatory**

# 4 Britannia Street, London WC1X 9JD



This material has been reproduced from Ordnance Survey digital map data with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright.

Caruso St John Architects  
1-3 Coate House  
Coate Street  
LONDON  
E2 9AG

Application Ref: 2008/4902/P

13 February 2009

Dear Sir/Madam

**DRAFT**  
FOR INFORMATION ONLY - NOT A FORMAL DECISION  
Town and Country Planning Acts 1990 (as amended)

**DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT**

Address:  
**4 Britannia street**  
**LONDON**  
**WC1X 9JD**

Proposal:

Retention of enlarged car garage entrance, Amersham, Great Britain  
Drawing Nos: Site plan, 251/A14/01, 251/L12/01, 251/L05/01, 251/L12/01.  
251/A14/01, 251/L15/01.

**DECISION**  
The Council has considered your application and decided to grant permission subject to the conditions and informatives (if applicable) listed below **AND** subject to the successful conclusion of a Section 106 Legal Agreement.

The matter has been referred to the Council's Legal Department and you will be contacted shortly. If you wish to discuss the matter please contact **Aidan Brookes** in the Legal Department on **020 7 974 1947**.

Once the Legal Agreement has been concluded, the formal decision letter will be sent to you.

Condition(s) and Reason(s):

Informative(s):

1 Reasons for granting permission.

The proposed development is in general accordance with the policy requirements of the London Borough of Camden Replacement Unitary Development Plan 2006, with particular regard to policies SD6, B1, B3, B7 and T12. For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officers report.

2 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 2363).

3 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. Building works that can be heard at the boundary must normally be carried out between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 hours on Saturdays. There are no restrictions on Sundays and Public Holidays. You are advised to consult the Council's Environmental Health Service, Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 2090 or by email [env.health@camden.gov.uk](mailto:env.health@camden.gov.uk) or on the website [www.camden.gov.uk/pollution](http://www.camden.gov.uk/pollution)) or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.

4 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the Management and Use of the Land for the regeneration of the Sites Team, Urban Design and Regeneration.

**DRAFT**  
**DECISION**

Yours faithfully

Culture and Environment Directorate