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By email

Our ref BRO005/0001/4151-1094-8420/3/

17 January 2023

Dear Elaine

URGENT: Barrie House (2018/0645/P) – Discharge of Pre-Commencement Conditions

We write on behalf of our client, Broxwood View Limited (“**client**”), in relation to the proposed development of the above site (the “**Development**”) in accordance with the planning permission dated 19 March 2020, granted by the Planning Inspector on appeal (planning appeal ref APP/X5210/W/19/3240401) (the “**Planning Permission**”).

As you are already aware, our client intends to commence Development as soon as possible. As per condition 1 of the Planning Permission, if our client wishes to commence Development under the Planning Permission then our client is required to commence Development not later than three years from the date of the decision, i.e. 19 March 2023. There are 34 conditions attached to the Planning Permission, 13 of which are required to be discharged prior to commencement of the Development. Applications to discharge each of these 13 conditions have been submitted to and registered by Camden Council (the “**Council**”). The Council requested further information and revisions to some of these applications (although did not dispute the validity of such applications at any stage), and our client promptly responded to each of these requests. A table setting out each of these applications, the corresponding conditions, and the relevant dates, is appended to this letter at Appendix A.

As the table at Appendix A shows, all applications to discharge the pre-commencement conditions were submitted between March and October of 2022. The Council only responded to some of these applications in November 2022, having failed to respond for nearly four months in some instances. In many cases the Council did not provide a substantive response, and merely requested further information / revisions. Again our client promptly responded to each of these requests. We would respectfully remind the Council that they should be responding to discharge of condition applications **within eight weeks of receipt (the “Statutory Period”)**. The Statutory Period has now expired, by quite some time, in many instances. The Council is also required to return any fee paid in relation to such applications if such application is not determined within 12 weeks.

Despite our client having done everything in its power to discharge the pre-commencement conditions, the Council is yet to confirm that nine of these conditions have been discharged. Despite continual efforts from

Partners: Elizabeth Christie, Mary Cook, Duncan Field, Clare Fielding, Michael Gallimore,
Raj Gupta, Meeta Kaur, Simon Ricketts, Patrick Robinson, Louise Samuel, Spencer Tewis-Allen

our client (via its planning consultants, DP9), the Council has not properly engaged in reviewing the discharge applications. In doing so, the Council is leaving our client in a wholly unsatisfactory position where it cannot progress the Development.

Accordingly, we are formally requesting that this matter is dealt with as a matter of absolute priority, and that all necessary conditions are discharged **by 1 February 2023. As the Statutory Period has now elapsed in respect of the conditions, please confirm the Council's agreement to 1 February 2023 as the extended time limit to determine the applications as a matter of urgency.**

We direct the Council to Appendix B to this letter, which constitutes a **deemed discharge notice** pursuant to Article 29 of the Town and Country Planning (Development Management Procedure) Order 2015. This deemed discharge notice sets the deemed discharge date for the conditions listed in Appendix B as **2 February 2023**. If our client does not receive confirmation of determination of the applications relating to the conditions referred to in Appendix B by 1 February 2023, those conditions will automatically be deemed discharged.

As the deemed discharge notice confirms, at the date of this letter, no appeal has been made by our client in respect of the matters in this letter. However, if any of the conditions listed in Appendix A (including conditions 21 and 10, which are not subject to the deemed discharge notice) are not discharged by 1 February 2023, our client formally reserves its right to appeal such non-determination (or refusal).

Finally, We note that the Council has informally confirmed that the details submitted as part of the discharge applications for conditions 19, 22, 27, 28 are acceptable. However, the Council is yet to issue a formal discharge notice in relation to them. We remind the Council that it is within its power to issue a partial discharge notice, relating to some of the conditions under an application, without having to discharge all of the conditions under such application. We ask that the Council therefore provides a partial discharge notice in relation to these conditions as a matter of urgency.

If the Council needs further clarification on any of the applications, we and our client would both be happy to assist in order to ensure they are resolved as soon as possible. Please direct any communication to Spencer Tewis-Allen of this firm at the above email address.

Yours faithfully

A handwritten signature in black ink that reads "Town Legal LLP". The signature is written in a cursive, flowing style.

Town Legal LLP

APPENDIX A
SUMMARY OF PRE-COMMENCEMENT CONDITIONS

Application	Conditions	Date received by Council	Council requests for further information / revisions	Applicant updates / response
2022/1340/P	Condition 21 (SUDS)	30 March 2022	4 November 2022	1 December 2022
2022/1541/P	Condition 10 (Ground investigation) Condition 15 (Air Quality) Condition 26 (Lighting) Condition 27 (Bird & Bat Nesting) Condition 28 (Bird Nest Inspection) Condition 29 (Biodiversity)	8 April 2022	4 November 2022 for: Condition 10 Condition 15 Condition 26 Condition 29 <u>Confirmed acceptable:</u> Condition 27 Condition 28	23 November 2022 and 1 December 2022
2022/2991/P	Condition 16 (Blue-Green Roof) Condition 19 (Appointment of Engineer) Condition 22 (Tree Protection) Condition 23 (GSHP)	14 July 2022	4 November 2022 for: Condition 16 Condition 23 <u>Confirmed acceptable:</u> Condition 19 Condition 22	23 rd November 2022
2022/3879/P	Condition 8 (Landscaping)	10 September 2022	4 November 2022 13 December 2022	23 November 2022 5 January
2022/4768/ NEW	Condition 25 (Piling Method Statement)	4 November 2022	-	-

APPENDIX B
DEEMED DISCHARGE NOTICE
(Please see next page)

DEEMED DISCHARGE NOTICE
ISSUED TO CAMDEN COUNCIL

Pursuant to the Town & Country Planning (Development Management Procedure)(England) Order 2015

APPLICANT DETAILS

Name: **Broxwood View Limited**
Address: **62 St. Martin's Lane,
London,
WC2N 4JS**

DETAILS OF APPLICATION SUBMITTED FOR APPROVAL/DISCHARGE OF CONDITION

Application no.	Conditions to be discharged	Date received by Council
2022/1541/P	Condition 15 (Air Quality) Condition 26 (Lighting) Condition 27 (Bird & Bat Nesting) Condition 28 (Bird Nest Inspection) Condition 29 (Biodiversity)	8 April 2022
2022/2991/P	Condition 16 (Blue-Green Roof) Condition 19 (Appointment of Engineer) Condition 22 (Tree Protection) Condition 23 (GSHP)	14 July 2022
2022/3879/P	Condition 8 (Landscaping)	10 September 2022
2022/4768/NEW	Condition 25 (Piling Method Statement)	4 November 2022

CONFIRMATION OF NO APPEAL

It is confirmed that no appeal has been made under section 78 of the Town & Country Planning 1990 Act in relation to any of the above applications.

DEEMED DISCHARGE DATE

The date on which the deemed discharge of the above conditions will take effect is **2 February 2023**.

SIGNED: *Town Legal LLP*
NAME: **TOWN LEGAL LLP** for an on behalf of the Applicant
DATE OF NOTICE: 17 January 2023