

DATED 27th June **2018**

RJD LONDON MAYFAIR LIMITED (1)

("the Owner")

and

READING BOROUGH COUNCIL (2)

("the Council")

AGREEMENT

constituting a Planning Obligation relating to land at the rear of The Pond House,
738 Oxford Road, Reading, RG3 1EH

(Planning Application No.171127 /FUL)

**C J Brooks BSc
Head of Legal Services
Reading Borough Council
DX 40124 Reading (Castle Street)
IKEN 8711
SQ (4370)
08/05/18**

THIS AGREEMENT is made the

27th June

2018

BETWEEN:

- (1) **RJD LONDON MAYFAIR LIMITED** (Co. Regn.No.10446984) of Hunter House 109 Snakes Lane West Essex Woodford Green IG8 0DY ("the Owner") and
- (2) **READING BOROUGH COUNCIL** of Civic Offices Bridge Street Reading RG1 2LU ("the Council")

RECITALS

A. Planning Obligation

This Agreement constitutes a planning obligation within the meaning of the term in Section 106 of the 1990 Act

B. Application Land

The Council is the Local Planning Authority for the purposes of the 1990 Act for the Borough of Reading in which the Application Land is situated and is the Authority that can enforce the provisions in this Agreement

C. Land Ownership

The Owner is the freehold owner of the Application Land as identified in the First Schedule hereto and has an interest in the Application Land within the meaning of the term in Section 106(9) (b) of the 1990 Act

D. Planning Application

The Owner submitted the Application (171127) to the Council for Planning Permission to carry out the Development which was validated on 6th July 2017

E. Planning Permission

The Council and the Owner having regard to the Development Plan and to all other material considerations including the Court of Appeal decision in the

case of Secretary for Communities and Local Government and West Berkshire Council and Reading Borough Council (CO/76/2015) consider that Planning Permission should be granted for the Development pursuant to the Application subject to the prior completion of this Agreement

IT IS HEREBY AGREED AND DECLARED between the parties hereto as follows:-

1. DEFINITIONS

The following expressions shall have the under mentioned meanings

1.1 "the 1990 Act"

means the Town and Country Planning Act 1990 (as amended)

1.2 "Affordable Housing"

means social rented housing affordable rented housing and intermediate housing as defined in Annex 2 of the National Planning Policy Framework published on 27th March 2012 or any subsequent definition in any revision amendment or re-enactment thereof published by the U K Government

1.3 "this Agreement"

means this planning obligation by agreement and any modification thereof approved by the Council pursuant to the powers in Section 106 and Section 106A of the 1990 Act

1.4 "Application"

means the application seeking Planning Permission to carry out the Development submitted by the Owner to the Council and registered by the Council under reference number 171127/FUL

1.5 "Application Land"

means the land at land at the rear of The Pond House 738 Oxford Road Reading RG3 1EH as described in the First Schedule hereto and shown edged red on the Plan at Annexure 1

1.6 "the Contribution"

means the Deferred Affordable Housing Contribution

1.7 "Development"

means the erection of a new building containing 3 x 2 bed and 3 x 1 bed flats with associated private shared amenity space and car parking (amended description)

1.8 "Effective Date"

means the date of this Agreement

1.9 "Implementation"

means the carrying out of a "material operation" as defined in Section 56(4) of the 1990 Act save that this definition shall not include any works of demolition site clearance ground investigation site survey works construction of boundary fencing hoardings or compounds decontamination soil investigation and archaeological testing and the laying and diversion of services and service media and "Implement" and "Implemented" shall be construed accordingly

1.10 "Implementation Notice"

means the notice to be served by any one of the Owner upon the Council stating the proposed date of Implementation of the Development

1.11 "Index"

means the Retail Price Index issued by the Office for National Statistics

1.12 "Monitoring Fee"

means the sum of SIX HUNDRED POUNDS (£600.00) to be paid to the Council for the purpose of monitoring the Obligations by the Monitoring Officer as set out in this Agreement

1.13 "Monitoring Officer"

means the Council's Monitoring Officer (within the Council's Directorate of Environment and Neighbourhood Services) as designated by the Council to monitor the Obligations set out in this Agreement

1.14 "New Dwelling"

means any one of the six (6) new residential flats formed or to be formed in the carrying out of Development pursuant to the Planning Permission and "New Dwellings" shall be construed accordingly

1.15 "Obligations"

means the covenants on behalf of the Owner set out at Clause 5 and the Second Schedule (Deferred Affordable Housing Obligations) and the Third Schedule (Viability Appraisal) and the covenants by the Council set out in Clause 6 and the Fourth Schedule (Council Obligations) to this Agreement

1.16 "Occupation"

means the first beneficial occupation of a New Dwelling PROVIDED THAT (and it is agreed between the parties hereto that) for the avoidance of doubt occupation for the purposes of construction completion and fitting out shall not constitute "Occupation" and "Occupy" and "Occupied" shall be construed accordingly

1.17 "Occupation Notice"

means the notice to be served by any one of the Owner upon the Council that the Development has been brought into use and is being Occupied

1.18 "Plan"

means the plan marked at Annexure 1 illustrating the Application
Land edged red

1.19 "Planning Permission"

means the planning permission to be granted by the Council pursuant to the Application substantially in the form of the draft at Annexure 2 and including any other planning permissions granted under Section 73 of the 1990 Act varying the Development

1.20 "the Prescribed Period"

means the period commencing on the date of receipt by the Council of the whole of the Deferred Affordable Housing Contribution and expiring at the end of ten full financial years (ending 31 March) following the financial year in which the payment is received by the Council

1.21 "Working Days"

means days (other than Saturdays Sundays or public holidays in England) when banks in London are open for business

2. INTERPRETATION

- 2.1 Clause headings shall not affect the interpretation of this Agreement
- 2.2 A person includes a natural person corporate or unincorporated body (whether or not having separate legal personality)
- 2.3 A reference to a company shall include any company corporation or other body corporate wherever and however incorporated or established
- 2.4 Unless the context otherwise requires words in the singular shall include the plural and in the plural shall include the singular
- 2.5 Unless the context otherwise requires a reference to one gender shall include a reference to the other genders
- 2.6 A reference to any party shall include that party's personal representatives successors or permitted assigns and in the case of the Council the successors to its respective statutory functions
- 2.7 An Obligation in this Agreement on a person not to do something includes an Obligation not to agree or allow that thing to be done

- 2.8 Where an Obligation falls to be performed by more than one person the Obligation can be enforced against every person so bound jointly and against each of them individually
- 2.9 Any phrase introduced by the terms "including" "include" "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms
- 2.10 Any reference to Act of Parliament whether general or specific shall include any modification or re-enactment thereof for the time being in force and shall also include all instruments orders plans regulations by-laws and directions for the time being made issued or given thereunder or deriving validity therefrom
- 2.11 A reference to writing or written does not include faxes or e-mail
- 2.12 A reference to "this Agreement" or to any other agreement or document referred to in this Agreement is a reference to this Agreement or such other document or deed as varied or novated (in each case other than in breach of the provisions of this Agreement) from time to time
- 2.13 References to Clauses Plans Schedules Paragraphs and Annexures are to the Clauses Plans Schedules Paragraphs and Annexures of this Agreement

3. LEGAL EFFECT

- 3.1 This Agreement is made pursuant to Section 106 of the 1990 Act and Section 111 of the Local Government Act 1972 and all other enabling powers to the intent that it shall bind the Owner and their successors in title to each and every part of their interest in the Application Land and their assigns
- 3.2 This Agreement shall be enforceable by the Council
- 3.3 If the Planning Permission expires within the meaning of Sections 91 92 or 93 of the 1990 Act or is revoked or otherwise withdrawn or modified by any statutory procedure without the consent of the Owner this Agreement shall cease to have effect (but not so as to avoid any Obligation in this Agreement on the part of the Owner having already been implemented or performed)

- 3.4 Nothing in this Agreement shall be construed as prohibiting or limiting any right to develop any part of the Application Land in accordance with a planning permission (other than the Planning Permission) granted by the Council or by the Secretary of State on appeal or by reference to him after the date of this Agreement
- 3.5 If any provision of this Agreement shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired
- 3.6 The Owner shall in parting with the Application Land or part of the Application Land be released from all liability under the terms of this Agreement (insofar as it is binding on that part of the Application Land to which the breach relates) unless they hold an interest in the Application Land or part of the Application Land in respect of which such breach occurs or held such an interest at the date of the breach
- 3.7 This Agreement is without prejudice to and shall not be construed as derogating from any of the rights powers and duties of the Council pursuant to any of its statutory functions nor in any other capacity

4. CONDITIONALITY

Unless the context otherwise requires the Obligations in this Agreement shall come into force on the grant of the Planning Permission and the Implementation of the Development

5. THE OWNERS' OBLIGATIONS

- 5.1 The Owner covenants with the Council as follows:-
- (a) not to Implement the Development before the Owner has served the Implementation Notice
 - (b) to serve an Occupation Notice within five (5) Working Days after a New Dwelling which forms part of the Development has been first Occupied for residential purposes

- (c) to observe and perform the obligations on their part contained in the Second Schedule (Deferred Affordable Housing Obligations and Third Schedule (Viability Appraisal) to this Agreement

5.2 The Owner further covenants with the Council to pay on the Effective Date the Council's reasonable legal costs and expenses incurred in the preparation and completion of this Agreement in the sum of one thousand pounds (£1,000) and the Monitoring Fee

6. COUNCIL'S OBLIGATIONS

The Council covenants with the Owner to observe and perform the obligations on its part contained in the Fourth Schedule

7. INDEXATION

The amount of the Maximum Sum if paid under the provisions of Paragraph 12 of the Second Schedule to this Agreement shall be increased by an amount equivalent to the increase in the Index from the Effective Date until the date on which the said Maximum Sum Contribution is paid

8. INTEREST ON UNPAID MONIES

If the Contribution due under this Agreement is paid late the Owner shall pay the Council interest at the rate of 4% per annum above the base rate of the Lloyds Bank PLC for the time being in force on the sum of the said Contribution due or (as the case may be) on any amount thereof which may be outstanding from the date on which under the terms of this Agreement the Contribution is due up to the date of payment of the said Contribution

9. PAYMENTS TO THE COUNCIL

Any Contributions due to the Council under the terms of this Agreement (SAVING AND EXCEPTING for the sums payable to the Council under Clause 5.2) shall be paid to the Council by means of telegraphic transfer to the Council as follows:

Reading Borough Council

Sort Code: 30-91-31

Account Number: 00271502

Lloyds Bank plc 24 Broad Street Reading RG1 2BT

quoting ref (171127)

10. NOTICES

Any notice or other written communication to be served by one party upon another pursuant to the terms of this Agreement shall be deemed to have been validly served if delivered by hand or sent by pre-paid registered or recorded delivery post to the party to be served at its address herein specified or such other address as may from time to time be notified for the purpose by notice in writing and any such notice or other written communication to be given by the Council shall be deemed valid and effectual if on its face it is signed on behalf of the Council by a duly authorised signatory

11. ADDRESSES FOR SERVICE

The address for any notice or other written communication is for the Council at Civic Offices Bridge Street Reading RG1 2LU and for the Owner at Hunter House 109 Snakes Lane West Essex Woodford Green IG8 0DY or any other address notified in writing to the Council

12. ARBITRATION

12.1 In the event of any dispute arising between the parties in respect of this Agreement the dispute shall be referred:-

- (a) in the case of a dispute regarding the interpretation or meaning of any provision in this Agreement to leading planning counsel to be agreed between the parties or failing agreement to be appointed by the President for the time being of the Law Society or

- (b) in the case of a dispute regarding the works or other technical matters referred to in the schedules to a member of the Institution of Civil Engineers to be agreed between the parties or failing agreement to be appointed by the President for the time being of such institution or
- (c) in the case of any other dispute regarding this Agreement to a member of the Royal Institution of Chartered Surveyors to be agreed between the parties or failing agreement to be appointed by the President for the time being of such Institution

12.2 Any referral pursuant to Clause 12.1 may be made on the joint application of the parties or on the application of any party and any such referral shall be construed as a submission to arbitration within the meaning of the Arbitration Act 1996

12.3 The decision of any expert appointed pursuant to Clause 12.1 (the "Expert") shall be final and binding on the parties and whose costs shall be in his award

12.4 The Expert shall be appointed subject to an express requirement that he reaches his decision and communicates it to the parties to the dispute within the minimum practical timescales allowing for the nature and complexity of the dispute and in any event not more than twenty (20) Working Days from the date of his appointment to act

13. THIRD PARTY RIGHTS

It is not otherwise intended that any of the provisions of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by anyone other than the parties to this Agreement

14. NO WAIVER

No waiver (whether express or implied) by the Council of any breach of or default by the Owner in performing or observing any of the terms of or covenants Obligations or restrictions in this Agreement shall constitute a

continuing waiver and no such waiver shall prevent the Council from enforcing any of the said terms covenants Obligations or restrictions or from acting upon any subsequent breach or default in respect thereof by the Owner

15. LOCAL LAND CHARGE

This Agreement is and shall be registered as a Local Land Charge by the Council

16. RIGHT OF ACCESS

Without prejudice to the Council's statutory rights of entry the Owner shall permit the Council and its authorised employees and agents upon reasonable written notice to enter the Application Land at all reasonable times for the purpose of verifying whether or not any Obligation arising hereunder has been performed or observed

17. AGREEMENT AND DECLARATION

It is agreed by the Owner and the Council that should the Development the subject of the Planning Permission be varied under a new planning permission granted by the Council under Section 73 of the 1990 Act (the VARIAT Planning Permission) the Obligations in the Agreement shall apply to the said VARIAT Planning Permission

18. JURISDICTION

This Agreement is governed by and interpreted in accordance with the law of England and Wales

EXECUTED as a deed by the parties hereto and delivered on the date written at the start of this deed

THE FIRST SCHEDULE

(“the Application Land”)

All that freehold land known as land at the rear of The Pond House 738 Oxford Road Reading RG3 registered at the Land Registry under Title Number BK490975 shown edged red on the Plan at Annexure 1

THE SECOND SCHEDULE

("the Deferred Affordable Housing Contribution")

Additional Definitions

The following additional expressions shall have the under mentioned meanings in relation to this Second Schedule and the Third Schedule

"Acquisition Cost"

means the agreed consideration for the purchase of the Application Land totalling £400,000.00

"Deferred Affordable Housing Contribution"

means a sum equal to fifty per centum (50%) of the Surplus but which sum shall not exceed the Maximum Sum

"Deficit"

means a sum equal to the Owner's Actual Profit less the Owner's Target Profit as detailed in the Viability Appraisal which sum shall be a negative figure which is zero pounds (£0) or less

"Development Costs"

shall mean the aggregate costs expenses liabilities and other sums reasonably and properly incurred (or anticipated to be incurred) by or on behalf of the Owner in connection with the acquisition disposal construction marketing and management of the Development including (without limitation to the foregoing):-

- (a) the Acquisition Cost
- (b) all construction costs (to include any site remediation demolition stripping out site clearance works along with works of construction refurbishment or improvement);
- (c) Stamp Duty Land Tax and Land Registry Fees;

- (d) the cost of extinguishment modification or variation of any interests or rights in over or against the Application Land;
- (e) the cost of Statutory Consents;
- (f) the Planning Costs and/or any sums paid or payable under agreements entered into by the Owner under (i) Sections 38 and/or 278 of the Highways Act 1980 (ii) Section 104 of the Water Industry Act 1991 for the provision of drainage works as part of the Development (iii) and any other agreement or licence with any competent authority or body relating to other services or works which may be required in order to facilitate the Development
- (g) any Finance Costs
- (h) any costs relating to the sale lease or other disposal of the Development (including structural warranties) and all legal surveyors solicitors and other professional fees agency commission advertising marketing promotional expenses and other costs in connection with any of these matters referred to in this definition
- (i) fees of all professional consultants appointed in relation to the Development
- (j) fees paid to a project manager and persons providing management services and the cost of staff employed by the Owner exclusively for the performance of duties in relation to the Application Land
- (k) provided that the Development proceeds without unreasonable delay the costs incurred in insuring the Application Land and the Development
- (l) rates including sums payable pursuant to any statute or byelaw rents and value added tax where the same is not recoverable or not zero rated;
- (m) and any other costs expenses or charges reasonably and properly incurred in the carrying out of the Development and in the sale lease or other disposal of the New Dwellings

PROVIDED ALWAYS that all such costs expenses liabilities and other sums shall only be taken into account once when calculating the Development Costs

“Deemed Disposal”

means a deemed transfer of the freehold interest or grant of a long leasehold estate or interest in a New Dwelling at Open Market Value where the Owner does

not dispose of the New Dwelling but lets it out or otherwise permits Occupation of the said New Dwelling or has not Disposed of the sixth (6th) New Dwelling at the Trigger Date

“Disposal”

means the transfer of the freehold interest or the grant of a long leasehold estate or interest (not less than a 99 year term) in a New Dwelling and for the avoidance of doubt Disposal shall not mean the exchange of contracts and “dispose” and “disposed of” shall be construed accordingly

“Finance Costs”

means finance costs and interest paid on loans or other monies to finance or fund the Development and any arrangement fees and other costs of any lender payable by the Owner including interest on internal equity funding and where any funding is provided by the Owner from their own resources notional interest at the interest rate at which the Owner are able to secure loan finance provided that the return on such internal equity funding shall not exceed five per centum (5%) per annum

“Gross Development Value”

means the actual long leasehold or freehold capital receipt and independently confirmed estimated capital receipt of each Disposal of a New Dwelling together with all other actual sale proceeds capital payments and receipts paid to or received by the Owner or by others on their behalf after the date of this Agreement in respect of any Disposal (and in the case of a Deemed Disposal of a New Dwelling the Open Market Value) including in each case (but not limiting the generality of the foregoing) any income or receipt generated by the Owner from:-

- (1) in respect of the Disposal of a New Dwelling by way of a part exchange or by way of a swap the full value of the dwelling acquired without deduction for the property taken in part exchange
- (2) in respect of the Disposal of a New Dwelling by way of a shared equity scheme the full amount of the premium payable under the lease together

- with the up to date market value of any residual interest of the Owner in such New Dwelling as at the date of the Viability Appraisal
- (3) in respect a New Dwelling subject to a short residential lease all rents received up to the Disposal of that New Dwelling
 - (4) all rents licence fees and other sums received by the Owner (after payment of costs and commissions) from any licensee or occupier or any proposed licensee or occupier; and
 - (5) any non-repayable sums secured from or through third parties in relation to the Development including government relief grants incentives or tax opportunities; and
 - (6) the value of any overage or other performance related payment attributable to any Disposal; and
 - (7) any compensation damages interest or other payment or sum of whatever nature not otherwise provided for in this definition received by or on behalf or as agent of the Owner or a third party on their behalf for whatsoever purpose in respect of the Development; and
 - (8) the actual or independently estimated capitalised rental value of any ground rents on long leasehold disposals

PROVIDED ALWAYS that all such sale proceeds capital payments receipts and other income shall only be taken into account once when calculating the Gross Development Value

“Maximum Sum”

means the sum of ONE HUNDRED AND THIRTY EIGHT THOUSAND POUNDS (£138,000.00) which reflects the policy compliant quantum of Affordable Housing within the Development that may have otherwise been provided

“Open Book Basis”

means all sales lettings income and receipts together with architect certificates and independently verified cost schedules associated with the Development Costs Finance Costs Planning Costs and any other costs and expenses reasonably and properly incurred in the carrying out of the Development which includes together with if necessary books of account vouchers receipts invoices orders contractual documentation and other documentation relating to the carrying out of the Development which shall be open to inspection by the Council

“Open Market Value”

means the price at which the sale of the relevant freehold or long leasehold interest with vacant possession would have been completed unconditionally for cash consideration on the date of valuation assuming:

- a willing seller and a willing buyer;
- that the sale is an arm's-length transaction;
- that prior to the date of valuation there had been a reasonable period (having regard to the nature of the New Dwelling and the state of the market) for the proper marketing of the interest for the agreement of the price and terms and for the completion of the sale;
- that the state of the market level of values and other circumstances were on an earlier assumed date of exchange of contracts the same as on the date of valuation;
- that no account is taken of any additional bid by a prospective purchaser with a special interest;
- that both parties to the transaction had acted knowledgeably prudently and without compulsion; and
- that this Agreement did not bind the interest concerned

“Owner’s Actual Profit”

means the Gross Development Value less all Development Costs as detailed in the Viability Appraisal

“Owner’s Target Profit”

means a sum of money equal to twenty per centum (20%) of the Gross Development Value as detailed in the Viability Appraisal

“Planning Costs”

means Community Infrastructure Levy under the Community Infrastructure Levy Regulations 2010 (as amended) the sums paid to the Council pursuant to this Agreement (including legal fees incurred in connection with this Agreement) other than the Deferred Affordable Housing Contribution and all professional and associated costs (including planning application fees) incurred by the Owner in the obtaining of planning permission for the Development.

“Sales Schedule”

means a schedule setting out the actual capital receipt achieved in respect of each New Dwelling that has been sold or the independently estimated Open Market Value of any New Dwelling to be sold and clearly identifying the value of discounts incentives or allowances allowed by the Owner in respect of each such New Dwelling

“Statutory Consents”

means any statutory approvals consents or licences or permissions required from any local or competent authority to enable the Owner to carry out and complete the Development

“Supporting Evidence”

means the following:-

- (a) for any costs actually incurred at the Trigger Date receipted invoices or other evidence of payment certified by the Owner's quantity surveyor or costs consultant or other professional (subject to such person expressly owing a duty of care to the Council);
- (b) for any costs yet to be incurred at the Trigger Date the up to date best estimate of such costs by the Owner or where available by the Owner's

quantity surveyor or costs consultant or other professional (subject to such person expressly owing a duty of care to the Council);

- (c) for sale proceeds and other monies received at the Trigger Date the Sales Schedule together with certified copies of sale contracts or completion statements by the Owner's solicitor (subject to such solicitor expressly owing a duty of care to the Council);
- (d) in relation to any New Dwelling which is unsold at the Trigger Date then such independently obtained estimates from 3 local reputable firms of Estate Agents based on sales at the Development already effected the trend in sale prices and the expected date of sale (subject to such Estate Agents expressly owing a duty of care to the Council)

"the Surplus"

means a sum equal to the Owner's Actual Profit less the Owner's Target Profit as detailed in the Viability Appraisal which sum shall be a positive figure which is more than zero pounds (£0)

"the Trigger Date"

means the date which is twenty (20) Working Days prior to the Disposal or Deemed Disposal of the sixth (6th) New Dwelling

"the Viability Appraisal"

means the appraisal of the viability of the Development as a whole so that the Deferred Affordable Housing Contribution may be paid if a Surplus is calculated in accordance with the Third Schedule

THE OWNERS' COVENANTS

The Owner covenants with the Council as follows:-

1. To pay to the Council the Deferred Affordable Housing Contribution in accordance with the procedures and mechanism described in Paragraphs 2 to 11 (inclusive) below together with any interest due under this Agreement

thereon and not to Occupy or permit Occupation of more than five (5) New Dwellings until the said Deferred Affordable Housing Contribution has been paid in full together with any interest due under this Agreement thereon

2. As regards the Deferred Affordable Housing Contribution the Owner will (a) maintain development accounts in a good and efficient manner and in accordance with approved accountancy and good book keeping principles and the accounts are to be made available for inspection by the Council as often as may reasonably be appropriate and (b) permit the Council under Clause 16 to have access to and inspect the Development for the purposes of verifying whether the Trigger Date has occurred
3. The Owner agrees that in making a Disposal the Owner is under a duty to use all commercial and reasonable endeavours (a) to maximise the Gross Development Value from a Disposal and (b) where there is a Deemed Disposal the Deferred Affordable Housing Contribution shall be calculated by substituting Open Market Value of the New Dwelling for the Gross Development Value
4. The Owner shall provide to the Council no later than the Trigger Date the Viability Appraisal in accordance with and in the form set out in the Third Schedule and shall include evidence of the Gross Development Value and all the costs including copies of the Sales Schedule and other Supporting Evidence
5. Upon receipt of the Viability Appraisal the Council may request in writing that the Owner provide further information in order to verify any matter or figure within the Viability Appraisal **PROVIDED THAT** such written request is served on the Owner within 10 (ten) Working Days of the date on which the Council receives the said Deferred Affordable Housing Contribution Appraisal
6. In the absence of a request from the Council for further information in accordance with Paragraph 5 above (a) the Owners' calculation of the Deferred Affordable Housing Contribution shall be deemed accepted and (b) the Owner shall pay the Deferred Affordable Housing Contribution to the

Council within 20 (twenty) Working Days of the date of the Council's deemed acceptance

- 7. If a written request for further information is received from the Council in accordance with Paragraph 5 above the Owner shall provide such further information to the Council within 20 (twenty) Working Days of such request**
- 8. In the event that the calculation of the Deferred Affordable Housing Contribution is agreed between the parties the Owner shall pay the Deferred Affordable Housing Contribution to the Council within 20 (twenty) Working Days of the date of the parties' agreement**
- 9. The parties shall use their reasonable endeavours to agree the calculation of the Deferred Affordable Housing Contribution but in the event of a dispute either party (acting reasonably) may refer the matter to arbitration in accordance with Clause 12**
- 10. In the event of a dispute between the parties over the calculation of the Deferred Affordable Housing Contribution the Owners shall pay the Deferred Affordable Housing Contribution to the Council within 20 (twenty) Working Days of the determination made under the provisions of Clause 11**
- 11. In the event of late payment under Paragraphs 6 9 or 10 above the Owner shall also be required to pay to the Council interest on the Deferred Affordable Housing Contribution from the date on which the Deferred Affordable Housing Contribution falls due to the date on which it is paid**
- 12. The Owner may at any time pay to the Council the Maximum Sum (as increased by the Indexation Provision at Clause 7) together with notice to that effect and thereupon the obligations under this Second Schedule shall cease to apply**

THE THIRD SCHEDULE

("the Viability Appraisal")

The Owner covenants with the Council in relation to the Viability Appraisal as follows:

1. Prior to the submission of the Viability Appraisal to the Council in accordance with Paragraph 4 of the Second Schedule to provide to the Council upon receipt of a written request such information as the Council may reasonably require so as to obtain an update in relation to the viability of the Development as a whole
2. That the Viability Appraisal will be produced on an Open Book Basis under which there shall be full and frank disclosure of all relevant information and that all costs included in the Viability Appraisal shall be reasonably and properly attributable to the Development and be reasonably and properly incurred in each case
3. That the Viability Appraisal shall be produced in the following form:

<u>Actual & Forecast Totals</u>	Actual £	Forecast £
<u>REVENUE</u>		
Gross Development Value (including any other capital receipts & income)		
<u>COSTS</u>		
Acquisition Cost		
Development Costs		
Planning Costs		
Finance Costs		
Any other reasonable actual and/or estimated costs incurred as at the date of the Viability Appraisal		
<u>TOTAL</u>		
Owner's Actual Profit		
Owner's Target Profit		
Surplus or Deficit		
Deferred Affordable Housing Contribution		

For the avoidance of doubt there will be no double counting of items included in the Viability Appraisal under the headings of "Revenue" and "Costs".

4. The Deferred Affordable Housing Contribution means the sum calculated in accordance with the following formula:-

$$A - B = S \times 50\% = \text{Deferred Affordable Housing Contribution (if any)}$$

Where:-

A = Owner's Actual Profit

B = Owner's Target Profit

S = Surplus

to and applied by the Council to the provision of Affordable Housing in the Borough which is not being provided by the Owner on the Application Land

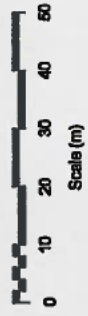
THE FOURTH SCHEDULE

("the Council's Obligations")

1. Not later than five (5) Working Days after the Effective Date the Council will issue the Planning Permission
2. The Council covenants with and undertakes to the Owner that the Contribution will be utilised for the purposes specified in the Agreement and for no other purpose
3. In this Agreement where the agreement approval consent or any other expression of satisfaction is required from the Council that agreement approval consent or any other expression of satisfaction shall be given in writing and shall not be unreasonably withheld or delayed
4. The Council will re-pay to the person who made the payment of the Contribution under this Agreement such amount of any such payment which has not within the Prescribed Period been expended or contracted to be expended together with interest on any balance then remaining unspent of the relevant Contribution at the rate of one per centum below Lloyds Bank PLC base rate for the time being in force such payment to be made within twenty (20) Working Days of written demand made following the expiry of the Prescribed Period

ANNEXURE 1

("the Plan")



LOCATION PLAN - Scale 1:1250



Ordnance Survey (c) Crown Copyright 2017. All rights reserved.

1A 27.05.17 PLANNING ISSUE

Revisions
Client
RJD London Mayfair

Project
Residential Development
Land R/O Pond House P.H.
38 Oxford Road
Reading
RG30 1EH

Planning
Date 2017.04.26

Scale 1:1250
Sheet A4

Title Location Plan

Number 16.76-100
Revision A

Spires Architects
9 Monks Way | Reading | RG30 3DP
Tel 07495 529905

ANNEXURE 2

(“the draft Planning Permission”)



Reading
Borough Council
Working better with you

**TOWN AND COUNTRY PLANNING ACT 1990
PLANNING AND COMPENSATION ACT 1991
THE TOWN & COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015**

APPLICATION FOR FULL PLANNING PERMISSION

To: Red Kite Development Consultancy
Redlands Wing
Maidenhead Court Park
Maidenhead
SL6 8HN

Application No: 171127
Application type: Full Planning Approval

Applicant: RJD London Mayfair Ltd

READING BOROUGH COUNCIL as Local Planning Authority **GRANT FULL** planning permission for the following development in accordance with the plans and supporting information submitted in connection with this application.

Proposal: Erection of new building containing 3 x 2 bed and 3 x 1 bed flats, with associated private shared amenity space and car parking (amended description).

At: Land to the rear of The Pond House Ph 738 Oxford Road Reading RG30 1EH

Subject to such conditions and for such reasons as may be attached

**OTHER STATUTORY CONSENTS MAY BE REQUIRED
PLEASE READ THE NOTES ISSUED WITH THIS DECISION NOTICE**

Date: **DRAFT**

Head of Planning, Development
& Regulatory Services



Application At: Land to the rear of The Pond House Ph 738 Oxford Road Reading RG30 1EH

Application No: 171127

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CONDITIONS & REASONS

1. The development hereby permitted shall begin within three years from the date of this planning permission.

Reason: to prevent an accumulation of unimplemented planning permissions, and in accordance with Section 91 of the Town & Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans, received 24 August 2017:

Drawing No: 16.76-110 Proposed Site Plan

Drawing No: 16.76-111 Proposed Ground Floor Plan

Drawing No: 16.76-112 Proposed First Floor Plan

Drawing No: 16.76-113 Proposed Second Floor Plan

Drawing No: 16.76-114 Proposed Roof Plan

Drawing No: 16.76-115 Proposed Elevations 1 of 2

Drawing No: 16.76-116 Proposed Elevations 2 of 2

Reason: because permission is granted in respect of the development as detailed in the approved plans only.

3. [Pre-commencement]

No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the development have been submitted to and been approved in writing by the local planning authority. The development shall not be carried out other than in accordance with the approved materials.

Reason: as no details have been submitted and in the interests of the visual appearance of the building and the area in accordance with Policy CS7.

4. [Pre-commencement]

No development shall take place until full details of both hard and soft landscaping have been submitted to and been approved in writing by the local planning authority. The submitted details shall include:

(a) hard surfacing materials; and

(b) proposed and existing functional services above and below ground (e.g drainage, power, communications cables, pipelines etc. indicating lines, manholes etc); and

(c) planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, to include new

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tree planting within the rear garden and front forecourt, noting species, plant sizes and proposed numbers/planting densities where appropriate.

(d) Tree pit specifications.

Reason: in the interest of ensuring that the landscaping of the development enhances the local environment and in accordance with Policies CS7 and DM18.

5. [Pre-commencement]

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and been approved in writing by the local planning authority to provide for:

- space on site where vehicles of site operatives and visitors can be parked with details of how site operatives and visitors will be required to make use of the parking area provided
- location on site for storage of plant and materials used in constructing the development
- the erection and maintenance (including removal of any graffiti or fly posters) of security hoarding around the site
- any footpath closures or road closures needed during construction
- wheel washing facilities on site.

The measures within the approved Construction Method Statement shall be maintained and adhered to throughout the course of the development unless changes are agreed in advance and in writing by the local planning authority.

Reason: in the interests of protecting the amenity of local land uses or neighbouring residents, the character of the area and highway safety. In accordance with Policies DM4 and DM12.

6. The hard and soft landscaping of the development hereby permitted shall be carried out, in accordance with the approved landscaping plans and documents. The hard landscaping shall be completed before occupation of the development. The soft landscaping shall take place no later than during the first planting season following the date when the development hereby permitted is ready for occupation or in accordance with a timetable agreed in writing with the Local Planning Authority.

Reason: in the interests of the character and appearance of the new development and in accordance with Policy CS7

7. All planted materials shall be maintained for five years and any trees or plants removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced with others of similar size and species to those originally required to be planted.

Reason: in the interests of the character and appearance of the new development and in accordance with Policies CS7 and DM18.



8. In the event that contamination is found at any time when carrying out the approved development not previously identified, development shall be halted on that part of the site the contamination reported in writing to the Local Planning Authority.

An assessment of the nature and extent of contamination shall be undertaken and where remediation is necessary a remediation scheme, together with a timetable for its implementation, shall be submitted in writing to the Local Planning Authority for its written approval.

The measures in the approved remediation scheme shall be implemented in accordance with the approved timetable. Halted works shall not be re-commenced until the measures identified in the approved remediation scheme have been completed and a validation report has been submitted to and been approved in writing by the Local Planning Authority.

Reason: To ensure the development is suitable for its end use and the wider environment and does not create undue risks to occupiers of the site or surrounding areas in accordance with Policy CS34.

9. No dwelling hereby permitted shall be occupied until the recommended actions contained within paragraphs 4.10 and 4.11 of the report by Hepworths Acoustics (Report No: P15-264-R01 June 2015) have been completed.

Reason: to protect the amenity of future occupants of the proposed development in accordance with Policy DM4.

10. No construction, demolition or associated deliveries shall take place outside the hours of 0800hrs to 1800hrs Mondays to Fridays, and 0900hrs to 1300hrs on Saturdays, and not at any time on Sundays and Bank or Statutory Holidays without prior written approval from the Local Planning Authority.

Reason: to protect occupiers of nearby properties from unreasonable disturbance from works connected with implementing this permission in accordance with Policy DM4

11. No dwelling hereby permitted shall be occupied until all vehicle parking spaces have been provided in accordance with the approved drawings. The spaces shall be kept available for parking at all times thereafter.

Reason: To ensure that the development is provided with adequate parking facilities to meet the needs of future occupiers and reduce the likelihood of roadside parking which could be a danger to other road users to accord with Policy CS24 and Policy DM12.

12. No dwelling hereby permitted shall be occupied until the bicycle parking facility has been provided in accordance with the approved drawings. The facility shall be kept available for bicycle parking at all times thereafter.

Reason: To encourage travel by sustainable alternatives to driving a motorcar in accordance with the Local Planning Authority's approved transport policies CS23 and CS24.



13. No dwelling hereby permitted shall be occupied until the bin storage facility shown on the approved plans has been provided. The bin storage facility shall be retained thereafter for use as a bin store by occupiers of the dwellings at all times thereafter. Reason: in the interests of the visual amenity of the area and to ensure that bins can be easily accessed when required in accordance with Policies CS2 and CS7.

INFORMATIVES

1. The local planning authority has worked positively and proactively with the applicant to resolve relevant matters to allow permission to be granted.

2. The Council introduced the Community Infrastructure Levy (CIL) on 1st April 2015. CIL is a way of securing financial contributions towards infrastructure from new development, and partially replaces the Section 106 planning obligation regime. It is a set charge per sq m of floorspace for different uses, and, unlike Section 106, it is non-negotiable. It applies to developments which result in at least one dwelling; where the space has not been in lawful use for 6 months within the last 3 years or 100 sq m of new floorspace. For this approved development the CIL status is CHARGEABLE. If chargeable you will be sent a CIL Liability Notice with the calculated amount soon. CIL becomes payable on commencement of the development or by instalments.

For more information please go to:

http://www.reading.gov.uk/media/2791/Community-Infrastructure-Levy-Advice-to-Applicants/pdf/CIL_Advice_to_Applicants.pdf

3. Your attention is drawn to the terms and conditions of this permission. Any development which is carried out but which differs materially from the approved plans and details, or does not comply with any condition(s) or planning obligation(s) attached to the permission may result in the Council taking action to remedy the breach of planning control. If you are in any doubt please contact the Council.

4. Complaints are commonly received about noise and dust caused by construction and demolition works, particularly working outside reasonable hours and smoke from bonfires associated with the burning of waste on site. The developer is reminded that construction and demolition associated with the approved development will be subject to environmental health law.

5. i) The attention of the applicant is drawn to Section 59 of the Highways Act 1980, which enables the Highway Authority to recover expenses due to damage caused by extraordinary traffic.



Reading
Borough Council

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ii) Any works affecting the Highway shall be in accordance with Reading Borough's Council's document "Guidance Notes for Activities on the Public Highway within the Borough of Reading". The applicant should note that compliance with this document is mandatory and licences to work on the Highway will only be issued if the requirements contained within it are met. A copy can be obtained from the Council's website.

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7. A section 106 Agreement has been completed for this development. A copy of the S106 Legal Agreement is available on the Council's Public Register of Planning

Date: **DRAFT**

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NOTES

APPEALS TO THE SECRETARY OF STATE

If you are aggrieved by the decision of the Council to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against the Council's decision on the application you must do so within 28 days of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and you want to appeal against the Council's decision on your application, you must do so within 28 days of the date of service of the enforcement notice, or within 6 months (or 12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.

If the above circumstances do not apply, any appeal must be made within the following time limits.

If this is a householder application and you want to appeal against the Council's decision then you must do so within 12 weeks of the date of this notice. If this is an advertisement application and you want to appeal against your local planning authority's decision then you must do so within 8 weeks of the date of this notice. If you want to appeal against your local planning authority's decision for any other type of application (which is not a householder or advertisement application, or an application for a Certificate of Lawfulness) then you must do so within 6 months of the date of this notice.

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN, tel. 0303 444 5000, or online at www.planningportal.gov.uk/pcs.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Street Naming & Numbering

You must contact Reading Borough Council to:

- Name or number a new development
- Name a new street
- Get addresses for flat conversions
- Name or rename an existing building

Otherwise the following may occur:

- You will not have an official address or postcode. When your property goes through the official process it may be given a different address and Postcode than you are currently using.
- You may have difficulty receiving mail
- You may have problems when buying goods or services such as utilities and telecommunications
- The emergency services may have difficulty locating you.
- You may have problems accessing Council services such as Education, Parking Services and Electoral Registration.

The Council is responsible for assigning house names and numbers and street names. It is also responsible for updating the National Land and Property Gazetteer (NLPG) which is a list of addresses which meet a common standard (BS7666) used throughout the country.

When a new address or change of address is requested, the Council contacts Royal Mail who check the address on behalf of the Emergency Services, assign a postcode and add it to their Postal Address File (PAF). The PAF list is used by many companies and services to check addresses, authenticate transactions and order goods, as well as deliver mail, so it is in your interest for your address to be on that list. Royal Mail will not create an address until requested to do so by the Council.

How to apply:

Email us using streetnamingnumbering@reading.gov.uk

Or telephone us on 0118 9373737

What we need to complete your request:

For new addresses or flat conversions:

- Site layout plan containing plot numbers
- Location plan - No bigger than A3 size (hard copy, PDF, JPEG or AutoCAD) showing the site boundary, including the new development, together with surrounding buildings for reference
- Anticipated completion and occupation dates

For change of address:

- You must be, or have authorisation from, the owner to request a change of address.
- Floor plan of the existing property
- Reason for change

Once created, the Council informs various bodies of your new address including the Emergency Services, Council Tax, Land Registry and utility companies as well as adding it to the National Land and Property Gazetteer.

Please be advised that companies and services using the PAF file only update the addresses monthly, quarterly or even less frequently, therefore it may take a while for your address to be listed in some places. It will, however, appear on the Royal Mail website within a few days once it has been added to the live address file.

Reading Borough Council has no control over the frequency by which other organisations update their address files.

EXECUTED (BUT NOT DELIVERED)
UNTIL THE DATE HEREOF) by)
RJD LONDON MAYFAIR LIMITED)

Director

Director/Secretary

EXECUTED (BUT NOT DELIVERED)
UNTIL THE DATE HEREOF) by)
the affixing of THE COMMON)
SEAL of READING BOROUGH)
COUNCIL in the presence of:-

Authorised

Signatory

Minute	HPDRS 23/8/14
Originator	SQ
Seal No.	198/12
Checked	✓