

2 Maresfield Gardens, London, NW3 5SU

**APPEAL BY MR D PINE OF 2 MARESFIELD LTD AGAINST LONDON BOROUGH OF
CAMDEN DECISION TO REFUSE PLANNING APPLICATION 2017/0144/P**

GROUND OF APPEAL AND FULL STATEMENT OF CASE on behalf of the Appellant

9th June 2016

Appellant: Mr D Pine / 2 Maresfield Ltd

Agent: AZ Urban Studio

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Appendices

1	Appendix 1 – Legal Agreement dated 30 th March 2015
2	Appendix 2 – Supplemental Agreement dated 24 th August 2016

1. Introduction

- 1.1. This appeal is against the decision of the London Borough of Camden to refuse an application made under section 73 of Town and Country Planning Act 1990 (as amended) to vary a condition upon planning permission 2014/6313/P, to facilitate minor material amendments to the approved development. The description of development refused is:

'Variation of condition 1 (approved plans) of planning permission 2015/6894/P dated 24/08/2016 (for variation of condition 3 (approved plans) of planning permission 2014/6313/P dated 30/03/2015 (for addition of one storey at second floor level with replacement roof level above, alterations to Coach House façade and use of resulting building as 6 residential units), namely excavation of 2 lightwells at rear basement level.'

- 1.2. The application was validated on the 16th January 2017, and refused under delegated powers on 11th March 2017. The two reasons for refusal were as follows:

1. *The lightwells and basement elevation by reason of their size, design, location and extent of excavation would harm the appearance of the host property and would further diminish the capacity of the rear garden to sustain trees and greenery, causing harm to the character and appearance of the conservation area, contrary to policy CS14 (Promoting High Quality Places and Conserving Our Heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing High Quality Design) DP25 (Conserving Camden's Heritage) and DP27 (Basement and Lightwells) of the London Borough of Camden Local Development Framework Development Policies; and policies D1, D2 and A5 of the Camden Local Plan Submission Draft 2016.*
2. *The proposed development, in the absence of a legal agreement to secure the 1x 2bed residential unit at roof level units as 'car-free' housing,*

would be likely to contribute unacceptably to parking congestion in the surrounding area and promote the use of non-sustainable modes of transport, contrary to policies CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Core Strategy and DP18 (Parking standards and limiting the availability of car parking) of the London Borough of Camden LDF Development Policies; and policies A1, T1, T2 and DM1 of the Camden Local Plan Submission Draft 2016.

- 1.3. This statement sets out the appellant's case in response to the above reasons for refusal, and, drawing upon the detailed information and assessment submitted as part of the application, sets out why the proposed development is considered to comply with the relevant development plan policies, to greatly enhance the quality of the residential accommodation approved and under construction, and to be of a scale and nature suitable for the 'minor material amendment' procedure by way of an application to vary a condition using the provisions of section 73 of the Act.

2. Site Description

2.1. The application site is located on the east side of the lower part of Maresfield Gardens, within the designated Fitzjohns and Netherhall Conservation Area. A detailed assessment of the site and its surrounding has been undertaken on pages 3 to 6 of the *Design & Access Statement (incorporating Heritage Statement) / Planning Statement* (the 'DAS') submitted as part of the application and we refer directly to and draw upon that document here. Section 3 of the DAS includes a review of:

- *The Fitzjohns and Netherall Conservation Area (including the Council's adopted Fitzjohns and Netherall Conservation Area Statement, 2001 (the 'CAS'))*
- *No. 2 Maresfield Gardens and the immediate context*
- *Contribution of no.2 to the significance of the Conservation Area (the 'CA')*

2.2. The essence of the character of the CA is captured in the first paragraph at p.10 of the CAS which describes how *'Long views along the Avenues combine with substantially scaled properties and generous grounds to create an imposing district.'*

2.3. Whilst the frontages along Maresfield Gardens are characterised by imposing grand buildings that display variety around a common architectural language, the character to the rear of these properties is quite different. Many of the properties – including the application site, no.4 immediately to the North, and nos.9 and 11 Fitzjohns Avenue to the rear – have been variously extended and altered to include large extensions characterised at the upper ground, ground and lower ground floor levels by sizeable areas of glazing.

2.4. The annotated images provided on pages 5 and 6 of the DAS set out the visual context of the rear elevations and gardens in the immediate vicinity of the site. As demonstrated, this includes substantial outbuildings and extensive glazing, including soft and hard landscaping using sunken and raised levels.

2.5. Our summary assessment is that these areas to the rear of the buildings along Maresfield Gardens and Fitzjohns Avenue are characterised by:

- Various modern extensions with large glazed openings at the rear lower floors of the buildings
- Varying levels, with many terraces above rear extensions then leading down to further garden levels below
- A general pattern of hard landscaping / terrace adjacent to the rear elevation of the building, a 'middle' section of hard and soft landscape forming amenity areas, an 'end' section to gardens where various large outbuildings have been constructed, often with a very open glazed aspect to the garden they are sited within

2.6. This condition is illustrated well in the image on page 6 of the DAS.

3. Planning History

3.1. No.2 Maresfield Gardens has an extensive planning history from the last nine years, as detailed in Section 2 of the DAS.

3.2. Of direct relevance to the present appeal are the following sequence of permissions:

- 2010/2772/P – Amendment to planning permission granted on 12th March 2009 (ref 2008/2288/P) including revision of internal layouts to provide vertically arranged duplex apartments, extension at lower ground floor level, addition of rear extension to coach house at lower ground and upper ground floor levels, changes to front fenestration on coach house and erection of a timber enclosure in rear garden.
(Granted 26.08.10 subject to conditions and S106 agreement).
The officer's report for this application notes on page 1 that the earlier permission 2008/2288/P had not been commenced.
Permission 2010/2772/P was implemented, but the development not fully completed.
- 2014/6313/P – Section 73 application - Amendments to planning permission 2010/2772/P: Addition of one storey at second floor level with replacement roof level accommodation above, alterations to Coach House façade and partial enclosure of lightwell, and alteration to front light well (all further works to partially completed works carried out under permission 2010/2772/P), and use of the resulting building as 6 residential units
(Granted 30.03.15 subject to conditions and S106 agreement)
- 2015/6894/P – Section 73 application - Amendments to planning permission 2014/6313/P: Variation of condition 3 (approved plans) of planning permission 2014/6313/P dated 30/03/2015 (for addition of one storey at second floor level with replacement roof level accommodation above, alterations to Coach House facade and use of resulting building as 6 residential units), namely increase in size of front lightwell, creation of rear

stepped lightwell to Coach House, glazed infill extension to rear, creation of 1st floor roof terrace at rear including replacement of windows with French doors. (Granted 24.08.16 subject to conditions and a Supplemental Legal Agreement)

3.3. The main works to the external envelope of the building at basement, ground and first floor have been carried out in what is effectively a 'shell' form. The second floor accommodation within the roof is less complete, as the whole roof has been removed leaving only part of the timber roof structure, which requires replacement. In the course of determining application 2014/6313/P (granted permission 30.03.15) the London Borough of Camden agreed and accepted that permission ref 2010/2772/P had been commenced and resulted in the works completed to date on the site.

3.4. The permission resulting from the s73 application 2015/6894/P, granted 24.08.16, has now been implemented although not completed. A CIL Form 6 *Commencement Notice* was issued to Camden on 10.02.17 notifying the development commencement date would be 20.02.17. Works are ongoing at the time of submission of this appeal.

4. The Proposed Development

4.1. The proposed development is the creation of two stepped lightwells to the existing rear basement level, and associated alterations to the basement rear elevation to provide glazed openings to the stepped lightwells, and beyond to the rear garden area. This is considered to be a minor material amendment to the latest permission.

4.2. As illustrated in the proposed drawings:

- The proposed lightwells extend 2.3 metres in depth from rear garden level at their deepest point to meet basement floor level
- The proposed lightwells extend a total of 3.8 metres rearward from the rear basement elevation, with the 2.8 metres of that distance being the large planted stepped element
- The proposed lightwells are designed to appear as a landscape feature as can be found in many domestic gardens, and are similar to the level changes and landscape elements found in neighbouring gardens
- The planted stepped beds will provide both a landscape feature for attractive planting, and also provide a drainage function, allowing rainwater runoff retardation
- The openings inserted into the basement elevation relate to the form of those found at the level above in the rear elevation of the building, but are subservient in scale by virtue of their reduced height and area of glazing
- The existing large open subterranean concrete 'box' (depth c.1.3 metres) to the rear of the garden is to be infilled with soil, grassed over to provide usable garden area with potential for further planting, and will be used for rainwater retardation from the terrace level run off as a SUDS system

4.3. The proposed lightwells and openings to the rear basement elevation will greatly enhance natural daylight and ventilation to the basement level accommodation, and give direct access to the garden amenity space.

5. Planning Policy Framework

Statutory provisions

- 5.1. Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning Compulsory Purchase Act 2004 require that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 5.2. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that a decision maker, when determining a planning application for development within a Conservation Area, pay special attention to the desirability of preserving or enhancing the character or appearance of that building.

Development plan

- 5.3. At present, the development plan for the area comprises the London Plan 2015, and the London Borough of Camden Local Development Framework including the Core Strategy DPD 2010, and the Development Policies DPD 2010-2025.
- 5.4. However, Camden are currently in the process of adopting its emerging Local Plan. The examination of the Camden Local Plan Submission Draft was held between June 2016 and May 2017. The inspectors report was published on the 10th May 2017 (Ref: PINS/X5210/429/12) and concluded that with the incorporation of the main modifications sets out in the Appendix the Camden Local Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the NPPF. The Council intends to formally adopt the Local Plan during June 2017.
- 5.5. As a result, the emerging Camden Local Plan can now be afforded weight, and is likely to be part of the adopted Development Plan at the time of determining this appeal. Accordingly, the proposed development is

assessed against both the adopted and emerging Development Plan policies in the Grounds of Appeal in the following section.

National Policy and other Planning Guidance

- 5.6. The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. It identifies that the purpose of the planning system is to contribute to the achievement of sustainable development. It is an important material consideration in the determination of planning applications.
- 5.7. Relevant provisions of the NPPF for this proposal are the focus upon delivering housing (chapter 6), the requirement for good design that reinforces local distinctiveness (chapter 7), meeting the challenge of climate change flooding and coastal change (chapter 10), and guidance on conserving and enhancing the historic environment (chapter 12).
- 5.8. The Planning Practice Guidance (March 2014, as amended) and Camden Planning Guidance (various) documents are also relevant material considerations.

6. Grounds of Appeal

Reason for refusal 1

6.1. Reason for refusal 1 states:

'The lightwells and basement elevation by reason of their size, design, location and extent of excavation would harm the appearance of the host property and would further diminish the capacity of the rear garden to sustain trees and greenery, causing harm to the character and appearance of the conservation area, contrary to policy CS14 (Promoting High Quality Places and Conserving Our Heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing High Quality Design) DP25 (Conserving Camden's Heritage) and DP27 (Basement and Lightwells) of the London Borough of Camden Local Development Framework Development Policies; and policies D1, D2 and A5 of the Camden Local Plan Submission Draft 2016.'

6.2. For the purpose of analysis, the Council's reasoning is that the lightwell and basement elevation, by way of their size, design, location and extent of excavation, would:

- a. harm the appearance of the host property; and
- b. would further diminish the capacity of the rear garden to sustain trees and greenery

The result of which would be the causing of harm to the character and appearance of the conservation area.

6.3. The council accordingly consider that the proposed development conflicts with both adopted and emerging policies relating to design, heritage and basements.

- 6.4. Points (a) and (b) identified above are assessed separately below before turning to the assessment of impact upon the character and appearance of the conservation area.

The impact of the proposed lightwells and basement elevation on the appearance of the host property

- 6.5. The impact of the proposed lightwells and basement elevation on the appearance of the host property is assessed fully in Section 5 of the DAS submitted as part of the planning application, and is summarised in the following paragraphs.
- 6.6. Development Policy DP27 *Basement and lightwells*, and emerging Local Plan Policy A5 *Basements* both require that proposals do not harm the appearance, architectural character or setting of the host property, or the character of the surrounding area. Adopted policies DP24 and DP25 require high quality design appropriate to context, and that heritage assets are sustained in accordance with their significance respectively. Emerging Local Plan policies D1 and D2 set out similar provisions.
- 6.7. The design approach employed from the outset of this series of permissions at the site (see *Section 3 above*) has been to create a basement level of accommodation with a landscaped treatment above to maintain the openness of the garden area and a combination of hard and soft landscaping. The result being that in the few private views of the garden available from neighbouring properties, the combination of hard and soft landscape above the basement and then in the final lower garden level would appear commensurate in terms of openness with any other garden in the area.
- 6.8. Our case is that the stepped lightwells and openings to the rear basement level as proposed will not harm the architectural character or appearance of the host building for the following reasons:

- the works are located some 15 metres beyond the main plane of the original rear elevation of the host dwelling
- that intervening distance is characterised in the approved and proposed amended development by a landscape condition of hard and soft planting, including a large area of green roof – this visually separates the area of the proposed works from the main rear elevation of the host dwelling
- the area of the proposed stepped lightwells will be predominantly planted, giving a strong landscape character and visually softening the change in level
- the resulting appearance, where seen, is of an intervention within the landscape of the garden and not a modification or addition to the primary appearance of the host building
- as evidenced on pages 5 and 6 of the DAS, such interventions within the landscape realm of the garden are commonplace and characterise the immediate area – with examples of outbuildings such as can be found at no.4 Maresfield Gardens being far more prominent than the largely subterranean works proposed
- as evidenced by the images on page 7 of the Officer Report the subdivision of the garden areas with close-boarded fencing gives a great deal of visual containment generally to each of the garden areas from beyond, further reducing any visual relationship between the host building and the area of the proposed works
- the glazed openings proposed to the basement within the lightwells directly relate to the form of those found at the ground floor of the host dwelling, and are subservient by virtue of their largely subterranean location, reduced size, and visual separation by intervening landscape

6.9. Indeed, the proposals will also result in an enhancement to the setting of the host building through the infilling and landscaping of the existing unattractive subterranean open concrete structure at the end of the garden. That existing subterranean concrete structure is larger in both area and volume than the lightwells proposed. It is therefore a 'swap' of subterranean development that

is to take place - an existing unattractive and largely unusable structure at the furthest extent of the garden being converted into usable landscape with a drainage and planting function, and a smaller area of stepped lightwell excavation closer to the main dwelling being created that will have a notable benefit to the amenity of the occupants of the dwelling.

6.10. For these reasons set out above, it is considered that the proposed development would not harm the architectural character or appearance of the host dwelling. The replacement of an unattractive and purposeless subterranean structure with one of amenity value to the occupants, landscape value to the garden composition, and SUDS drainage value is considered to be an enhancement. Accordingly there is no conflict with the policies noted in 6.6 above, nor the guidance in CPG1 / CPG4 in relation to design.

6.11. A recent comparable development approved in a nearby conservation area in Camden at 7 Kidderpore Avenue is shown on page 9 of the DAS. We consider that example to be relevant as it demonstrates that an exposed basement elevation can be separated from the host building by landscape features (in that case a planted stepped terrace rising up towards another rear extension and then the host dwelling) to avoid interference with the appearance of the host building. It is noted in the Officer's Report upon the present case that the example is not directly comparable due to the closer proximity to the host building and the large garden. Those facts are not disputed, but are not central to the issue. Our case is that landscape can appropriately separate an exposed area of basement from the above ground elements of the host building, to avoid harming architectural character and integrity. The 7 Kidderpore Avenue example is of course also far more visually prominent, being a fully glazed rear basement elevation that is wholly above garden level. The present proposed development has a far less prominent rear elevation, being two-thirds subterranean to garden level.

The impact of the proposals upon the capacity of the rear garden to sustain trees and greenery

6.12. Relevant adopted policy is contained in Policy DP27 *Basements and lightwells* which sets out how the Council will consider whether schemes:

- (e) lead to the loss of open space or trees of townscape or amenity value;
- (f) provide satisfactory landscaping, including adequate soil depth

And in determining applications for lightwells will consider whether:

- (k) the development result in the loss of more than 50% of the front garden or amenity area

6.13. Draft Local Plan Policy A5 *Basements* contains a range of detailed provisions including that basement development should:

- (h) not exceed 50% of each garden within the property;
- (i) be less than 1.5 times the footprint of the host building in area;
- (j) extend into the garden no further than 50% depth of the host building measured from the principal rear elevation;
- (k) not extend into or underneath the garden further than 50% of the depth of the garden;
- (l) be set back from neighbouring property boundaries where it extends beyond the footprint of the host building;
- (m) avoid the loss of garden space or trees of townscape or amenity value;
- (s) provide satisfactory landscaping, including adequate soil depth;
- (v) do not prejudice the ability of the garden to support trees where they are part of the character of the area

6.14. As the draft Local Plan Policy A5 provisions are the most comprehensive (and include those matters set out in DP27) it is those the proposal is assessed against below.

6.15. It is important as a starting point to set out two facts relating to the existing approved scheme. Firstly, the concrete subterranean open box structure at the far extent of the garden prevents boundary tree or hedge planting from taking place along that rear garden boundary. Secondly, the

location of the proposed lightwell excavation is immediately adjacent to the basement structure and any tree or hedge planting in that zone in the approved scheme would risk future structural harm to the building. The existing approved situation therefore effectively limits any tree planting to the grassed area of the rear garden, which would in turn limit the usable amenity function of those areas, particularly given that they are to be divided into three private areas.

- 6.16. The proposed development, in terms of open space and planting capacity, involves a net increase in both usable amenity space and areas suitable for planting of larger species.
- 6.17. The existing concrete subterranean box at the end of the plot is 48.6sqm in area, and has a depth of 1.2m. It is to be infilled with soil and grassed over to appear and be usable as garden space. Trees and or hedging could also be planted within it, to form boundary planting that characterises the wider area. The Officer Report states that it is not suitable for planting, yet at 1.2m depth it exceeds the Council's own stated requirement (para 6.136 of the draft Local Plan) for 1m of soil depth to allow for varied planting. The adopted policy DP27 states that a minimum of 0.5m depth is required.
- 6.18. The proposed stepped lightwell area is 45.6sqm, some 3sqm smaller than the open planted garden area to be created further rearward. This is a net increase in usable open garden area suitable for planting. Furthermore, of that 45.6sqm stepped lightwell area, more than 50% of it is to be planted in stepped planting beds that will maintain openness and a soft planted character to the garden. For the avoidance of doubt, those planted stepped areas will also have 1m soil depth as shown on the section drawings submitted.
- 6.19. These facts demonstrate that, contrary to the Council's assertions, the proposed development will both increase and enhance useable garden area and area suitable for planting, including tree planting. Such an enhancement

of garden area and planting capacity meets the overall objectives of adopted and draft local policy relating to subterranean development and gardens.

6.20. In terms of specific compliance with the detailed terms of draft Local Plan policy A5 *Basements* the following assessment is provided:

(h) not exceed 50% of each garden within the property;

- as evidenced above, the proposed area of excavation is a 'swap' for an existing area of subterranean development, with a net reduction achieved

(i) be less than 1.5 times the footprint of the host building in area;

- as above, there is a net reduction from the existing / approved situation

(j) extend into the garden no further than 50% depth of the host building measured from the principal rear elevation;

- the proposed development does not comply with this requirement, however we consider it important to recognise that the primary objective of the policy is to maintain garden space, and the proposed development will result in an increase in garden space and will result in an existing area of subterranean development at the end of the garden being replaced by a smaller one adjacent to the house

(k) not extend into or underneath the garden further than 50% of the depth of the garden;

- as above, the proposal results in replacing and reducing existing subterranean development, relocating it from the far extent of the garden closer to the host dwelling, and is therefore considered to be a beneficial enhancement

(l) be set back from neighbouring property boundaries where it extends beyond the footprint of the host building;

- the proposed lightwells are well set back from neighbouring property boundaries

(m) avoid the loss of garden space or trees of townscape or amenity value;
- as explored in detail in 6.15-6.19 there is no loss of garden space and the proposal will increase usable garden area and area that can be planted

(s) provide satisfactory landscaping, including adequate soil depth;
- the proposals increase landscape area and provide soil depth in excess of the 1 metre minimum depth

(v) do not prejudice the ability of the garden to support trees where they are part of the character of the area
- as set out in 6.15-6.17 the proposal will increase the ability of the garden to host trees along the rear boundary, as is characteristic of the area

6.21. Accordingly, we consider that the proposals will increase the capacity of the garden to sustain trees and greenery, and meets the requirements of adopted policy DP27 and emerging Local Plan policy A5.

The impact of the proposals upon the character and appearance of the Conservation Area

6.22. Paragraphs 6.5-6.11 above set out how the proposals do not cause harm to the architectural character and appearance of the host building, and paragraphs 6.12-6.21 set out how the ability of the garden to host planting and trees will be enhanced and there will be no loss of garden space.

6.23. We therefore conclude that there is no reduction in the contribution that the host building and its garden make to the significance of the Conservation Area. The proposals will enable additional boundary planting to be established along the rear garden boundary, which will enhance the

contribution that the garden makes to the character and appearance of the area.

- 6.24. On balance, the proposals therefore offer an enhancement to the conservation area, and there is no conflict with NPPF policy relating to the historic environment, nor policies CS14, DP24, DP25 of the adopted development plan and policies D1 and D2 of the emerging Local Plan.

Reason for refusal 2

- 6.25. Reason for refusal 2 refers to the absence of a legal agreement to secure the 1x 2bed residential unit at roof level as 'car-free' housing.
- 6.26. There are two legal agreements in place relating to this matter. A legal agreement for the same purpose was entered into by the Appellant on the 30th March 2015 (copy provided in Appendix 1) in association with the permission reference 2014/6313/P. A supplemental agreement was then entered into by the Appellant on the 24th August 2016 in association with the section 73 application ref 2015/6894/P (copy provided in Appendix 2).
- 6.27. Clause 3.2 of that supplemental agreement dated 24th August 2016 confirms that the obligations in clause 3.1 (which mirror those quoted in 6.25 above) 'shall apply equally to any further planning permissions which are issued under Section 73 of the Act in relation to the Original Planning Permission or the Section 73 Planning Permission or any further such Section 73 planning permission' (emphasis added).
- 6.28. By application of clause 3.2 the obligations in clause 3.1 would be bound to section 73 application that is the subject of this appeal.
- 6.29. There is accordingly no requirement for any further agreement to secure the obligations and the reason for refusal is misguided.
- 6.30. We would add that clause 3.2 of the agreement was specifically entered by the Council to enable flexibility in the future to make minor

material amendments without having to resort to the costly process of entering into further supplemental agreements. It is unhelpful that having drafted the agreement and entered into it the Council's legal department now take a contrary view.

7. Conclusion

- 7.1. For the reasons set out above we consider that the Council's reasons for refusal are unjustified.
- 7.2. The amendments to the development as proposed accord with and find great support in planning policy in the NPPF and the adopted development plan for the area, and also in the emerging Camden Local Plan that is soon to be adopted.
- 7.3. We therefore invite the Inspector to allow the appeal and allow these high quality amendments to the approved development to proceed.

APPENDICES

Appendix 1

Legal Agreement dated 30th March 2015

DATED 30 March

2015

(1) 2 MARESFIELD LIMITED

and

(2) SECURE TRUST BANK PLC

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
2 MARESFIELD GARDENS LONDON NW3 5SU
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)
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 5680
Fax: 020 7974 1920

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v1 26.03.15

THIS AGREEMENT is made the 30 day of March 2015

B E T W E E N:

- i. **2 MARESFIELD LIMITED** (Co. Regn. No.8793205) whose registered office is at 62 Wilson Street London EC4A 1LT (hereinafter called "the Owner") of the first part
- ii **SECURE TRUST BANK PLC** of one Arleston Way Solihull B90 4LH (hereinafter called "the Mortgagee") of the second part
- iii **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 48601 and as leasehold proprietor with Title absolute of part of the Property under Title Number NGL897315 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 A Planning Application for the Development of the Property was submitted to the Council and validated on 19 November 2014 and the Council resolved to grant permission conditionally under reference number 2014/6313/P subject to 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.

1.6 The Mortgagee as mortgagee under a legal charge registered under Title Number 48601 and dated 21 October 2014 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" | addition of one storey at second floor level with replacement roof level accommodation above, alterations to Coach House facade (all further works to partially completed works carried out under permission 2010/2772/P), and use of resulting building as 6 residential units as shown on drawing numbers Site location plan; 0052_200; 0052_201; 0052_202; 0052_203; 0052_204 Rev A; 0052_100; 0052_101 Rev A; 0052_102 Rev A; 0052_103; 0052_104; 0052_105; 0052_106; 0052_300 Rev A; Construction management plan v1 11.11.14; 0052_024; 0052_025; 0052_026; 0052_027; 0052_002; 0052_010; 0052_011; 0052_012; 0052_013; 0052_014; 0052_020; 0052_021; 0052_022; 0052_023; 0052_030; BREEAM |

- 2.4 "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
- 2.5 "Nominated Unit" 1 x 2 bedroom unit located at roof level accommodation (being part of the Development) of the property as shown on Plan 2
- 2.6 "Occupation Date" the date when any part of the Nominated Unit is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.7 "the Parties" mean the Council, the Owner and the Mortgagee
- 2.8 "Plan 1" the drawing marked "Plan 1" annexed hereto showing the Property
- 2.9 "Plan 2" the drawing marked "Plan 2" annexed hereto showing the Nominated Unit
- 2.10 "the Planning Application" a planning application in respect of the development of the Property (being an amendment to permission 2010/2772/P) submitted to the Council and validated on 19 November 2014 for which a resolution to grant permission has been passed conditionally under reference number 2014/6313/P subject to conclusion of this Agreement

2.11 "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

2.12 "the Planning
Permission"

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

2.13 "the Property"

the land known as 2 Maresfield Gardens London NW3 5SU the same as shown shaded grey on Plan 1 annexed hereto

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

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 as provided herein and against any person deriving title to any part of the Nominated Unit 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 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 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**

The Owner hereby covenants with the Council as follows:-

- 4.1 The Owner hereby covenants with the Council to ensure that prior to occupying the Nominated Unit forming part of the Development each new resident of the Nominated Unit 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 Nominated Unit 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 number of the Nominated Unit forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying the Nominated Unit 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 Planning Permission has taken or is about to take place.

5.2 Within seven days following completion of Nominated Unit the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting the Planning Permission reference 2014/6313/P the date upon which the Nominated Unit 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, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the Planning Permission reference number 2014/6313/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 on which the Nominated Unit is allocated a title number apply to the Chief Land Registrar of the Land Registry to register this Agreement in the Charges Register of the title to the Nominated Unit 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 Nominated Unit.
- 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 Nominated Unit 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. 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 and the Mortgagee have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY
2 MARESFIELD LIMITED
acting by a Director

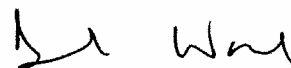
Director Name: (CAPITALS)

DAVID PINE

Director Signature:



in the presence of:
Witness Signature:



Witness Name: (CAPITALS)

DAVID WOOD

Address:

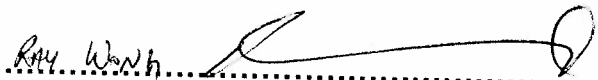
89 ARLINGTON ROAD

LONDON NW1 7ES

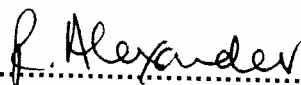
Occupation:

SOLICITOR

EXECUTED as a Deed
By SECURE TRUST BANK PLC
By
in the presence of:-


Ray Warr

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

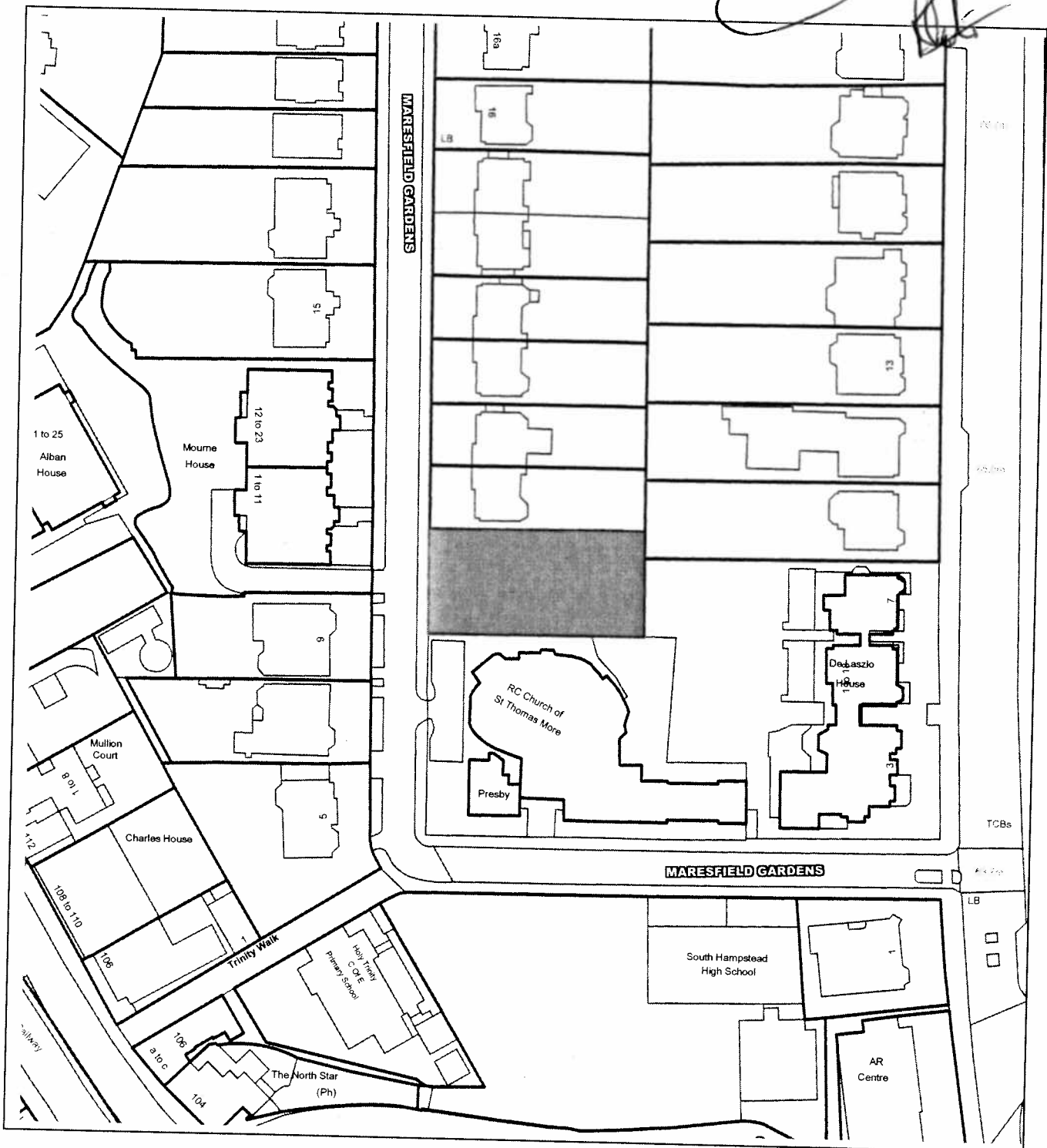

F. Alexander

Authorised Signatory



L Alexander PLAN 1

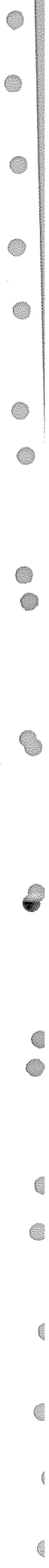
2 Maresfield Gardens London NW3 5SU



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Handwritten notes in the top left corner, possibly a date or initials.

Handwritten signature or initials in the top left corner.



NOTES:

L. Alexander

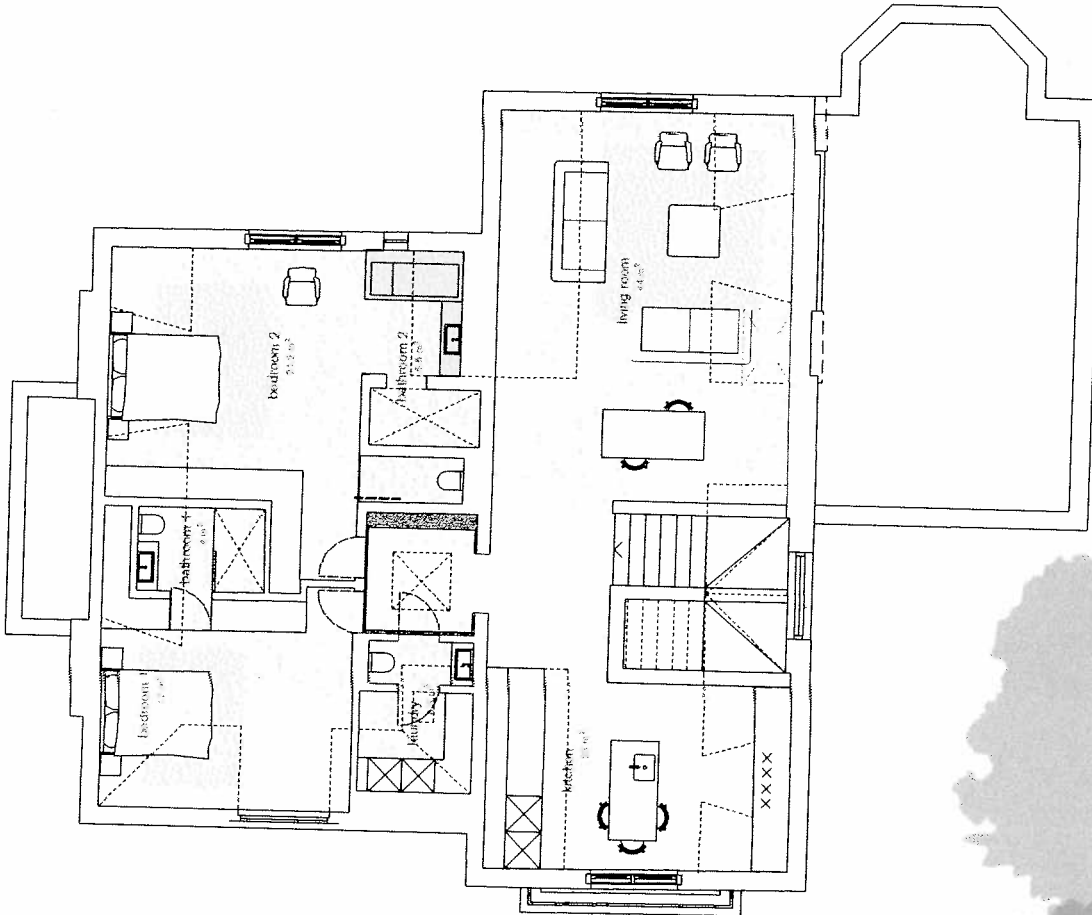
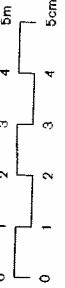
PLAN 2

NOTE:
Do not scale from this drawing. Any measurements should be taken from the original drawings. All dimensions shall be taken on the plot plan. The drawing is to be used for information only. It is not to be used for construction. The drawing is to be used in conjunction with the site plan and the other drawings in the set.

PROJECT:
2 MARSHFIELD GARDENS
DRAWING TITLE:
PROPOSED THIRD FLOOR PLAN
STATUS:
PLANNING

SCALE:
1:100 at A3
1:50 at A1
DRAWING NUMBER:
0002_100
REVISION:

William Smalley RIBA
The City
40 Essex Street
London EC2A 3DU
t +44 (0)20 7429 6026
w@williamsmalley.com





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

AZ Urban Studio
83 Weston Street
London
SE1 3RS

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

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

Application Ref: **2014/6313/P**

26 March 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:
2 Maresfield Gardens
London
NW3 5SU

DECISION
Proposal:

Addition of one storey at second floor level with replacement roof level accommodation above, alterations to Coach House facade (all further works to partially completed works carried out under permission 2010/2772/P), and use of resulting building as 6 residential units.

Drawing Nos: Site location plan; 0052_200; 0052_201; 0052_202; 0052_203; 0052_204 Rev A; 0052_100; 0052_101 Rev A; 0052_102 Rev A; 0052_103; 0052_104; 0052_105; 0052_106; 0052_300 Rev A; Construction management plan v1 11.11.14; 0052_024; 0052_025; 0052_026; 0052_027; 0052_002; 0052_010; 0052_011; 0052_012; 0052_013; 0052_014; 0052_020; 0052_021; 0052_022; 0052_023; 0052_030; BREEAM Domestic Refurbishment Pre-Assessment; 0052_001; Lifetime Homes statement July 2010

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 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan; 0052_200; 0052_201; 0052_202; 0052_203; 0052_204 Rev A; 0052_100; 0052_101 Rev A; 0052_102 Rev A; 0052_103; 0052_104; 0052_105; 0052_106; 0052_300 Rev A; Construction management plan v1 11.11.14; 0052_024; 0052_025; 0052_026; 0052_027; 0052_002; 0052_010; 0052_011; 0052_012; 0052_013; 0052_014; 0052_020; 0052_021; 0052_022; 0052_023; 0052_030; BREEAM Domestic Refurbishment Pre-Assessment; 0052_001; Lifetime Homes statement July 2010

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

- 4 The lifetime homes features and facilities, as indicated on the drawings and documents hereby approved shall be provided in their entirety prior to the first occupation of any of the new residential units.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

- 1 Reasons for granting permission.

Maresfield Gardens comprises a variety of building forms and styles, with the large modern Church of St Thomas More to the south of the site and 3 pairs of semi-

detached three storey properties to the north. Beyond these, the scale of the properties changes again. Given the lack of uniformity, the additional sheer storey at 2nd floor level (with replacement roof level accommodation above) would not appear incongruous and would be a sympathetic addition to the host property. The proposed front elevation would match the existing facade in terms of treatments and detail. The additional sheer storey, whilst being a significant intervention, would improve the vertical emphasis of the property, particularly when viewed from the rear. The proposed minor alterations to the front elevation of the coach house respect the architectural features of the existing building. The proposal would therefore preserve the character and appearance of the conservation area. The proposed accommodation would meet the Council's residential development standards and would provide an additional 2-bedroom flat which is a high priority in the borough. Given the proposal is a conversion, it is accepted that not all Lifetime Home standards can be met. The proposed additional storey would not harm the amenity of the occupiers of 2 Maresfield Gardens in terms of daylight, sunlight, privacy or overlooking. As the proposal would involve an additional flat, this would be secured car free in accordance with policy DP18.

The planning and appeal history of the site has been taken into account when coming to this decision. One objection and one letter of comment were received prior to making this decision.

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

As such, the proposed development is in general accordance with policies CS5, CS6, CS11, CS14 and CS19 of the London Borough of Camden Local Development Framework Core Strategy, and policies DP2, DP5, DP6, DP17, DP18, DP24, DP25 and DP26 of the London Borough of Camden Local Development Framework Development Policies. The proposed development also accords with policies 3.5, 3.8, 6.12, 7.4, 7.6 and 7.8 of the London Plan 2011 (as amended); and paragraphs 14, 17, 29-30, 39, 49-50, 56-66 and 126-141 of the National Planning Policy Framework.

- 2 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).
- 3 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 Noise and Licensing Enforcement Team, 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.

- 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 legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.
- 5 The Mayor of London introduced a Community Infrastructure Levy (CIL) to help pay for Crossrail on 1st April 2012. Any permission granted after this time which adds more than 100sqm of new floorspace or a new dwelling will need to pay this CIL. It will be collected by Camden on behalf of the Mayor of London. Camden will be sending out liability notices setting out how much CIL will need to be paid if an affected planning application is implemented and who will be liable.

The proposed charge in Camden will be £50 per sqm on all uses except affordable housing, education, healthcare, and development by charities for their charitable purposes. You will be expected to advise us when planning permissions are implemented. Please use the forms at the link below to advise who will be paying the CIL and when the development is to commence. You can also access forms to allow you to provide us with more information which can be taken into account in your CIL calculation and to apply for relief from CIL.

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

We will then issue a CIL demand notice setting out what monies need to be paid when and how to pay. Failure to notify Camden of the commencement of development will result in a surcharge of £2500 or 20% being added to the CIL payment. Other surcharges may also apply for failure to assume liability and late payment. Payments will also be subject to indexation in line with the construction costs index.

Please send CIL related documents or correspondence to CIL@Camden.gov.uk

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

DATED 30 March 2015

(1) 2 MARESFIELD LIMITED

and

(2) SECURE TRUST BANK PLC

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
2 MARESFIELD GARDENS LONDON NW3 5SU
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)
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 5680
Fax: 020 7974 1920

1781.114
v1 26.03.15

Appendix 2

Supplemental Agreement dated 24th August 2016

DATED

24 August

2016

(1) 2 MARESFIELD LIMITED

and

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

SUPPLEMENTAL AGREEMENT

Relating to the Agreement dated 30 March 2015
Between the Mayor and the Burgesses of the
London Borough of Camden and
2 Maresfield Limited and Secure Trust Bank PLC
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
2 MARESFIELD GARDENS LONDON NW3 5SU

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

Tel: 020 7974 5680
Fax: 020 7974 1920

1781.625

THIS AGREEMENT is made on the 24 day of August 2016

BETWEEN

- I. **2 MARESFIELD LIMITED** (Co. Regn. No.8793205) whose registered office is at 62 Wilson Street London EC4A 1LT (hereinafter called "the Owner") of the first part
- II. **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

WHEREAS:

- 1.1 The Council, 2 Maresfield Limited and Secure Trust Bank PLC entered into an Agreement dated 30 March 2015 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended), the Original Planning Permission.
- 1.2 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number 48601.
- 1.3 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.4 Secure Trust Bank PLC no longer has a charge over the Property.
- 1.5 The Council is the local planning authority for the purposes of the Act 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 The Section 73 Planning Application in respect of the Property to amend conditions attached to the Original Planning Permission was submitted to the Council by the Owner and validated on 14 January 2016 for which the Council resolved to grant permission conditionally under reference 2015/6894/P subject to the conclusion of this Agreement.
- 1.7 This Agreement is made by virtue of the Town and Country Planning Act 1990 Section 106 (as amended) and is a planning obligation for the purposes of that section.

- 1.8 Without prejudice to the enforceability of the covenants contained in the Existing Agreement the parties hereto have agreed to enter into this Supplemental Agreement as hereinafter provided.

2. **INTERPRETATION**

- 2.1 All words and phrases defined in the Existing Agreement shall have the same meaning in this Agreement save where the context otherwise dictates and for the avoidance of any doubt the Existing Agreement shall remain in full force and effect.

- 2.2 All reference in this Agreement to clauses in the Existing Agreement are to clauses within the Existing Agreement.

- 2.3 In this Agreement the following expression shall unless the context otherwise states have the following meaning now allocated to it.

2.3.1 "Agreement" this Agreement

2.3.2 "Existing Agreement" the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 30 March 2015 made between the Council, 2 Maresfield Limited and Secure Trust Bank PLC

2.3.3 "the Original Planning

Permission"

means the planning permission granted by the Council on 30 March 2015 referenced 2014/6313/P allowing the addition of one storey at second floor level with replacement roof level accommodation above, alterations to Coach House facade (all further works to partially completed works carried out under permission 2010/2772/P), and use of resulting building as 6 residential units as shown on drawing numbers Site location plan; 0052_200; 0052_201; 0052_202; 0052_203; 0052_204 Rev A; 0052_100; 0052_101 Rev A; 0052_102 Rev A; 0052_103;

0052_104; 0052_105; 0052_106;
 0052_300 Rev A; Construction
 management plan v1 11.11.14; 0052_024;
 0052_025; 0052_026; 0052_027;
 0052_002; 0052_010; 0052_011;
 0052_012; 0052_013; 0052_014;
 0052_020; 0052_021; 0052_022;
 0052_023; 0052_030; BREEAM
 Domestic Refurbishment Pre-Assessment;
 0052_001; Lifetime Homes statement July
 2010

2.3.4 "Section 73 Development"

variation of condition 3 (approved plans) of
 planning permission 2014/6313/P dated
 30/03/2015 (for addition of one storey at
 second floor level with replacement roof
 level accommodation above, alterations to
 Coach House facade and use of resulting
 building as 6 residential units), namely
 increase in size of front lightwell, creation
 of rear stepped lightwells to existing
 basement, glazed infill extension to rear,
 creation of 1st floor roof terrace at rear
 including replacement of windows with
 French doors as shown on drawing
 numbers: TO BE INSERTED BY THE
 COUNCIL

2.3.5 "Section 73 Planning Permission" the planning permission pursuant to
 Section 73 of the Act under reference
 number 2015/6894/P to be issued by the
 Council in the form of the draft annexed
 hereto permitting the Section 73
 Development

2.3.6 "Section 73 Planning Application" the application for Planning Permission
 pursuant to Section 73 of the Act in respect
 of the Property submitted on 8 December

2015 by the Owner and given reference
number 2015/6894/P

2.4 Where in this Agreement reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Agreement.

2.5 Headings are for ease of reference only and are not intended to be construed as part of this Agreement and shall not be construed as part of this Agreement and shall not affect the construction of this Agreement.

2.6 Unless the context otherwise requires references to the singular shall include the plural and vice versa.

2.7 References in this Agreement to the Owner shall include its successors in title.

3. PLANNING OBLIGATIONS

3.1 The obligations on the part of the Owner and the Council contained in the Existing Agreement shall bind the Owner and the Council in relation to the Section 73 Development from the date such development is implemented as if such obligations and the provisions of the Existing Agreement had been set out in full in this Agreement and such obligations and provisions shall be interpreted as if all references therein to the Development, the Planning Application and the Planning Permission were references to the Section 73 Development, the Section 73 Application and the Section 73 Planning Permission.

3.2 The obligations contained in clause 3.1 shall apply equally to any further planning permissions which are issued under Section 73 of the Act in relation to the Original Planning Permission or the Section 73 Planning Permission or any further such Section 73 planning permission.

4. PAYMENT OF THE COUNCIL'S LEGAL COSTS

4.1 The Owner agrees to pay the Council (on or prior to completion of this Agreement) its reasonable legal costs incurred in preparing this Agreement

5. REGISTRATION AS LOCAL LAND CHARGE

5.1 This Agreement shall be registered as a Local Land Charge

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

EXECUTED AS A DEED BY)
2 MARESFIELD LIMITED)
in the presence of:)
acting by a Director and its Secretary)
or by two Directors)

EN
.....
Director

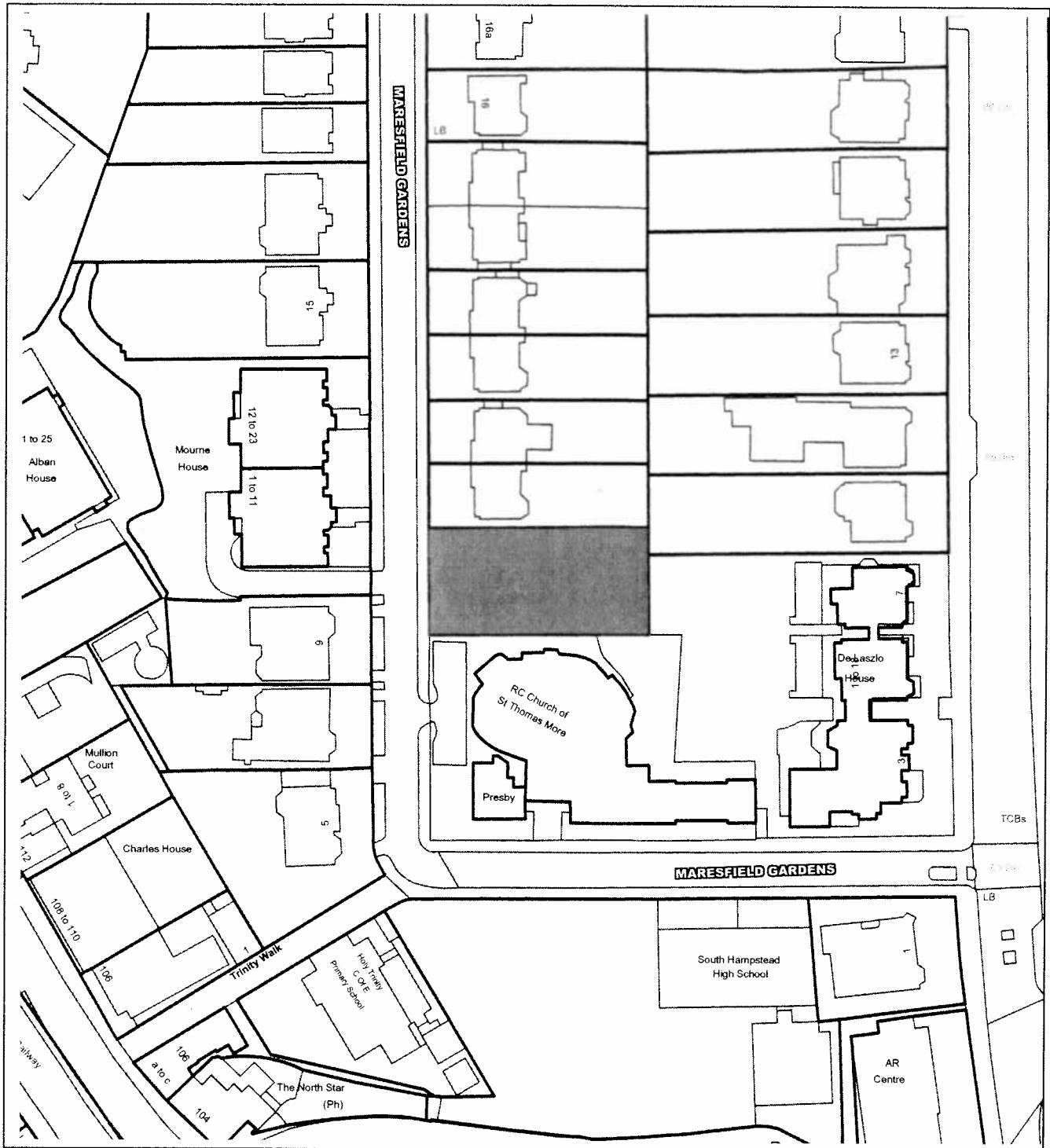
[Signature]
.....
Director/Secretary

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

R. Alexander
.....
Authorised Signatory



2 Maresfield Gardens London NW3 5SU



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AZ Urban Studio
Magdalen House
136-148 Tooley Street
London SE1 2TU

Application Ref: **2015/6894/P**

04 August 2016

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:

**2 Maresfield Gardens
London
NW3 5SU**

Proposal:

DECISION
Variation of condition 3 (approved plans) of planning permission 2014/6313/P dated 30/03/2015 (for addition of one storey at second floor level with replacement roof level accommodation above, alterations to Coach House facade and use of resulting building as 6 residential units), namely increase in size of front lightwell, creation of rear stepped lightwell to Coach House, glazed infill extension to rear, creation of 1st floor roof terrace at rear including replacement of windows with French doors.

Drawing Nos:

Superseded: 0052_200; 0052_201; 0052_202; 0052_203; 0052_204 Rev A; 0052_100; 0052_101 Rev A; 0052_102 Rev A; 0052_103; 0052_104; 0052_105; 0052_106; 0052_300 Rev A

Proposed: 0052_201 Rev C; 0052_202 Rev B; 0052_203 Rev C; 0052_204 Rev B; 0052_205 Rev A; 0052_100 Rev D; 0052_101 Rev C; 0052_102 Rev C; 0052_103 Rev B; 0052_104 Rev A; 0052_105 Rev A; 0052_106 Rev A; 0052_108; 0052_300 Rev D; 0052_301 Rev C; 0052_302 Rev B; 0052_303 Rev C; 0052_304 Rev C; 0052_305 Rev B; 0052_306 Rev A; 0052_307 Rev B; Arboricultural Implications Report prepared by ACS Consulting dated 23rd October 2015; Addendum to Arboricultural Implications Report prepared by ACS Consulting dated 13/06/16; Basement Impact Assessment prepared by Abbey Pynford dated 01/09/15; Construction management plan prepared by AZ Urban Studio dated 27/11/15.

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 For the purposes of this decision, condition no.3 of planning permission 2014/6313/P shall be replaced with the following condition:

REPLACEMENT CONDITION 3

The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan; Construction management plan v1 11.11.14; 0052_024; 0052_025; 0052_026; 0052_027; 0052_002; 0052_010; 0052_011; 0052_012; 0052_013; 0052_014; 0052_020; 0052_021; 0052_022; 0052_023; 0052_030; BREEAM Domestic Refurbishment Pre-Assessment; 0052_001; Lifetime Homes statement July 2010; 0052_201 Rev C; 0052_202 Rev B; 0052_203 Rev C; 0052_204 Rev B; 0052_205 Rev A; 0052_100 Rev D; 0052_101 Rev C; 0052_102 Rev C; 0052_103 Rev B; 0052_104 Rev A; 0052_105 Rev A; 0052_106 Rev A; 0052_108; 0052_300 Rev D; 0052_301 Rev C; 0052_302 Rev B; 0052_303 Rev C; 0052_304 Rev C; 0052_305 Rev B; 0052_306 Rev A; 0052_307 Rev B; Arboricultural Implications Report prepared by ACS Consulting dated 23rd October 2015; Addendum to Arboricultural Implications Report prepared by ACS Consulting dated 13/06/16; Basement Impact Assessment prepared by Abbey Pynford dated 01/09/15; Construction management plan prepared by AZ Urban Studio dated 27/11/15.

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

- 2 The development hereby approved shall not commence until such time as a suitably qualified chartered engineer with membership of the appropriate professional body has been appointed to inspect, approve and monitor the critical elements of both permanent and temporary basement construction works throughout their duration to ensure compliance with the design which has been checked and approved by a building control body. Details of the appointment and the appointee's responsibilities shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. Any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.

Reason: To safeguard the appearance and structural stability of neighbouring

buildings and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Development Policies and policy DP27 (Basements and Lightwells) of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development shall be carried out in accordance with the recommendations of the basement impact assessment prepared by Abbey Pynford dated 01/09/15 hereby approved.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Development Policies and policy DP27 (Basements and Lightwells) of the London Borough of Camden Local Development Framework Development Policies.

- 4 All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the Arboricultural Implications Report hereby approved.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policy CS15 of the London Borough of Camden Local Development Framework Core Strategy.

- 5 Prior to the first occupation of the building a plan showing details of the green roof above the basement extension including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long term viability of the green roof, and a programme for a scheme of maintenance shall be submitted to and approved in writing by the local planning authority. The green roof shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme of maintenance.

Reason: To ensure that the green roof is suitably designed and maintained in accordance with the requirements of policies CS13, CS14, CS15 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23, DP24 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

- 1 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 Noise and Licensing Enforcement Team, Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or 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.

- 2 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).

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

Supporting Communities Directorate

DRAFT

DECISION

Director of Supporting Communities

DATED

24 August

2016

(1) 2 MARESFIELD LIMITED

and

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

SUPPLEMENTAL AGREEMENT

Relating to the Agreement dated 30 March 2015
Between the Mayor and the Burgesses of the
London Borough of Camden and
2 Maresfield Limited and Secure Trust Bank PLC
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
2 MARESFIELD GARDENS LONDON NW3 5SU

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

Tel: 020 7974 5680
Fax: 020 7974 1920

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