

DATED 5 February 2025

(1) ELSWORTHY ROAD (INVESTMENTS) LIMITED

-and-

(2) QUINTET PRIVATE BANK (EUROPE) S.A

-and-

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

A G R E E M E N T
relating to land known as

**31 ELSWORTHY ROAD
LONDON NW3 3BT**

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

G:\case files\culture & env\planning\JO\s106 Agreements\31 Elsworthy Road (CMP, CB)
CLS/COM/JO/2117192
s106 FINAL

THIS AGREEMENT is made the

5

day of February 2025

BETWEEN:

1. **ELSWORTHY ROAD (INVESTMENTS) LIMITED** (incorporated in British Virgin Islands with company number 2045364) whose registered office is at Mandar House, 3rd floor, P.O. Box 2196, Johnson's Ghut, Tortola, VG1110, British Virgin Islands and whose address for service in the United Kingdom is at 16 Finchley Road, London, NW8 6EB (hereinafter called "the Owner") of the first part
2. **QUINTET PRIVATE BANK (EUROPE) S.A** (incorporated in Luxembourg) of 43 Boulevard Royal, L-2499, Luxembourg (hereinafter called "the Mortgagee") of the second part
3. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third part

1. **WHEREAS**

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number NGL427780 subject to a charge to the Mortgagee.
- 1.2 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 A Planning Application for the development of the Property was submitted to the Council and validated on 17th September 2024 and the Council resolved to grant permission conditionally under reference number 2024/3908/P subject to the conclusion of this legal Agreement.
- 1.4 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.
- 1.6 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL427780 and dated 26th March 2021 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	" Agreement"	this Planning Obligation made pursuant to Section 106 of the Act
2.3	"the Certificate of Practical Completion"	the certificate issued by the Owner's contractor architect or project manager certifying that the Development has been completed
2.4	"Construction Management Plan"	<p>a plan setting out the measures that the Owner will adopt in undertaking any demolition of the Existing Buildings and the construction of the Development using good site practices in accordance with the Council's Considerate Contractor Manual and in the form of the Council's Pro Forma Construction Management Plan as set out in the First Schedule hereto to ensure the Construction Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network including (but not limited to):-</p> <p>(a) a statement to be submitted to Council giving details of the environmental protection highways safety and</p>

		<p>community liaison measures proposed to be adopted by the Owner in order to mitigate and offset potential or likely effects and impacts arising from the demolition of the Existing Buildings or structures on the Property and the building out of the Development;</p> <p>(b) proposals to ensure there are no adverse effects on the Conservation Area features</p> <p>(c) amelioration and monitoring effects on the health and amenity of local residences site construction workers local businesses and adjoining developments undergoing construction;</p> <p>(d) amelioration and monitoring measures over construction traffic including procedures for notifying the owners and or occupiers of the residences and businesses in the locality in advance of major operations delivery schedules and amendments to normal traffic arrangements (if any);</p> <p>(e) the inclusion of a waste management strategy for handling and disposing of construction waste; and</p> <p>(f) identifying means of ensuring the provision of information to the Council and provision of a mechanism for monitoring and reviewing as required from time to time</p>
2.5	"the Construction Management Plan Bond"	<p>the sum of £8,000 (eight thousand pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement to be used by the Council in the event of the Council undertaking actions to remedy a breach of the Construction Management Plan following the procedures set out in clause 4.2 but for the avoidance of doubt not to be used towards the cost of the verification of proper operation of the approved Construction Management Plan.</p>

2.6	"the Construction Management Plan Implementation Support Contribution"	the sum of £4,194 (four thousand and one hundred and ninety four pounds to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt for the review and approval of the draft Construction Management Plan and verification of the proper operation of the approved Construction Management Plan during the Construction Phase
2.7	"the Construction Phase"	the whole period between (a) the Implementation Date and (b) the date of issue of the Certificate of Practical Completion and for the avoidance of doubt includes any demolition of the Existing Buildings
2.8	"the Council's Considerate Contractor Manual"	the document produced by the Council from time to time entitled "Guide for Contractors Working in Camden" relating to the good practice for developers engaged in building activities in the London Borough of Camden
2.9	"the Existing Buildings"	the buildings existing on the Property as at the date of this Agreement
2.10	"the Development"	erection of single storey rear extension; formation of basement with pool, a front lightwell, a side lightwell and basement rooflights in ground at rear; infilling of windows and formation of a door in side elevation; a rear planter; the replacement of front garage door with windows and the installation of five roof lights at roof level as shown on drawing numbers:- 23045 00: 001 P1, 002 P1, 003 P1, 004 P1, 006 P1, 098 P1, 099 P1, 100 P1, 101 P1, 102 P1, 200 P1, 201 P1 23045 01: 000 P1, 001 P2, 002 P1, 003 P1, 004 P1, 006 P1, 100 P2, 101 P1, 102 P2, 200 P2, 201 P1, 202 P2

		<p>Heritage Statement (Jon Lowe Heritage - September 2024), Design & Access Statement (Moreno Masey - August 2024), Arboricultural Impact Assessment (Landmark Trees - May 2022), Arboricultural Method Statement (Landmark Trees - March 2024), Thermal Modelling & Overheating Analysis (E & S Bristol - September 2024), (Plant Noise Impact Assessment - EMTEC - August 2024), Schedule of Areas (Moreno Masey - 23045)</p> <p>Addendum to BIA - technical Note (Soil Consultants), Engineering Drawings - 8255-MBP-SK240809 BIA of Consented application, 8255-MBP-SK240809 Excavation of proposed scheme in current application, 8255-MBP-SK240809 Changes from consented application</p>
2.11	"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
2.12	"the Occupation Date"	the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
2.13	"the Parties"	mean the Council the Owner and the Mortgagee
2.14	"the Planning Application"	a planning application in respect of the development of the Property submitted to the Council and validated on 17 th January 2024 for which a resolution to grant permission has been passed conditionally under reference number 2024/3908/P subject to conclusion of this Agreement
2.15	"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
2.16	"the Planning Permission"	a planning permission granted for the Development substantially in the draft form annexed at the Third Schedule
2.17	"the Property"	the land known as 31 Elsworthy Road London Camden NW3 3BT the same as shown shaded grey

		on the plan annexed to the Second Schedule
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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 of 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.

4.1 **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

4.1.1 On or prior to the Implementation Date to:

- (a) pay to the Council the Construction Management Plan Implementation Support Contribution in full; and
- (b) submit to the Council for approval a draft Construction Management Plan.

4.1.2 Not to Implement nor allow Implementation of the Development until such time as the Council has:

- (a) received the Construction Management Plan Implementation Support Contribution in full; and
- (b) approved the Construction Management Plan as demonstrated by written notice to that effect.

4.1.3 The Owner acknowledges and agrees that the Council will not approve the Construction Management Plan unless it demonstrates to the Council's reasonable satisfaction that the Construction Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network.

4.1.4 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the Construction Management Plan and not to permit the carrying out of any works comprised in demolition or building out the Development at any time when the requirements of the Construction Management Plan are not being complied with and in the event of non-compliance with this sub-clause the Owner shall forthwith take any steps required to remedy such non-compliance.

4.2 **CONSTRUCTION MANAGEMENT PLAN BOND**

4.2.1 On or prior to the Implementation Date to pay to the Council the Construction Management Plan Bond in full.

- 4.2.2 Not to Implement nor allow Implementation of the Development until such time as the Council has received the Construction Management Plan Bond in full.
- 4.2.3 Following Implementation and in the event that the Council investigates and finds that there is a breach of the approved Construction Management Plan the Council will notify the Owner giving notice of the details of the breach.
- 4.2.4 The Owner must, once notified by the Council, in accordance with Clause 4.2.3 acknowledge the notice within 24 hours of being notified and:
- (a) where a breach is acknowledged take such action as necessary to successfully remediate the breach within three working days of receipt of the notice or in the event of there being safety concerns or a repeat breach such lesser period as may be reasonable in the circumstances as set out in the notice, to the written satisfaction of the Council (Provided That such written satisfaction may be provided after the relevant notice period); or
 - (b) where a breach is disputed provide the Council with a written response with its acknowledgement and if on review of that response the Council still considers a breach to subsist to take such action as necessary to successfully remediate the breach within two working days of receipt of the Council's further notification or in the event of there being safety concerns or a repeat breach such lesser period as may be reasonable in the circumstances to the written satisfaction of the Council (Provided That such written satisfaction may be provided after that two working day period).
- 4.2.5 In the event the Owner does not comply with the obligations in 4.2.4 (a) or (b) the Council may take action to execute or complete the relevant part or parts of the approved Construction Management Plan specified in the notice served under clause 4.2.3 by its own employees or by contractors or take any other action necessary to investigate and/ or enforce compliance with the approved Construction Management Plan and recover its reasonable and proper costs in connection with and/or arising from the carrying out of such actions from the Construction Management Plan Bond up to the maximum sum of the Construction Management Plan Bond.
- 4.2.6 The Owner shall notify the Council of completion of the Construction Phase and Occupation of the Development and within twenty eight (28) days of that notification

the Council shall repay to the Owner the Construction Management Plan Bond less any deductions properly made under clause 4.2.5.

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 2024/3908/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 Borough Solicitor 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 2024/3908/P.
- 5.7 Payment of any contribution pursuant to Clause 4 of this Agreement shall be made by the Owner to the Council sending the full amount via electronic transfer (where practicable). The owner shall notify the Planning Obligations Monitoring Officer that payment has been made referring to names date and Parties to this Agreement and citing the specific clause of this Agreement to which such contribution relates quoting the planning reference 2024/3908/P. Electronic transfer is to be made directly to National Westminster Bank of Hampstead Village, Enfield Customer Service Centre, PO Box 145 Baird Road Middlesex EN1 1FN quoting Sort Code 50-30-03 and London Borough of Camden General Account no. 24299480.
- 5.8 All consideration given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable in respect thereof and all parties other than the Council shall pay and indemnify the Council against any such value added tax properly payable on any sums paid to the Council under this Agreement upon presentation of an appropriate value added tax invoice addressed to the Owner.
- 5.9 Any sums referred to in this Agreement as payable or to be applied by any party other than the Council under this Agreement shall be paid or applied TOGETHER WITH if such payment or application is made more than three months from the date of this Agreement a further sum ("A") being equal to the original sum payable ("B") multiplied by a figure being a fraction of which the All Items of Retail Prices ("the AllRP") figure last published by the Office for National Statistics at the date hereof is the denominator ("X") and the last AllRP figure published before the date such payment or application is made ("Y") less the last published AllRP figure at the date hereof ("X") is the numerator so that

$$A = B \times \frac{(Y-X)}{X}$$

5.10 All costs and expenses payable to the Council under this Agreement shall bear interest at the rate of 4% above the Base Rate of the National Westminster Bank plc from time to time being charged from the date such payment is due until payment is made.

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 2024/3908/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 and the Parties agree that if the planning obligations in this Agreement have been discharged or if this Agreement is determined in accordance with clause 6.8 the Owner may apply to have this Agreement removed from the register of Local Land Charges.
- 6.3 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement and its monitoring fees 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 Mortgagee nor their successors in title nor any person deriving title from them shall be bound by the obligations in this Agreement in respect of any period during which it no longer has an interest in the 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

CONTINUATION OF DEED OF VARIATION RELATING TO 31 ELSWORTHY ROAD

Executed as a Deed by
ELSWORTHY ROAD (INVESTMENTS) LIMITED
a company incorporated in the British Virgin Islands
acting by

Oliver Paul Egerton-Vernon
.....
FOR G.B. DIRECTORS LIMITED

who, in accordance with the laws of that territory, is
acting under the authority of the company.


In the presence of:

Witness signature. 

Name of witness..... REBECCA RODRIGUES

Address of witness..... FIRST FLOOR, DURELL HOUSE, 28
NEW STREET, ST. HELENS, JERSEY
JE2 3RA

Occupation..... ASSISTANT TRUST + COMPANY ADMINISTRATOR

)
)
) *Elsworthy Road (Investments) Limited*
)
) Signature in the name of
) the company
)
)
) .. 
) Signature of authorised
) signatory
)
)
)



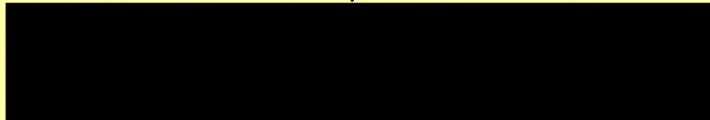
CONTINUATION OF DEED OF VARIATION RELATING TO 31 ELSWORTHY ROAD

Executed as a Deed by

QUINTET PRIVATE BANK(EUROPE) S.A

a company incorporated in Luxembourg

acting by



who, in accordance with the laws of that territory, is acting under the authority of the company.

)
) QUINTET PRIVATE BANK(EUROPE) S.A
)

) Signature in the name of the company



)
) Maria PRATS MUNOZ DE LABORDE
) Anna Agapitou.....

) signature of authorised signatory

In the presence of:

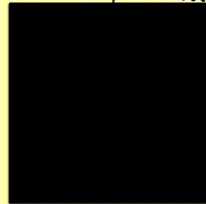
Witness signature.....

Name of witness... VIOLETTE LUDWIG.....

Address of witness ... 43, BOULEVARD ROYAL, L-2449 LUXEMBOURG

Occupation... LOAN EXECUTION OFFICER.....

Violette LUDWIG





CONTINUATION OF DEED OF VARIATION RELATING TO 31 ELSWORTHY ROAD

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

.....
Authorised Signatory



THE FIRST SCHEDULE
Pro Forma
Construction Management Plan

The Council has produced a pro-forma Construction Management Plan that can be used to prepare and submit a Construction Management Plan to meet technical highway and environmental health requirements. This document should be prepared, submitted and receive approval from the Council well in advance of works starting.

The pro-forma Construction Management Plan can be found on the Council's website at:-

<https://www.camden.gov.uk>
<https://www.camden.gov.uk/about-construction-management-plans?inheritRedirect=true>

Please use the Minimum Requirements (also available on the Council's website) as guidance for what is required in the CMP and then download the Construction Management Plan

It should be noted that any agreed Construction Management Plan does not prejudice further agreement that may be required for things such as road closures or hoarding licences

THE SECOND SCHEDULE

31 Elsworthy Road



THE THIRD SCHEDULE

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: 2024/3908/P
Contact: Adam Greenhalgh
Tel: 020 7974 6341
Date: 13 January 2025

SM Planning
80-83 Long Lane
London
EC1A 9ET

Dear Sir/Madam,

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:
31 Elsworthy Road
London
Camden
NW3 3BT

Proposal:

Erection of single storey rear extension; formation of basement with pool, a front lightwell, a side lightwell and basement rooflights in ground at rear; infilling of windows and formation of a door in side elevation; a rear planter; the replacement of front garage door with windows and the installation of five roof lights at roof level.

Drawing Nos: 23045 00: 001 P1, 002 P1, 003 P1, 004 P1, 006 P1, 098 P1, 099 P1, 100 P1, 101 P1, 102 P1, 200 P1, 201 P1

23045 01: 000 P1, 001 P2, 002 P1, 003 P1, 004 P1, 006 P1, 100 P2, 101 P1, 102 P2, 200 P2, 201 P1, 202 P2

Heritage Statement (Jon Lowe Heritage - September 2024), Design & Access Statement (Moreno Masey - August 2024), Arboricultural Impact Assessment (Landmark Trees - May 2022), Arboricultural Method Statement (Landmark Trees - March 2024), Thermal Modelling & Overheating Analysis (E & S Bristol - September 2024), (Plant Noise Impact Assessment - EMTEC - August 2024), Schedule of Areas (Moreno Masey - 23045)

Addendum to BIA - technical Note (Soil Consultants), Engineering Drawings - 8255-MBP-SK240809 BIA of Consented application, 8255-MBP-SK240809 Excavation of proposed scheme in current application, 8255-MBP-SK240809 Changes from consented application

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 documents and drawings:

23045 00: 001 P1, 002 P1, 003 P1, 004 P1, 006 P1, 098 P1, 099 P1, 100 P1, 101 P1, 102 P1, 200 P1, 201 P1

23045 01: 000 P1, 001 P2, 002 P1, 003 P1, 004 P1, 006 P1, 100 P2, 101 P1, 102 P2, 200 P2, 201 P1, 202 P2

Heritage Statement (Jon Lowe Heritage - September 2024), Design & Access Statement (Moreno Masey - August 2024), Arboricultural Impact Assessment (Landmark Trees - May 2022), Arboricultural Method Statement (Landmark Trees - March 2024, Thermal Modelling & Overheating Analysis (E & S Bristol - September 2024), (Plant Noise Impact Assessment - EMTEC - August 2024), Schedule of Areas (Moreno Masey - 23045)

Addendum to BIA - technical Note (Soil Consultants), Engineering Drawings - 8255-MBP-

SK240809 BIA of Consented application, 8255-MBP-SK240809 Excavation of proposed scheme in current application, 8255-MBP-SK240809 Changes from consented application

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

- 3 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 and D2 of the London Borough of Camden Local Plan 2017.

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

Reason: To ensure proper consideration of the structural stability of neighbouring buildings and to safeguard the appearance and character of the immediate area in accordance with the requirements of policies D1, D2 and A5 of the London Borough of Camden Local Plan 2017.

- 5 The development shall not be carried out other than in strict accordance with the methodologies, recommendations and requirements of :

- the Addendum to BIA - technical Note (Soil Consultants)

- Engineering Drawings - 8255-MBP-SK240809 BIA of Consented application, and 8255-MBP-SK240809 Excavation of proposed scheme in current application, 8255-MBP-SK240809 Changes from consented application

- the confirmation at the detailed design stage that the damage impact assessment would be limited to Burland Category 1.

Reason: To ensure proper consideration of the structural stability of neighbouring buildings and to safeguard the appearance and character of the immediate area in accordance with the

requirements of policies D1, D2 and A5 of the London Borough of Camden Local Plan 2017.

- 6 Prior to the occupation of the development hereby approved, full details of Air Source Heat Pumps (ASHPs) and any mechanical ventilation shall be submitted to and approved by the local planning authority. The details shall demonstrate the ASHP system and any ventilation either has no active cooling function, or cooling deactivated by the manufacturer, or that it is an air to water heat pump system only supplying underfloor heating and/or oversized radiators. The measures shall be fully provided in accordance with the approved details and thereafter retained and maintained in accordance with the approved scheme, and no other system of active cooling shall be implemented.

Reason: In order to minimise energy consumption and following the energy and cooling hierarchies, in accordance with policies CC1, CC2, D1 of the Camden Local Plan 2017

- 7 Before the relevant part of the work is begun, detailed drawings, section 1:10, 1:50 in respect of the new garage doors shall be submitted to and approved in writing by the local planning authority.

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies D1 and D2 of the London Borough of Camden Local Plan 2017.

- 8 Prior to the commencement of any works on site, details demonstrating how trees to be retained shall be protected during construction work shall be submitted to and approved by the local planning authority in writing. Such details shall follow guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction". All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the approved protection details.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policies A2 and A3 of the London Borough of Camden Local Plan 2017.

- 9 Prior to the occupation of the development hereby approved, full details of hard and soft landscaping and means of enclosure of all un-built, open areas shall be submitted to and approved by the local planning authority (both in writing) and fully implemented. The hard and soft landscaping and means of enclosure shall be undertaken entirely in accordance with the approved details (prior to the occupation of the approved development) and permanently retained thereafter.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area in accordance with the requirements of policies A2, A3, A5, D1 and D2 of the London Borough of Camden Local Plan 2017.

- 10 Before the relevant part of the work is begun, detailed drawings in respect of the following, shall be submitted to and approved in writing by the local planning authority:

- Elevations of front lightwell and planter including dimensions of the upstand, grate, and also an enlarged garden bed

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 and D2 of the London Borough of Camden Local Plan 2017.

- 11 The external noise level emitted from plant, machinery or equipment at the development with specified noise mitigation hereby approved shall be lower than the typical existing background noise level by at least 10dBA, by 15dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with machinery operating at maximum capacity and thereafter be permanently retained.

Reason: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from mechanical installations/ equipment in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017

- 12 Prior to use, machinery, plant or equipment at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.

Reason: To ensure that the amenity of occupiers of the development site and surrounding premises is not adversely affected by vibration in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017

Informative(s):

- 1 Reasons for granting permission:

The application site comprises a three - storey detached period property with existing accommodation at roof level and is in use as a single dwellinghouse (Class C3). It is constructed with brick with timber windows and a slate roof. The house is set back from the street with existing parking on the forecourt. The rear garden backs on to Primrose Hill and

the site is within the Elsworthy Conservation Area to which it makes a positive contribution.

The application follows on from planning permission ref 2021/1527/P, approved on 25/01/2023 subject to a section 106 legal agreement, which granted consent for a basement extension, side elevation windows, new garage doors and alterations to the rear of the house.

With respect to urban design and the character and appearance of the Conservation Area, the size of the basement is similar to that already approved. The amendments would involve the introduction of a front lightwell and a side lightwell on the east elevation. The side lightwell is acceptable as it would be small in scale and located between the host building and the neighbouring and would be set back sufficiently from the front elevation.

The new front lightwell would be behind a 150mm high upstand with a coping stone on top, itself behind a planter. It would be barely visible from the street and given that the existing distinctive front bay would be fundamentally unaltered. Taken together with the removal of the garage door in the front elevation of the building and the re-formation of a matching window within a brick bay there would be no undue harm to the appearance of the building or the Conservation Area. A condition to secure details of all new landscaping would ensure the provision of sufficient landscaping to maintain the green attributes of the site.

- 2 The rear conservatory extension is considered to take on board the advice given at the pre-application stage about being of an appropriate depth, height and lightweight appearance. The distinctive two storey bays on the rear elevation would remain and the size, siting and design of the conservatory would allow the original late 19th century elevation of the house to be preserved.

The rooflights to the rear of the basement, planter at the rear of the site, windows and door on the side elevation and the six new rooflights on the flat, central part of the main roof would not harm the appearance of the building or the visual amenity of neighbouring occupiers. A new garage door is shown to the garage at the side of the house. A condition is attached to secure details in the interests of the conservation interests of the site.

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

The proposed rear conservatory, front and sides lightwells, rooflights and windows and door in the side elevation would not impact on neighbouring occupiers' amenity in terms of loss of light, privacy or outlook.

The Council's Health Officer has considered the Plant Noise Impact Assessment which has been submitted and is satisfied that the submitted acoustic submission meets the Local Plan guidelines and is therefore acceptable in environmental health terms. Consequently, there are no objections to the application in terms of noise and disturbance, subject to the implementation of conditions to ensure that the plant does not exceed recommended noise levels and that appropriate anti-vibration measures are provided.

Returning to the basement, this would accord with the qualitative planning criteria under policy A5 (Basements) in terms of not affecting the amenity of any neighbouring properties and not affecting the character or appearance of any townscape or heritage assets.

The footprint of the basement would be the same as previously approved (under 2021/1527/P). The Council's Trees Officer has viewed the submitted Arboricultural Method Statement and he is satisfied that there would be no significant harm to any existing trees. Furthermore, a condition to secure details of tree protection measures is attached.

Furthermore, the basement would comply with the quantitative criteria under parts f to m of policy A5, vis:

- f. not comprise of more than one storey;
- g. not be built under an existing basement;
- h. not exceed 50% of each garden within the property;
- i. be less than 1.5 times the footprint of the host building in area;
- j. extend into the garden no further than 50% of the depth of the host building measured from the principal rear elevation;
- k. not extend into or underneath the garden further than 50% of the depth of the garden;
- l. be set back from neighbouring property boundaries where it extends beyond the footprint of the host building;
- m. avoid the loss of garden space or trees of townscape or amenity value

3 Reasons for granting permission (continued):

At the pre-application stage, the applicant was advised that due to site being in a local flood zone, there should be no habitable accommodation or bathrooms or kitchens in the basement. The proposed basement includes two stores, a games room and plant room.

A Basement Impact Assessment (BIA) has been undertaken in accordance with policy A5 and the Council's Planning Guidance on Basements. The BIA has been duly audited by the Council's independent Basement Impact Assessors. It is accepted that the proposed basement will not have a significant impact on the land stability of the area. With the inclusion of appropriate mitigation measures it is accepted that the basement will not impact the hydrology of the area.

Based on the revised BIA and supporting documents it can be confirmed that the BIA complies with the requirements of CPG: Basements and the Principles for Audit set out in the Basement Impact Assessment (BIA) Audit Service Terms of Reference & Audit Process

Planning conditions are attached to ensure that the development is undertaken in accordance with the audited Basement Impact Assessment and that a qualified engineer is appointed to oversee the basement works.

An Overheating Assessment has been undertaken, in line with the Camden Planning Guidance on Energy Efficiency & Adaptation for the ventilation which is proposed in the basement. The Overheating Assessment indicates that mechanical ventilation is required for the gym and swimming pool in the basement. The Council's Sustainability Team is of the view that the cooling of these rooms is not essential and that mechanical ventilation of the rooms is contrary to the policy and guidance for energy efficiency and climate change mitigation. A condition to prevent the use of the mechanical plant for ventilation is therefore attached accordingly.

A letter of objection has been received following statutory consultation on the application. The matters raised therein are addressed in a Consultation Summary.

Planning permission 2021/1527/P was granted subject to a S106 legal agreement to secure a Construction Management Plan. A S106 agreement should be completed to ensure that the development permitted under this application is subject to a CMP.

The planning history of the site and the neighbouring sites have been taken into account in the assessment of the application.

As such, the proposed development is in general accordance with policies A1, A3, A4, A5, D1, D2, CC1, CC2 and CC3 of the Camden Local Plan 2017. It also accords with the London Plan 2021 and the National Planning Policy Framework 2021.

- 4 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).
- 5 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.
- 6 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.

7 Biodiversity Net Gain (BNG) Informative (1/2):

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 ("1990 Act") is that planning permission granted in England is subject to the condition ("the biodiversity gain condition") that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The local planning authority (LPA) that would approve any Biodiversity Gain Plan (BGP) (if required) is London Borough of Camden.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are summarised below, but you should check the legislation yourself and ensure you meet the statutory requirements.

Based on the information provided, this will not require the approval of a BGP before development is begun because it is below the de minimis threshold (because it does not impact an onsite priority habitat AND impacts less than 25 square metres of onsite habitat with biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat).

++ Summary of transitional arrangements and exemptions for biodiversity gain condition

The following are provided for information and may not apply to this permission:

1. The planning application was made before 12 February 2024.
2. The planning permission is retrospective.
3. The planning permission was granted under section 73 of the Town and Country Planning Act 1990 and the original (parent) planning permission was made or granted before 12 February 2024.
4. The permission is exempt because of one or more of the reasons below:
 - It is not "major development" and the application was made or granted before 2 April 2024, or planning permission is granted under section 73 and the original (parent) permission was made or granted before 2 April 2024.
 - It is below the de minimis threshold (because it does not impact an onsite priority habitat AND impacts less than 25 square metres of onsite habitat with biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat).
 - The application is a Householder Application.
 - It is for development of a "Biodiversity Gain Site".
 - It is Self and Custom Build Development (for no more than 9 dwellings on a site no larger than 0.5 hectares and consists exclusively of dwellings which are Self-Build or Custom Housebuilding).
 - It forms part of, or is ancillary to, the high-speed railway transport network (High Speed 2).

8 Biodiversity Net Gain (BNG) Informative (2/2):

+ Irreplaceable habitat:

If the onsite habitat includes Irreplaceable Habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements. In addition to information about minimising adverse impacts on the habitat, the BGP must include information on compensation for any impact on the biodiversity of the irreplaceable habitat. The LPA can only approve a BGP if satisfied that the impact on the irreplaceable habitat is minimised and appropriate arrangements have been made for compensating for any impact which do not include the use of biodiversity credits.

++ The effect of section 73(2D) of the Town and Country Planning Act 1990

If planning permission is granted under section 73, and a BGP was approved in relation to the previous planning permission ("the earlier BGP"), the earlier BGP may be regarded as approved for the purpose of discharging the biodiversity gain condition on this permission. It will be regarded as approved if the conditions attached (and so the permission granted) do not affect both the post-development value of the onsite habitat and any arrangements made to compensate irreplaceable habitat as specified in the earlier BGP.

++ Phased development

In the case of phased development, the BGP will be required to be submitted to and approved by the LPA before development can begin (the overall plan), and before each phase of development can begin (phase plans). The modifications in respect of the biodiversity gain condition in phased development are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024.

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-householder-planning-decision>.

If you submit an appeal against this decision you are now eligible to use the new *submission form* (Before you start - Appeal a planning decision - GOV.UK).

Yours faithfully

Supporting Communities Directorate

