

DATED

2023

(1) DECEMBER PROPERTIES LIMITED

and

(2) NABIEL SHAMSHOOM

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

190 FINCHLEY ROAD

LONDON

NW3 6BX

pursuant to

Section 106 of the Town and Country Planning Act 1990 (as amended);

Section 16 of the Greater London Council (General Powers) Act 1974;

Section 111 of the Local Government Act 1972; and

Section 1(1) of the Localism Act 2011

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

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CLS/COM/JO/1800.2336

final

THIS AGREEMENT is made the _____ day of _____ 2023

B E T W E E N:

- A. **DECEMBER PROPERTIES LIMITED** (Co. Regn. No. 10349402) whose registered office is at 37 Warren Street London W1T 6AD (hereinafter called “the Freeholder”) of the first part

- B. **NABIEL SHAMSHOOM** of 190 Finchley Road London NW3 6BX (hereinafter called “the Leaseholder”) of second part

- C. **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 Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number 246249.

- 1.2 The Freeholder is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.

- 1.3 The Leaseholder is registered at the Land Registry as the leasehold proprietor with Title absolute of the Property under Title Number NGL954456.

- 1.4 The Leaseholder is the leasehold owner of and is interested in the Property for the purposes of Section 106 of the Act.

- 1.5 The Freeholder and the Leaseholder shall be referred to jointly as

- 1.6 A Planning Application for the development of the Property was submitted to the Council and validated on 22nd August 2022 and the Council resolved to grant permission conditionally under reference number 2022/3588/P subject to the conclusion of this legal Agreement.

- 1.7 The Council is the local planning authority for the purposes of the Act and is the local authority for the purposes of Section 16 of the Greater London Council (General Powers) Act 1974 Section 111 of the Local Government Act 1972; and Section 1(1) of the Localism Act 2011 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.
- 1.8 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

2. **DEFINITIONS**

In this Agreement the following expressions (arranged in alphabetical order) shall unless the context otherwise requires have the following meanings:-

2.1	"the Act"	the Town and Country Planning Act 1990 (as amended)
2.2	"the Agreement"	this Planning Obligation made pursuant to Section 106 of the Act
2.3	"Business 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 businesses of the locality in which the Development is situated
2.4	"Business 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 a Business Parking Bay
2.5	"the Development"	change of use of the ground floor from a coin operated laundrette (Sui Generis) to a cafe / retail store (Class E (b)) as shown on drawing numbers:- Location Plan, Existing Plans (002), Proposed Plans (002), Planning Statement dated January 2022
2.6	"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
2.7	"Occupation Date"	the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
2.8	"the Parties"	mean the Council the Owner
2.9	"the Planning Application"	a planning application in respect of the development of the Property submitted to the Council and validated on 22 nd August 2022 for which a resolution to grant permission has been passed conditionally under reference number 2022/3588/P subject to conclusion of this Agreement
2.10	"Planning Obligations Monitoring Officer"	a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof
2.11	"the Planning Permission"	a planning permission granted for the Development substantially in the draft form annexed hereto
2.12	"the Property"	the land known as 190 Finchley Road London NW3 6BX the same as shown shaded grey on the plan annexed hereto

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 is also made in pursuance of Section 16 of the Greater London Council (General Powers) Act 1974 Section 111 of the Local Government Act 1972; and Section 1(1) of the Localism Act 2011 and shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.
- 3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies, corporations and other artificial persons.

- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, and 6 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 **CAR FREE**

- 4.1.1 To ensure that prior to occupying any part of the Development each new occupant of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to
- (i) be granted a Business Parking Permit to park a vehicle in a Business Parking Bay; and
 - (ii) buy a contract to park within any car park owned, controlled or licensed by the Council.

- 4.1.2 Not to Occupy or use (or permit the Occupation or use of) any unit forming part of the Development at any time during which the occupier of the unit holds a Business Parking Permit to park a vehicle in a Business Parking Bay or is permitted to park a vehicle in any car park owned, controlled or licensed by the Council unless the occupier is the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970).
- 4.1.3 The Owner for itself and its successors in title to the Property hereby acknowledges that the provisions in Clause 4.1.1 and 4.1.2 above will remain permanently.
- 4.1.4 On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.1.1 and 4.1.2 of this Agreement.

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

- 5.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken or is about to take place.
- 5.2 Within seven days following completion of the Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting planning reference 2022/3588/P the date upon which the Development will be ready for Occupation.
- 5.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.

5.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall jointly and severally indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.

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 reference number 2022/3588/P and in the case of any notice or approval or agreement from the Council this shall be signed by a representative of the Council's Environment Department.

6.2 This Agreement shall be registered as a Local Land Charge.

6.3 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement on or prior to the date of completion of the Agreement.

6.4 The Owner hereby covenants with the Council that it will within 28 days from the date hereof apply to the Chief Land Registrar of the Land Registry to register this Agreement in the Charges Register of the title to the Property and will furnish the Council forthwith with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property.

6.5 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything

contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.

- 6.6 Neither the Owner nor their successors in title nor any person deriving title from them shall be bound by the obligations in this Agreement in respect of any period during which it no longer has an interest in the Property but without prejudice to liability for any breach committed prior to the time it disposed of its interest.
- 6.7 For the avoidance of doubt the provisions of this Agreement (other than those contained in this sub-clause) shall not have any effect until this Agreement has been dated.
- 6.8 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of Development this Agreement shall forthwith determine and cease to have effect.

7. **JOINT AND SEVERAL LIABILITY**

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

8. **RIGHTS OF THIRD PARTIES**

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

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

CONTINUATION OF S106 AGREEMENT RELATING TO 190 FINCHLEY ROAD

EXECUTED AS A DEED BY)
DECEMBER PROPERTIES LIMITED)
acting by a Director)

.....
Director

in the presence of:

.....
Witness Signature
Witness Name:
Address:
Occupation

CONTINUATION OF S106 AGREEMENT RELATING TO 190 FINCHLEY ROAD

**EXECUTED AS A DEED BY
NABIEL SHAMSHOOM
in the presence of:**

)
)
).....
NABIEL SHAMSHOOM

.....
Witness Signature

Witness Name:

Address:

Occupation:

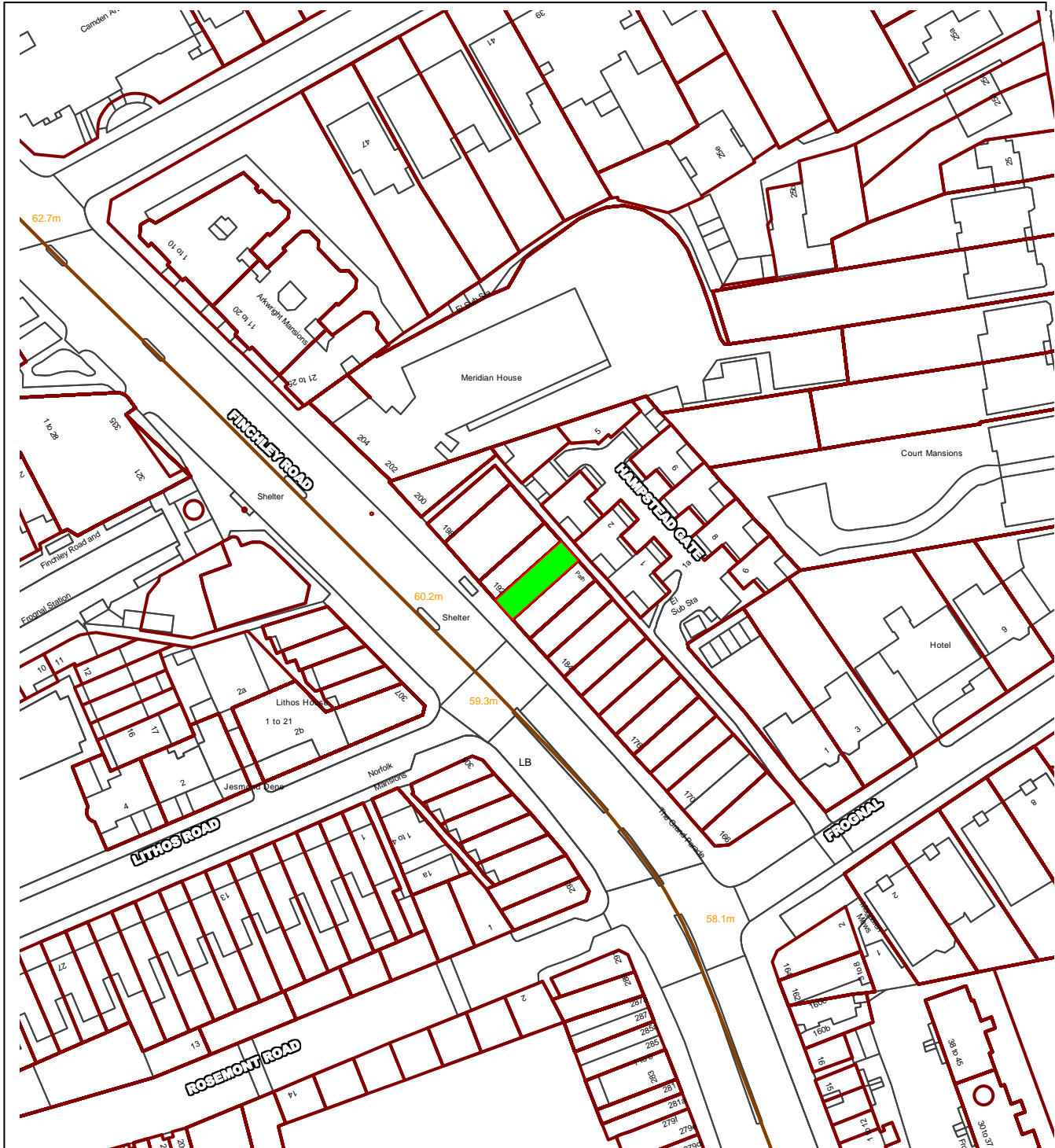
CONTINUATION OF S106 AGREEMENT RELATING TO 190 FINCHLEY ROAD

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

.....

Authorised Signatory

190 Finchley Road



Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Phone: 020 7974 4444

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

Application ref: 2022/3588/P
Contact: Adam Greenhalgh
Tel: 020 7974 6341
Date: 26 October 2022

Mr Nabil Shamshoom
190 Finchley Road
London
NW36BX
United Kingdom

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:
190 Finchley Road
London
Camden
NW3 6BX

Proposal: Change of use of the ground floor from a coin operated laundrette (Sui Generis) to a cafe / retail store (Class E (b)).

Drawing Nos: Location Plan, Existing Plans (002), Proposed Plans (002), Planning Statement dated January 2022

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 The development hereby permitted shall be carried out in accordance with the following approved drawings/document:

Location Plan, Existing Plans (002), Proposed Plans (002), Planning Statement

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

- 3 The use of the premises hereby permitted shall not be open to members of the public other than within the following times: 08:00 - 23:00 on any day.

Reason: To safeguard the amenity of the adjoining premises and the area generally in accordance with policies A1, A4, TC2 and TC4 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Reasons for granting permission:

The application has been submitted pursuant to application 2022/0318/P which was for the same proposal and which was refused on grounds of resulting in the loss of a launderette which provides a specific and essential service and social function and whose loss would be detrimental to the character, function, vitality and viability of the Finchley Road town centre.

The application was also refused because the applicant did not indicate any agreement to enter into a S.106 agreement to prevent future occupiers from obtaining car parking permits in accordance with the Council's policies for reducing car use to mitigate against climate change.

Within application 2022/0318/P no evidence of the provision of a 'replacement' launderette in the neighbouring area was submitted. Reference was made to a nearby dry cleaners (148 Finchley Road) and two other laundrettes but these were not within reasonable walking distance for users of the launderette at the application site.

The current application includes evidence that the launderette which occupied the application premises moved 3 doors away to 196 Finchley Road and then on to Frogna Court, 100 metres approximately away. A launderette can clearly be seen on Google Maps within Frogna Court.

As such, it is no longer considered that the proposal would result in a lack of launderette facilities within the town centre. There is a launderette in the town centre and the proposal would therefore not result in a lack of launderette facilities to the detriment of the policies for providing a range of services in town centres.

The use as a café / retail store would preserve the character of the unit and the town centre.

It should be noted that although it would be possible for the proposed café / retail unit to change to a restaurant without planning permission under the Town and Country Planning (Use Classes) Order 2020, planning permission would be required to be obtained for the installation of any new mechanical plant or flues. Any subsequent planning application for such equipment would need to demonstrate that the equipment would be of an acceptable design to safeguard the appearance of the premises, and that the amenity of neighbouring residents would not be harmed through noise, fumes or odours.

Subject to entering into a legal agreement for car-free development, there are no transport objections to the proposal. The proposal would not result in increased car use and there would be no significant changes in the servicing arrangements or highway impacts.

No external alterations are proposed and so the scheme would not result in any loss of light or outlook for any neighbouring occupiers. The proposal would result in no more noise or disturbance than any of the neighbouring commercial units on the ground floor of the parade.

The application form indicates that the hours of operation would be from 11:00 to 23:00. As such the use would not result in disturbance for neighbouring residents during normal sleeping hours.

It is considered that the use could take place between 08:00 and 23:00 without causing undue noise or disturbance for neighbouring residents and so a condition is attached accordingly.

The Redington Froggnal Neighbourhood Forum responded to the effect that the proposal should include an appropriate historic shopfront in accordance with policy FR of the Neighbourhood Plan. However, it should be noted that the application is for a change of use only and no works to the shopfront are proposed in this application. It would not be reasonable to attach a condition relating to the design of the shopfront when the shopfront does not form a part of the application proposal.

No letters of objection have been received from any neighbouring occupiers. The planning history of the site has been taken into account when coming to this decision.

As such, the proposed development is in general accordance with policies A1, D1, TC2, TC4, T2 and CC1 of the Camden Local Plan 2017. The proposed development also accords with the London Plan 2021 and the National Planning Policy Framework 2021.

- 2 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that 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, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).

- 3 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444). Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 4 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at www.camden.gov.uk) or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

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 must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2021.

You can find advice about your rights of appeal at:

<https://www.gov.uk/appeal-planning-decision>.

Yours faithfully

Supporting Communities Directorate