

DATED

17 April

2013

(1) APEX TRADERS LIMITED

and

(2) HSBC BANK PLC

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  
1-2 Wilmot Place, London, NW1 9JS  
pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended)

Andrew Maughan  
Head of Legal Services  
London Borough of Camden  
Town Hall  
Judd Street  
London WC1H 9LP

Tel: 020 7974 1918  
Fax: 020 7974 2962

CLS/COM/SW/1685.1761  
V FINAL

THIS AGREEMENT is made the

17

day of

April

2012

**B E T W E E N:**

1. **APEX TRADERS LIMITED** (Co. Regn. No. 07176519) whose registered office is at 1 Wilmot Place, London NW1 9JS (hereinafter called "The Owner") of the first part
2. **HSBC BANK PLC** (Co. Regn. No. 14259) whose registered office is at 8 Canada Square, London E14 5HQ (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 286812 and 233134 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 16 July 2012 and the Council resolved to grant permission conditionally under reference number 2012/3167/P subject to the conclusion of this legal Agreement.
- 1.4 The Council is the local planning authority for the purposes of the Act 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 286812 and 233134 and dated 12 August 2011 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 additional storey to Nos.1 and 2 Wilmot Place to provide 2 x 1 bedroom self-contained flats (Class C3), associated increase the height of parapet including installation of 9 x rooflights, 2 and 6 Solar panels and green roof and creation of a rear roof terrace with glass balustrade at third floor level; alteration of fenestration at first and second floor levels on front elevation and rendering of brickwork on all levels; retention and alteration of commercial façade at the ground floor level including removal of garage and installation of white painted render plus creation of new ramped access on forecourt as shown on drawing numbers:- Site location plan (299/OS); APEX/E01; APEX/E02; APEX/E03; APEX/E04; APEX/E05; APEX/E06; APEX/E07; 299 PL00 REV C; 299 PL01; 299 PL02; 299 PL03 REV A; 299 PL04 REV C; 299 PL05 REV A; 299 PL06 REV A; 299 PL07 REV A; 299 PL08; 299 PL33; Lifetimes Homes Statement, prepared by Simon |

Miller Ltd, dated 03/07/2012; Daylight and Sunlight Report, prepared by CHP Surveyors Ltd, dated 12/06/2012; Sustainability Report, prepared by Simon Miller Ltd, dated 07/2012

2.4 "the Highways contribution"

the sum of £5,160.00 (five thousand one hundred and sixty pounds) to be paid by the Freeholder to the Council in accordance with the terms of this Agreement and to be applied by the Council in event of receipt for the carrying out works to the public highway and associated measures in the vicinity of the Property such works to include repaving the footway in front of the premises ("the Highways Works") all works will be subject to final measure and any level adjustment required and for the avoidance of doubt the Council in accepting this sum does not undertake any responsibility in connection with any required statutory undertakers works and excludes any statutory undertakers costs

2.5 "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

2.6 "the Level Plans"

plans demonstrating the levels at the interface of the Development the boundary of the Property and the Public Highway

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 and the Mortgagee

- 2.9 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 16 July 2012 for which a resolution to grant permission has been passed conditionally under reference number 2012/3167/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 1-2 Wilmot Place London NW1 9JS the same as shown shaded grey on the plan annexed hereto
- 2.13 "the Public Highway" any carriageway footway and/or verge adjoining the Property maintainable at public expense
- 2.14 "Residents 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 residents of the locality in which the Development is situated
- 2.15 "Residents 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 Residents  
Parking Bays

**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 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 and 8 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**

##### **4.1 CAR FREE**

- 4.1.1 The Owner hereby covenants with the Council to ensure that prior to occupying any residential unit forming part of the Development each new resident 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 be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.
- 4.1.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1 above will remain permanently.
- 4.1.3 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 residential units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those residential units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.1 of this Agreement.

##### **4.2 HIGHWAYS WORKS**

- 4.2.1 The Owner further hereby covenants with the Council to:
- 4.2.2 Ensure that on or prior to the Implementation Date to:-
- (i) pay to the Council the Highways Contribution in full; and
  - (ii) submit to the Council the Level Plans for approval.
- 4.2.3 Not to Implement or to allow Implementation until such time as the Council has:-
- (i) received the Highways Contribution in full; and
  - (ii) approved the Level Plans as demonstrated by written notice to that effect.
- 4.2.4 For the avoidance of doubt the Owner acknowledges that the Council has the right reserved to it to construct the Public Highway to levels it considers appropriate and does not undertake any responsibility in connection with any required statutory

undertakers works and that the Highways Contribution excludes any statutory undertakers costs.

4.2.5 On completion of the Highway Works the Council may provide to the Owner a certificate specifying the sum ("the Certified Sum") expended by the Council in carrying out the Highway Works.

4.2.6 If the Certified Sum exceeds the Highway Contribution then the Owner shall within fourteen days of the issuing of the said certificate pay to the Council the amount of the excess.

4.2.7 If the Certified Sum is less than the Highway Contribution then the Council shall within fourteen days of the issuing of the said certificate pay to the Owner the amount of the unspent element of the Highway Contribution.

## **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 2012/3167/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 planning reference 2012/3167/P.
- 5.7 Payment of the contribution pursuant to Clause 4 of this Agreement shall be made by the Owner to the Council sending the full amount in the form of a Banker's Draft 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 Contribution relates quoting the Income Code ZN557 ZL065 or by Electronic Transfer directly to the Co-Operative Bank plc of 1 Islington High Street London N1 9TR quoting Sort Code 08-90-33 and London Borough of Camden General Account No. 61030019 and to inform the Planning Obligations Monitoring Officer of such payment quoting the above details as if the payment had been made by Banker's Draft.
- 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 AIIRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AIIRP figure published before the date such payment or application is made ("Y") less the last published AIIRP figure at the date hereof ("X") is the numerator so that

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

- 5.9 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, 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 2012/3167/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 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 or is modified (other than by agreement with or at the request of the Owner) this Agreement shall forthwith determine and cease to have effect and the Council will effect cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

## **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.

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 and the Mortgagee have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY  
APEX TRADERS LIMITED  
acting by a Director and its Secretary  
or by two Directors

..... A R H .....

Director

..... A R H .....

Director/Secretary

EXECUTED AS A DEED BY  
HSBC BANK PLC

by  
in the presence of:-

Roland Anthony Wells

Charles Adrian Brynmor Jones

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

.....

Authorised Signatory



Simon Miller Architects Ltd  
12 Forres Gardens  
Temple Fortune  
London  
NW11 7EX

Tel 020 7974 4444  
Fax 020 7974 1930  
Textlink 020 7974 6866

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

Application Ref: **2012/3167/P**

12 November 2012

Dear Sir/Madam

**DRAFT**

**FOR INFORMATION ONLY - NOT A FORMAL DECISION**  
Town and Country Planning Act 1990 (as amended)

**DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT**

Address:  
**1 - 2 Wilmot Place**  
**London**  
**NW1 9JS**

**Proposal:**

**DECISION**  
Erection of a 3rd floor extension to provide 12 self-contained flats (Class C3), with associated car parking, cycle storage, 19 rooflights and 6 solar panels and a green roof; creation of a rear roof terrace with glass balustrade at third floor level; alteration of fenestration at first and second floor levels on front elevation and rendering of brickwork on all elevations; retention and alteration of commercial façade at the ground floor level including removal of garage and installation of white painted render plus creation of new ramped access on forecourt

Drawing Nos: Site location plan (299/OS); APEX/E01; APEX/E02; APEX/E03; APEX/E04; APEX/E05; APEX/E06; APEX/E07; 299 PL00 REV C; 299 PL01; 299 PL02; 299 PL03 REV A; 299 PL04 REV C; 299 PL05 REV A; 299 PL06 REV A; 299 PL07 REV A; 299 PL08; 299 PL33; Lifetimes Homes Statement, prepared by Simon Miller Ltd, dated 03/07/2012; Daylight and Sunlight Report, prepared by CHP Surveyors Ltd, dated 12/06/2012; Sustainability Report, prepared by Simon Miller Ltd, dated 07/2012.

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 Detailed drawings, or samples where it is appropriate, in respect of the following, shall be submitted to and approved by the Council before the relevant part of the work is begun:

- a) Plan, elevation and section drawings of all new doors and windows at a scale of 1:10 with typical moulding and architrave details at a scale of 1:1.
- b) A sample panel of all facing materials including manufacturers details, to be erected on-site.

The relevant part of the works shall then be carried in accordance with the approved details

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the development policy CS14 of the London Borough of Camden Local Development Framework and policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans Site location plan (299/OS); APEX/E01; APEX/E02; APEX/E03; APEX/E04; APEX/E05; APEX/E06; APEX/E07; 299 PL00 REV C; 299 PL01; 299 PL02; 299 PL03 REV A; 299 PL04 REV C; 299 PL05 REV A; 299 PL06 REV A; 299 PL07 REV A; 299 PL08; 299 PL33; Lifetimes Homes Statement, prepared by Simon Miller Ltd, dated 03/07/2012; Daylight and Sunlight Report, prepared by CHP Surveyors Ltd, dated 12/06/2012; Sustainability Report, prepared by Simon Miller Ltd, dated 07/2012.

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

- 4 The street tree adjoining the site shall be retained and protected from damage during construction work in accordance with guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction".

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 policy CS15 of the London Borough of Camden Local

## Development Framework Core Strategy.

- 5 The lifetime homes features and facilities, as indicated on the drawings and documents hereby approved, shall be provided in their entirety prior to the first occupation of any of the new residential units.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 of the London Borough of Camden Local Development Framework Development Policies.

- 6 Prior to first occupation, details of the solar panels to be installed on the building shall be submitted to and approved by the Local Planning Authority. The measures shall include the installation of a meter to monitor the energy output from the approved renewable energy systems. The panels shall be installed in full accordance with the approved details and permanently retained and maintained thereafter.

Reason: To ensure the development provides adequate on-site renewable energy facilities in accordance with the requirements of policy CS13 of the London Borough of Camden Local Development Framework Core Strategy and policy DP22 of the London Borough of Camden Local Development Framework Development Policies.

- 7 Full details in respect of the green roof in the approved roof plan shall be submitted to and approved by the Local Planning Authority before the relevant part of the development commences. The buildings shall not be occupied until the approved details have been implemented and these works shall be permanently retained and maintained thereafter.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies CS13, CS15 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

### Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which 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, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 2 Noise from demolition and construction works is subject to control under the

# DRAFT

- # DECISION





different sizes); DP6 (Lifetime homes and wheelchair homes); DP16 (The transport implications of development); DP17 (Walking, cycling and public transport); DP18 (Parking standards and limiting the availability of car parking); DP19 (Managing the impact of parking); DP22 (Promoting sustainable design and construction); DP24 (Securing high quality design); DP25 (Conserving Camden's heritage); DP26 (Managing the impact of development on occupiers and neighbours); DP31 (Provision of, and improvement to, open space and outdoor sport and recreation facilities), DP32 (Air Quality and Camden's Clear Zone). For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officer report.

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

**DRAFT**

Culture and Environment Directorate

**DECISION**

# 1-2 Wilmot Place, London, NW1 9JS



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DATED

17 April

2013

(1) APEX TRADERS LIMITED

and

(2) HSBC BANK PLC

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

1-2 Wilmot Place, London, NW1 9JS

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

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