

DATED 11 September 2024

(1) ALEXANDER SEBBA

and

(2) GONDAR GARDENS INVESTMENTS LTD

and

(3) INVESTEC BANK PLC

and

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

A G R E E M E N T

relating to land known as

3 Hillfield Road and flat 1 5 Hillfield Road

London NW6 1QD

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; Section 1(1) of the Localism Act 2011;

and 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 5826

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THIS AGREEMENT is made the 11th day of September 2024

BETWEEN:

- A. **ALEXANDER SEBBA** of 61 Lancaster Road, London N4 4PL (hereinafter called "the First Freeholder") of the first part
- B. **GONDAR GARDENS INVESTMENTS LTD** (Co. Regn. No. 12056204) whose registered office is at 3rd Floor Lawford House, Albert Place, London N3 1QA and of 57 Maygrove Road London NW6 2EE (hereinafter called "the Second Freeholder and/or the Leaseholder") of the second part
- C. **INVESTEC BANK PLC** (Co. Regn. No. 489604) of 30 Gresham Street, London EC2V 7QP (hereinafter called the "Mortgagee") of the third part
- D. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the fourth part

1. **WHEREAS**

- 1.1 The First Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number LN159752 subject to a charge to the Mortgagee.
- 1.2 The First Freeholder is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 The Second Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number LN117452. The Leaseholder is registered at the Land Registry as the leasehold proprietor with Title absolute of the Property under Title Number NGL922730 subject to a charge to the Mortgagee.
- 1.4 The Leaseholder and Second Freeholder is the freehold and leasehold owner of and is interested in the Property for the purposes of Section 106 of the Act.

- 1.5 The First Freeholder, the Second Freeholder and the Leaseholder shall hereinafter be jointly referred to as "the Owner".
- 1.6 A Planning Application for the development of the Property was submitted to the Council and validated on 22 October 2020 and the Council resolved to grant permission conditionally under reference number 2020/4908/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.
- 1.5 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.7 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL922730 and dated 4 June 2021 is willing to enter into this Agreement to give its consent to the same.
- 1.8 The Mortgagee as mortgagee under a legal charge registered under Title Number LN159752 dated 12 October 2022 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" | erection of a joint single storey ground floor rear/side infill extension (incorporating lightwell) to No.5 Hillfield Road |

| | | |
|------|---|--|
| | | and a single storey rear/side infill extension at No.3 Hillfield Road as shown on drawing numbers:- PD-001; PD-002 REVA; PD003 REVD; Block Plan dated January 2021 and Design and Access Statement commissioned by elevations dated 12 January 2020 |
| 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 | "Occupation Date" | the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly |
| 2.6 | "the Parties" | mean the Council the Owner and the Mortgagee |
| 2.7 | "the Planning Application" | a planning application in respect of the development of the Property submitted to the Council and validated on 22 October 2020 for which a resolution to grant permission has been passed conditionally under reference number 2020/4908/P subject to conclusion of this Agreement |
| 2.8 | "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 |
| 2.9 | "the Planning Permission" | a planning permission granted for the Development substantially in the draft form annexed hereto |
| 2.10 | "the First Property" | the land known as 3 Hillfield Road London NW6 1QD |
| 2.11 | "the Second Property" | The land known as flat 1 5 Hillfield Road London NW6 1QD |
| 2.12 | "the Property" | the land known as 3 Hillfield Road and flat 1 5 Hillfield Road London NW6 1QD the same as shown shaded grey on the plan annexed hereto |

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 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, 6, 7, 8 and 9 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.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

- 4.1 **Simultaneous Development**
- 4.1.4 Not to Occupy or permit Occupation of the First Property for the purposes of the Development (or for any other use or purpose whatsoever) until the Second Property

is ready to be Occupied for the purposes of the Development (and for no other purpose or use whatsoever) and the Council has confirmed the same in writing (such confirmation not to be unreasonably withheld) to the Owner.

- 4.1.5 Not to Occupy or permit Occupation of the Second Property for the purposes of the Development (or for any other use or purpose whatsoever) until the First Property is ready to be Occupied for the purposes of the Development (and for no other purpose or use whatsoever) and the Council has confirmed the same in writing (such confirmation not to be unreasonably withheld) to the Owner.

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 2020/4908/P the date upon which the Development will be ready for Occupation.
- 5.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.
- 5.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall jointly and severally indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.

- 5.5 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its Head of Legal Services a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.
- 5.6 Submission of any plan for approval by the Council under the terms of this Agreement shall be made by the Owner to the Council sending the full document and any appendices in electronic format (where practicable) to the Planning Obligations Monitoring Officer referring to the names dates and Parties to this Agreement and citing the specific clause of this Agreement to which such plan relates quoting the Planning Permission reference 2020/4908/P.
6. **IT IS HEREBY AGREED AND DECLARED** by the Parties hereto that:-
- 6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Placeshaping Service, Urban Design and Development Team, 2nd Floor, 5 Pancras Square, London, N1C 4AJ and sent to planning obligations on PlanningObligations@camden.gov.uk quoting the planning reference number 2020/4908/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 or the Mortgagees 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. **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.
- 7.2 The Parties agree that the obligations contained in this Agreement shall not be enforceable against any mortgagee or chargee of the whole or any part of the Property unless it takes possession of the Property in which case it will be bound by the obligations as a person deriving title from the Owner.

8. **JOINT AND SEVERAL LIABILITY**

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

9. **RIGHTS OF THIRD PARTIES**

9.1 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
ALEXANDER SEBBA
in the presence of:

Witness Signature

Witness Name: JANA LIEW
Address: OFFICE MANAGER
Occupation:

EXECUTED AS A DEED BY
GONDAR GARDENS INVESTMENTS LTD)
acting by a Director and its Secretary)
or by two Directors)

Director


Director/Secretary

Witnessed by

**THIS IS A CONTINUATION OF THE SECTION 106 AGREEMENT IN RELATION TO 3
HILLFIELD ROAD AND FLAT 1 5 HILLFIELD ROAD LONDON NW6 1QD**

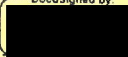
Executed and delivered as a
Deed by **Investec Bank plc**
acting by:

)
)
)
)

DocuSigned by:


Authorised Signatory
Name: Jason Bharj

)
)
)
)

DocuSigned by:


Authorised Signatory
Name: Karen McClarty

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

)
)
)
)

.....


Authorised Signatory



NORTHGATE SE GIS Print Template



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Application ref: 2020/4908/P
Contact:
Tel: 020 7974
Date: 7 April 2021

Elevations LTD
5 Hillfield Road (flat 1)
3 Hillfield Road
London
NW6 1QD
United Kingdom



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

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:
3 Hillfield Road
and flat 1
5 Hillfield Road
London
NW6 1QD

PROPOSAL

DECISION
Erection of a joint single storey ground floor rear/side infill extension (incorporating lightwell) to No.5 Hillfield Road and a single storey rear/side infill extension at No.3 Hillfield Road.
Drawing Nos: PD-001; PD-002 REVA; PD003 REVD; Block Plan dated January 2021 and Design and Access Statement commissioned by elevations dated 12 January 2020.

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 D1 of the London Borough of Camden Local Plan 2017 and Policy 2 of the Fortune Green and West Hampstead Neighbourhood Plan 2015. .

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans:

PD-001; PD-002 REVA; PD003 REVD; Block Plan dated January 2021 and Design and Access Statement commissioned by elevations dated 12 January 2020.

Reason:

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

- 4 The entire flat roofs of the single storey rear extensions hereby approved shall not be used at any time as amenity space , and any access out onto this area shall be for maintenance purposes only.

Reason: To safeguard the amenities of the future occupiers and adjoining neighbours in accordance with the requirements of policy A1 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 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).
- 2 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, Judd St, Kings Cross, London NW1 2QS (Tel. No. 020 7974 4444 or search for 'environmental health' on the Camden website 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.

- 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 London Borough of Camden 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 at <https://beta.camden.gov.uk/documents/20142/1269042/Camden+Minimum+Requirements+%281%29.pdf/bb2cd0a2-88b1-aa6d-61f9-525ca0f71319> 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.
- 5 Your proposals may be subject to control under the Party Wall etc Act 1996 which covers party wall matters, boundary walls and excavations near neighbouring buildings. You are advised to consult a suitably qualified and experienced Building Engineer.
 - 6 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.

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