

DATED 27 October 2015

(1) HEADLAND WEALD LIMITED

and

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

A G R E E M E N T
relating to land known as
47 - 48 Hatton Garden London EC1N 8EX
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

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

Tel: 020 7974 1918
Fax: 020 7974 2962

CLS/COM/ESA/1781.408
FINAL

THIS AGREEMENT is made the 27th day of October 2015

B E T W E E N:

1. **HEADLAND WEALD LIMITED** (Co. Regn. No. 02368961) whose registered office is at Romshed Court Yard Underriver Sevenoaks Kent TN15 0SD (hereinafter called "the Owner") of the first part
2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second 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 189912 and Title Number 167690.
- 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 A Planning Application for the development of the Property was submitted to the Council and validated on 30 July 2015 and the Council resolved to grant permission conditionally under reference number 2015/4532/P subject to the conclusion of this legal Agreement.
- 1.4 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.
- 1.5 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

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" change of use of basement at No. 47 Hatton Garden from ancillary retail use (Class A1) to create 1 no. 3-bed self-contained flat (Class C3); alterations to openings on rear elevation; installation of mirror shafts within the existing ground level car park; and associated works as shown on drawing numbers:- 15072/01; 15072/02; 15072/03; 15072/04; 15072/05; 15072/06; 15072/07; 15072/08; 15072/09; 15072/10
- 2.4 "the Highways Contribution" the sum of £4,000 (four thousand pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt for the carrying out of works to the public highway and associated measures in the vicinity of the Property and as are required due to the Development ("the Highways Works") these to include costs associated with the following:-
- (a) repaving the crossover adjacent to the site;
and

(b) any other works the Council acting reasonably considers necessary as a direct result of the Development

all works will be subject to final measure 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

2.7 "Occupation Date"

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

2.8 "the Parties"

mean the Council and the Owner

2.9 "the Planning Application"

a planning application in respect of the development of the Property submitted to the Council and validated on 30 July 2015 for which a resolution to grant permission has been passed conditionally under reference number

2015/4532/P subject to conclusion of this Agreement

2.10 "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

2.11 "the Planning Permission"

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

2.12 "the Property"

the land known as 47 - 48 Hatton Garden London EC1N 8EX the same as shown shaded grey on the plan annexed hereto

2.13 "the Public Highway"

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

2.14 "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

2.15 "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 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 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.
- 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**

4.1 **Car Free**

- 4.1.1 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.
- 4.1.2 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.
- 4.1.3 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.
- 4.2 **Highways Contribution**
- 4.2.1 On or prior to the Implementation Date to pay to the Council the Highways Contribution in full.
- 4.2.2 On or prior to the Implementation Date to submit to the Council the Level Plans for approval.
- 4.2.3 Not to Implement or to permit Implementation until such time as the Council has received the Highways Contribution in full.
- 4.2.4 Not to Implement nor permit Implementation until such time as the Council has approved the Level Plans.
- 4.2.5 The Owner acknowledges that the Council has the right reserved to it to construct the Public Highway to levels it considers appropriate.
- 4.2.6 On completion of the Highway Works the Council may provide to the Owner a certificate specifying the sum ("the Certified Sum") expended by the Council in carrying out the Highway Works.

4.2.7 If the Certified Sum exceeds the Highway Contribution then the Owner shall within fourteen days of the issuing of the said certificate pay to the Council the amount of the excess.

4.2.8 If the Certified Sum is less than the Highway Contribution then the council shall within twenty eight days of the issuing of the said certificate pay to the Owner the amount of the difference between the Certified Sum and the Highway Contribution.

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 2015/4532/P the date upon which the Development will be 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 jointly and severally 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.

- 5.5 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its Head of Legal Services a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.
- 5.6 Submission of any plan for approval by the Council under the terms of this Agreement shall be made by the Owner to the Council sending the full document and any appendices in electronic format (where practicable) 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 plan relates quoting the Planning Permission reference 2015/4532/P.
- 5.7 Payment of the Highways Contribution pursuant to Clause 4.8 of this Agreement shall be made by the Owner to the Council sending the full amount via electronic transfer (where practicable) The owner shall notify the Planning Obligations Monitoring Officer that payment has been made referring to names date and Parties to this Agreement and citing the specific clause of this Agreement to which such contribution relates quoting the planning reference 2015/4532/P. Electronic Transfer is to be made directly to the National Westminster Bank of Hampstead Village quoting Sort Code 50-30-03 and London Borough of Camden General Account no. 24299480.
- 5.8 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.
- 5.9 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

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

5.10 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, Placeshaping Service, Urban Design and Development Team, 2nd Floor, 5 Pancras Square, London, N1C 4AJ quoting the planning reference number 2015/4532/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 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 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 this Agreement shall forthwith determine and cease to have effect.

7. **JOINT AND SEVERAL LIABILITY**

7.1 All Covenants made by the Owner(s) in this Agreement are made jointly and severally and shall be enforceable as such.

8. **RIGHTS OF THIRD PARTIES**

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

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO 47 - 48
HATTON GARDEN LONDON EC1N 8EX

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

EXECUTED AS A DEED BY
HEADLAND WEALD LIMITED
acting by a Director and its Secretary
or by two Directors

[Handwritten signature]

Director *(MATTIE WETTON)*

[Handwritten signature]

Director/Secretary
(FIDELITY SIMPSON)

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

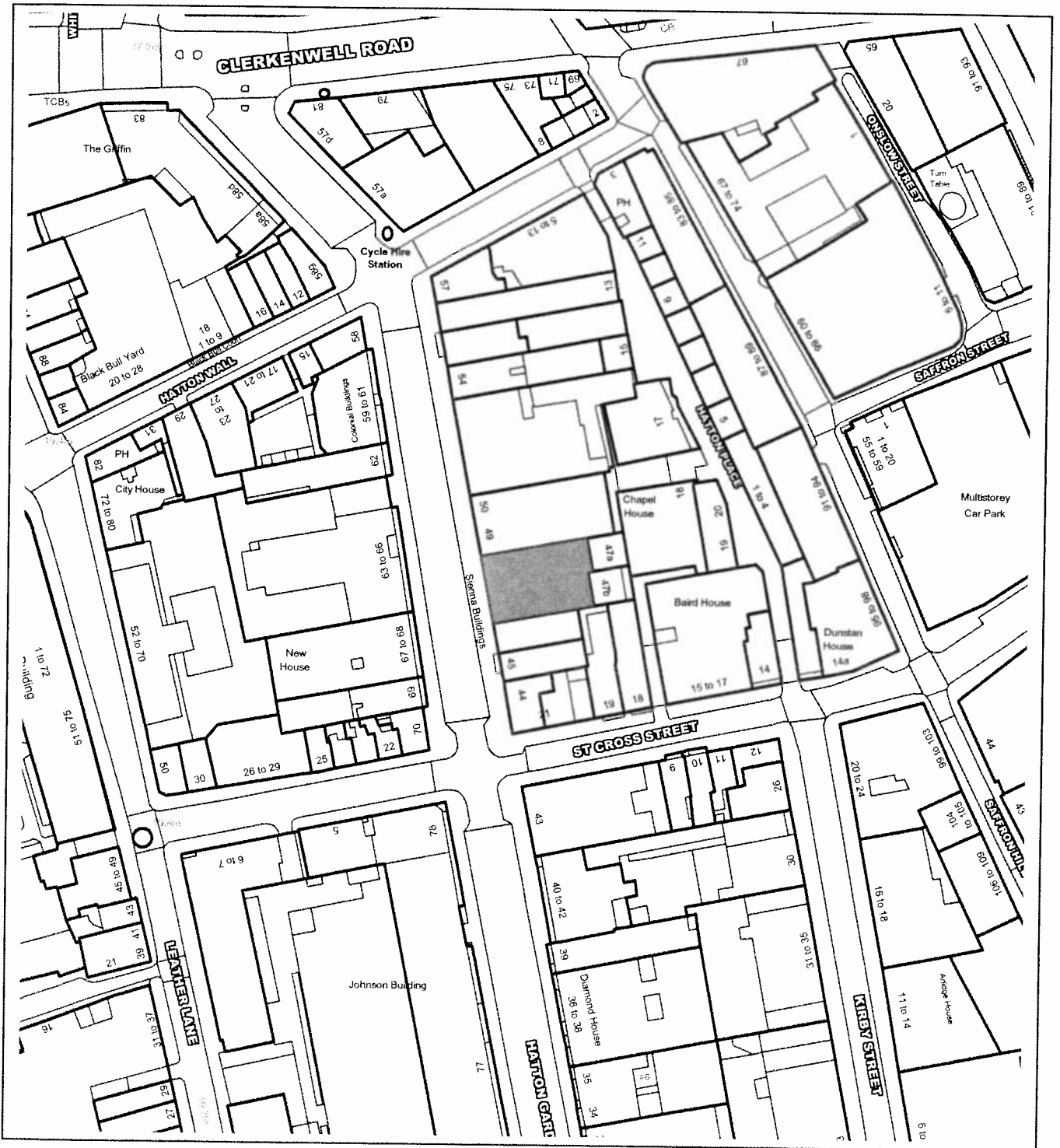
[Handwritten signature]
Authorised Signatory





P. Alexander

NORTHGATE SE GIS Print Template



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Ronald Fender Designs
West House
Thornhill
Westerham Road
Limpsfield
Surrey
RH8 0ED

Application Ref: **2015/4532/P**

09 October 2015

Dear Sir/Madam

DRAFT
FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION
Town and Country Planning Act 1990 (as amended)

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:
**47 Hatton Garden
London
EC1N 8EX**

DECISION
Proposal:
Change of use of basement at No. 47 Hatton Garden from ancillary retail use (Class A1) to create 1 no. 3-bed self-contained flat (Class C3); alterations to openings on rear elevation; installation of mirror shafts within the existing ground level car park; and associated works

Drawing Nos: 15072/01; 15072/02; 15072/03; 15072/04; 15072/05; 15072/06; 15072/07; 15072/08; 15072/09; 15072/10.

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):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 [and DP25 if in CA] of the London Borough of Camden Local Development Framework Development Policies.

- 3 Detailed drawings and manufacturer's specification details, as appropriate, in respect of the mirror shafts shall be submitted to and approved in writing by the local planning authority before the relevant part of the work is begun:

The relevant part of the works shall be carried out in accordance with the details thus approved.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 if in CA of the London Borough of Camden Local Development Framework Development Policies.

- 4 The mirror shaft ground floor covers must be capable of bearing vehicle loads and have a slip resistant surface.

Reason: In the interests of highway safety, in accordance with policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy 19 of the London Borough of Camden Local Development Framework Development Policies.

- 5 None of the parking spaces within the existing ground floor parking area shall be allocated to the new dwelling.

Reason: To ensure that the proposal does not add to parking pressures in the car park and surrounding streets which would be contrary to policy CS5 and CS11 of the London Borough of Camden Local Development Framework Core Strategy and policies DP18, DP19 and DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 6 Before the development commences, details of secure and covered cycle storage area for 2 no. cycles shall be submitted to and approved by the local planning authority. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and permanently retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 of the London Borough of Camden Local Development Framework Development Policies.

- 7 The development hereby permitted shall be carried out in accordance with the following approved plans: 15072/01; 15072/02; 15072/03; 15072/04; 15072/05; 15072/06; 15072/07; 15072/08; 15072/09; 15072/10.

Reason: For the avoidance of doubt and in the interest of proper planning.

Informative(s):

- 1 Reasons for granting permission

Planning permission was previously refused in 2011 for a change of use of the basement to 1 no. bedsit due to insufficient natural light, outlook and ventilation that would result in substandard accommodation; and also due to the lack of a legal agreement to secure car-free housing. However, the principle of development was judged to be acceptable. This application differs insofar as it covers the whole of the basement, and the proposed 3-bed dwelling would feature 6 no. mirror shafts in the roof and sliding doors at the rear (to serve the living / kitchen room), which would open out onto a sunken patio area. The application is also subject to a legal agreement to secure car-free housing and a contribution towards highway works. As such, the previous reasons for refusal have been overcome.

The new sliding doors at the rear would not relate to the openings on the upper floors of the host building; however, due to their position they would not be visible in the public realm and they would allow greater levels of sunlight and daylight to enter the new dwelling. Similarly, the proposed mirror shafts within the ground level car park would not be visible in the public realm and due to the fact they would be flush with the ground, it is not considered that they would detract from the character and appearance of the general area.

The mirror shaft at the front of the building would be visible in the street scene along Hatton Garden; however, a planning condition can require the approval of details of the mirror shafts prior to the commencement of development to ensure the external appearance is acceptable. Subject to such a condition, it is not considered that the mirror shaft would detract from the character and appearance of the host building, the street scene, or the Hatton Garden Conservation Area, particularly because planning permission was previously granted for the installation of a front lightwell with associated metal railings at the front of the building (the permission was not implemented), which would have had a greater visual impact.

The proposal fails to meet the priorities set out in the Dwelling Size Priorities Table (Policy DP5) because it would not provide any 2-bed units (identified as a high priority). However, the scheme would provide 1 no. 3-bed unit (identified as medium priority), which the layout of the basement lends itself to. The new dwelling would exceed the national space standards; and it would provide a good standard of residential accommodation in terms of layout, space and room sizes, storage and utility spaces, daylight and sunlight, privacy and security, and noise.

The application site has a Public Transport Accessibility Level (PTAL) of 6b and is within a Controlled Parking Zone (CA-D - King's Cross). Policy DP18 expects development to be car-free in the Central London Area. This permission is therefore subject to a legal agreement to ensure the dwelling will be car-free. The legal agreement will also secure a contribution towards repaving the crossover adjacent to the application site. Cycle parking provision can be secured by condition.

The proposal would not cause unacceptable loss of amenity to neighbouring or nearby properties. Neighbouring occupiers were consulted on the application. One objection has been received prior to making this decision which has been duly taken into account prior to making this decision. The application site's planning history and relevant appeal decisions were also taken into account when coming to this decision.

Considerable importance and weight has been attached to the harm and special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under and s.72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

- 2 The proposed development is in general accordance with Policies CS1, CS2, CS5, CS6, CS11, CS14 and CS18 of the London Borough of Camden Local Development Framework Core Strategy, and Policies DP2, DP5, DP16, DP17, DP18, DP19, DP21, DP22, DP24, DP25, DP26, DP27 and DP28 of the London Borough of Camden Local Development Framework Development Policies. The proposed development also accords with Policies 3.3, 3.4, 3.5, 4.8, 5.2, 6.9, 6.10, 6.13, 7.4, 7.6 and 7.8 of the London Plan 2015; and the provisions of paragraphs 14, 17, 29-41, 47-55, 56-66 and 126-141 of the National Planning Policy Framework 2012.
- 3 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 4 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Compliance and Enforcement

team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> 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.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Culture and Environment Directorate

DRAFT

DECISION





DATED 27 October 2015

(1) HEADLAND WEALD LIMITED

and

(2) THE MAYOR AND BURGESSES OF
THE LONDON BOROUGH OF CAMDEN

A G R E E M E N T
relating to land known as
47 - 48 Hatton Garden London EC1N 8EX
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

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