

DATED

17TH APRIL

2015

(1) ENGLISH ROSE ESTATES (MARLBOROUGH HOUSE) LIMITED

and

(2) HERITABLE DEVELOPMENT FINANCE LIMITED

and

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

A G R E E M E N T

**relating to land known as
MARLBOROUGH HOUSE
179-189 FINCHLEY ROAD
LONDON NW3 6LB**

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

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 5680
Fax: 020 7974 2962

FP 1781.103 (2015/0830/P)
Final 14.4.2015

THIS AGREEMENT is made the 17th day of APRIL

2015

B E T W E E N:

1. **ENGLISH ROSE ESTATES (MARLBOROUGH HOUSE) LIMITED** (Co. Regn. No.09325960) whose registered office is at Churchill House 120 Bunns Lane London NW7 2AS (hereinafter called "theOwner ") of the first part
2. **HERITABLE DEVELOPMENT FINANCE LIMITED** (Co. Regn. No. 09325960) of Reliance House Sun Pier Medway Street Chatham Kent ME14 4ET (hereinafter called "the Mortgagee") of the second part
3. **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

WHEREAS

- 1.1 The British Railways Board is the freehold Owner of the Property whose interest is unregistered. Proper investigations have been undertaken to locate the current freeholder who has been found to be in absentia.
- 1.2 The Owner is the Head Lessee and is registered at the Land Registry as the leasehold proprietor under a 999 year lease with Title absolute of the Property under Title Number NGL811627 subject to a charge to the Mortgagee.
- 1.3 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.4 The leases to Datamonitor Publications Limited the Wensum Corporate Company Plc and John Zucker and Warren Roiter (registered at the Land Registry under Title Numbers NGL643520, NGL636127 and NGL669434 respectively) have been surrendered and applications have been submitted to the Land Registry for their removal from the Register. There are no other leases affecting the Property.

- 1.5 The Application for Prior Approval in relation to the Development of the Property pursuant to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) was submitted to the Council and validated on 20 February 2015 and the Council resolved to grant approval under reference number 2015/0830/P subject to conclusion of this legal Agreement.
- 1.6 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.
- 1.7 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.8 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL811627 and dated 9 January 2015 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 Prior Approval Application" | application for prior approval in relation to the Development of the Property submitted to the Council and validated on 20 February 2015 for which a resolution to grant approval has been passed under reference number 2015/0830/P subject to conclusion of this Agreement |

- 2.4 "the Development" change of use from offices (Class B1a) on 2nd and 3rd floors to 18 residential units (Class C3), comprising 2 studio units, 14 x 1 bed units and 2 x 3 bed units under the General Permitted Development Order 1995 pursuant to Class J of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) as shown on drawing numbers:- S.00, 350/2PD01, 350/2PD02, 350/2PD03
- 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 "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" the Council the Owner and the Mortgagee
- 2.8 "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
- 2.9 "the Prior Approval " a prior approval granted for the Development substantially in the draft form annexed hereto

- 2.10 "the Property" the land known as Marlborough House 179-189 Finchley Road London NW3 6LB the same as shown edged red on the plan annexed hereto
- 2.11 "Residents Parking Bay" a parking place designated by the Council by an order under the Road Traffic Regulation Act 1984 or other relevant legislation for use by residents of the locality in which the Development is situated
- 2.12 "Residents Parking Permit" A parking permit issued by the Council under section 45(2) of the Road Traffic Regulation Act 1984 allowing a vehicle to park in Residents Parking Bays

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 as provided herein and against any person deriving title to any part of the Property from the Owner 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 or interpretation.

- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7, 8 and 9 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 upon the Implementation Date.
- 3.6 The Council hereby agrees to grant the Prior Approval on the date hereof.
- 3.7 The Parties save where the context states otherwise shall include their successors in title.
- 3.8 The Parties acknowledge that the Development shall be treated as being permanently designated as "car free" housing in accordance with Clause 4.1 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

CAR FREE

The Owner hereby covenants with the Council as follows:-

- 4.1 The Owner hereby covenants with the Council to ensure that prior to occupying any residential unit forming part of the Development each new resident of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.
- 4.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1 above will remain permanently.
- 4.3 On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the residential units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those residential units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.1 of this Agreement.

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

- 5.1 The Owner 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 Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting planning reference 2015/0830/P the date upon which the Development is ready for Occupation.
- 5.3 The Owner 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 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 possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.
- 5.4 The Owner agrees declares and covenants with the Council that it 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 indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner 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.

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,

Placeshaping Service, Urban Design and Development Team, 2nd Floor, 5 Pancras Square, London, N1C 4AJ quoting the planning reference number 2015/0830/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 Owner 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.
- 6.4 The Owner hereby covenants with the Council that it 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 title to the Property 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 Register of the 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 or 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.

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. **JOINT AND SEVERAL LIABILITY**

8.1 All Covenants made by the Owner in this Agreement are made jointly and severally and shall be enforceable as such.

9. **RIGHTS OF THIRD PARTIES**

9.1 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 and the Mortgagee have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY)
ENGLISH ROSE ESTATES)
(MARLBOROUGH HOUSE) LIMITED)
was hereunto affixed)
in the presence of:-/)
acting by a Director and its Secretary)
or by two Directors)

.....
Director

.....
Director/Secretary

Witness Signatures
Witness name Clara Lewis.
Occupation Legal Secretary.
Address 70 Charlotte Street
London W1T 4EE.





**Regeneration and Planning
Development Management**
London Borough of Camden
Town Hall
Judd Street
London
WC1H 8ND

Tel 020 7974 4444
Fax 020 7974 1930
Textlink 020 7974 6866

planning@camden.gov.uk
www.camden.gov.uk/planning

KR Planning
183 Seafield Road
Bournemouth
Dorset
BH6 5LJ

Application Ref: **2015/0830/P**
Please ask for: **Mandeep Chaggar**
Telephone: 020 7974 6057

13 March 2015
DRAFT
DECISION

Dear Sir/Madam

In accordance with section 60 (2B) and (2C) of the Town and Country Planning Act 1990
(as amended by section 4(1) of the Growth and Infrastructure Act 2013)

Process set out by condition J.2 of Schedule 2 Part 3 Class J of the Town and Country
Planning (General Permitted Development) Order 1995 (as amended by SI 2008 No. 2362
and SI 2013 No. 1101)

Certificate of Lawfulness (Proposed) Prior Approval granted

The Council, as local planning authority, hereby confirm that their **prior approval is granted** for the proposed development at the address shown below, as described by the description shown below, and in accordance with the information that the developer provided to the local planning authority:

Address of the proposed development:

Marlborough House
179-189 Finchley Road
London
NW3 6LB

Description of the proposed development:

Conversion of office block (Class B1a) on 2nd and 3rd floors to 18 x residential units (Class C3) comprising 2 x studio units, 14 x 1 x bed units and 2 x 3 bed units under the General Permitted Development Order 1995.

Details approved by the local planning authority:

Drawing Nos:

Reason for approval:

Informative(s):

1

Your attention is drawn to the notes attached to this notice which tell you about your Rights of Appeal and other information.

Yours faithfully

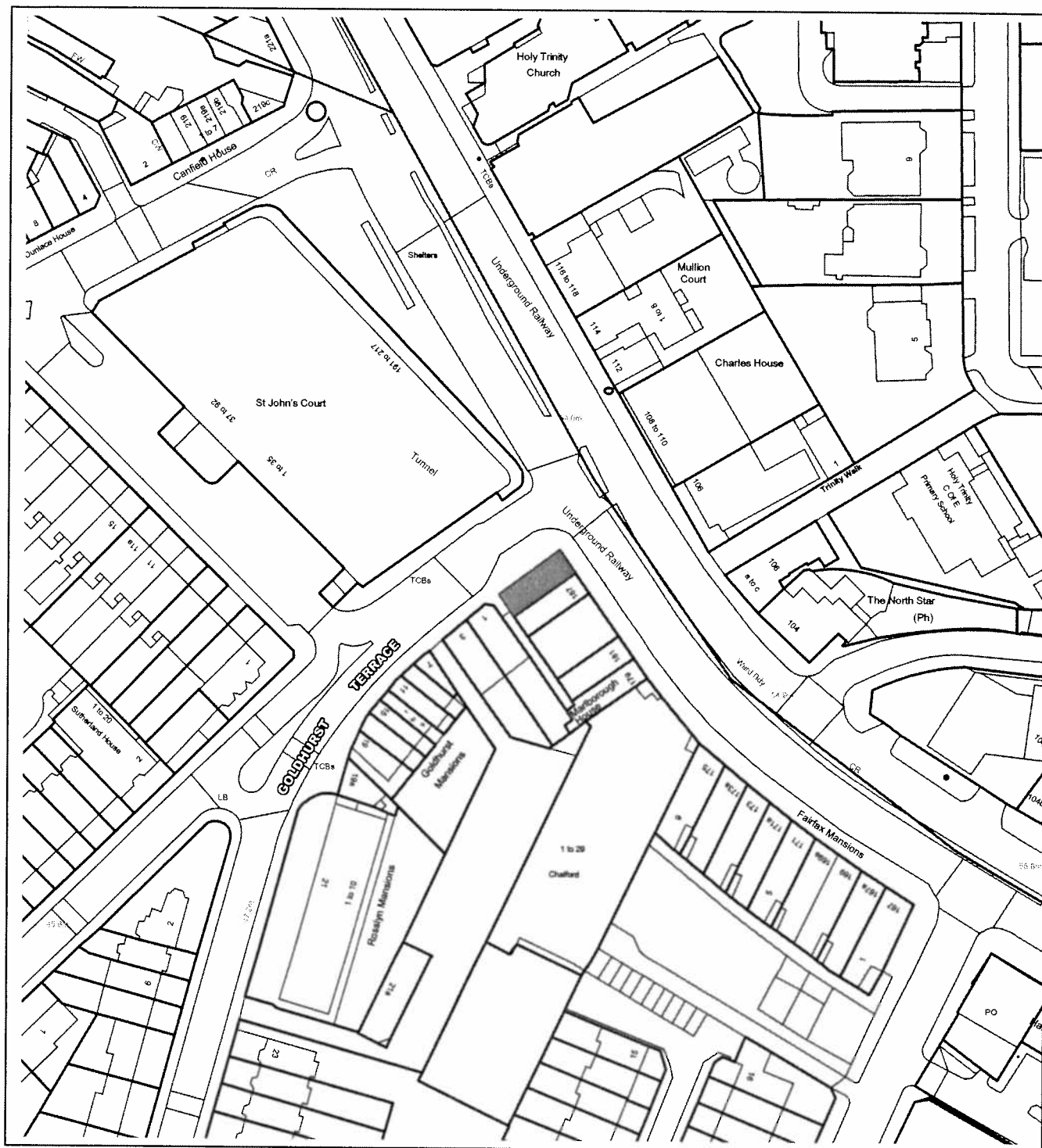
Director of Culture & Environment

It's easy to make, pay for, track and comment on planning applications on line. Just go to www.camden.gov.uk/planning.

It is important to us to find out what our customers think about the service we provide. To help us in this respect, we would be very grateful if you could take a few moments to complete our online survey at the following website address: www.camden.gov.uk/dmfeedback. We will use the information you give us to help improve our services.

DECISION

Marlborough House, 179-189 Finchley Road, London NW3 6LB



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DATED

17th APRIL

2015

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and

(2) HERITABLE DEVELOPMENT FINANCE LIMITED

and

**(3) THE MAYOR AND BURGESSES OF
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A G R E E M E N T

**relating to land known as
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