

DATED 12 FEBRUARY 2013

(1) ALAN EDWARD HOBART AND MARY ALICE HOBART

and

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

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

Site Adjacent to
41 Ferncroft Avenue
London
NW3 7PG

pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended) and
Section 278 of the Highways Act 1980

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

Tel: 020 7974 5647
Fax: 020 7974 1920

CLS/PK/1685.1718_FINAL

THIS AGREEMENT is made the 12th day of February 2013

B E T W E E N:

1. **ALAN EDWARD HOBART** and **MARY ALICE HOBART** both of 37 Ferncroft Avenue, London, NW3 7PG (together hereinafter called "the Owner") of the first part
2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second part

WHEREAS

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor of the Property with Title absolute under Title Number NGL679348.
- 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 The Planning Application for the development of the Property was submitted to the Council and validated on 29th May 2012 and the Council resolved to grant permission conditionally under reference number 2012/2736/P subject to conclusion of this legal Agreement.
- 1.4 The Application for Conservation Area Consent for the development of the Property was submitted to the Council and validated on 19th May 2012 and the Council resolved to grant permission conditionally under reference number 2012/2740/C subject to conclusion of this legal Agreement.
- 1.5 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.

1.6 As local highway authority the Council considers the Highways Works to be carried out pursuant to this section 278 Agreement to be in the public benefit.

1.7 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

2. **DEFINITIONS**

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

- | | | |
|-----|---|---|
| 2.1 | "the Act" | the Town and Country Planning Act 1990 (as amended) |
| 2.2 | "the Agreement" | this planning obligation made pursuant to Section 106 of the Act |
| 2.3 | "the Application for Conservation Area Consent" | an application for conservation area consent in respect of the development of the Property submitted to the Council and validated on 19 th May 2012 under reference number 2012/2740/C |
| 2.4 | "Conservation Area Consent" | conservation area consent granted for the Development substantially in the form annexed hereto |
| 2.5 | "the Development" | (i) in respect of the Planning Permission:
erection of single-storey building with basement for use as a single-family dwellinghouse (Class C3) (following demolition of existing garage) as shown on drawing numbers Site Location Plan PL 001; Drawing No(s) (Prefix PL): 002 Rev D; 010 Rev D; 020 Rev D; 021 Rev C; 022 Rev C; 023 Rev C; 030 Rev D; 031 Rev D; 032 Rev D; |

033 Rev C; 040 Rev D; 041 Rev D; 050; 051; 052; 080 Rev D; 200; 210; 400 Rev D; Design and Access Statement by BUJ Architects dated August 2012 (Rev C); Code for Sustainable Homes Pre-Assessment by Mendick Waring Ltd dated July 2012; Energy Strategy by Mendick Waring Ltd dated July 2012; Flood Risk Assessment Code for Sustainable Homes by Dr Paul Garrad dated April 2012; Arboricultural Impact Assessment Report by Landmark Trees dated 10th May 2012; Construction Management Plan by CJ O'Shea & Co Ltd dated 22nd January 2010; Existing Garage Demolition Planning Permission Decision Notice dated 6th October 2009; Daylight / Sunlight Report by Drivers Jonas Deloitte; Movement Report by Walsh Associates dated 16th July 2007; Basement Impact Assessment (consisting of: Main Report; Screening part 1 & 2; Scoping part 2 - 4) by CJ O'Shea & Company Ltd dated April 2012; and

(ii) in respect of the Conservation Area Consent:

demolition of existing garage as shown on drawing numbers Site Location Plan PL 001; Drawing No(s) (Prefix PL): 002 Rev D; 010 Rev D; 020 Rev D; 021 Rev C; 022 Rev C; 023 Rev C; 030 Rev D; 031 Rev D; 032 Rev D; 033 Rev C; 040 Rev D; 041 Rev D; 050; 051; 052; 080 Rev D; 200; 210; 400 Rev D; Design and Access Statement by BUJ Architects dated August 2012 (Rev C); Code for Sustainable Homes Pre-Assessment by Mendick Waring Ltd dated July 2012; Energy Strategy by Mendick Waring Ltd dated July 2012; Flood Risk Assessment Code

for Sustainable Homes by Dr Paul Garrad dated April 2012; Arboricultural Impact Assessment Report by Landmark Trees dated 10th May 2012; Construction Management Plan by CJ O'Shea & Co Ltd dated 22nd January 2010; Existing Garage Demolition Planning Permission Decision Notice dated 6th October 2009; Daylight / Sunlight Report by Drivers Jonas Deloitte; Movement Report by Walsh Associates dated 16th July 2007; Basement Impact Assessment (consisting of: Main Report; Screening part 1 & 2; Scoping part 2 - 4) by CJ O'Shea & Company Ltd dated April 2012

2.6 "the Existing Buildings"

the garage building existing at the Property

2.7 "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

2.8 "the Highways Contribution"

the sum of £ 8,738 (eight thousand seven hundred and thirty-eight 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 event of receipt for the carrying out of works to the public highway and associated measures in the vicinity of the Property such works to include the following ("the Highways Works"):

- (i) to repave the footway adjacent to the Property on Ferncroft Avenue and Croft Way;
- (ii) to re-position and to repave the dropped kerb adjacent to the Property; and

(iii) any other works required as a direct result of the Development (such works as considered necessary by the Council)

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

2.9 "the Level Plans

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

2.10 "Occupation Date"

the first date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly

2.11 "the Parties"

the Council and the Owner

2.12 "the Planning Application"

a planning application in respect of the development of the Property submitted to the Council and validated on 29th May 2012 for which a resolution to grant permission has been passed conditionally under reference number 2012/2736/P subject to conclusion of this Agreement

2.13 "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

- 2.14 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.15 "the Property" the land known as Site Adjacent to 41 Ferncroft Avenue, London, NW3 7PG the same as shown shaded grey on the plan annexed hereto
- 2.16 "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
- 2.17 "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 of interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6 and 7 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 and Conservation Area Consent 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 **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 4.1.1 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 4.1.1 of this Agreement.

4.2 HIGHWAYS

4.2.1 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.

4.2.2 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.

4.2.3 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.

4.2.4 On completion of the Highway Works the Council shall (upon receipt of written request) provide to the Owner a certificate specifying the sum ("the Certified Sum") expended by the Council in carrying out the Highway Works.

4.2.5 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.

4.2.6 If the Certified Sum is less than the Highway Contribution then the Council shall within 14 days of issuing the said certificate pay to the Owner the amount of the difference.

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 2012/2736/P the date upon which the Development is 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 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 to the Council under **Clause 4.2 (Highways)** 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 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 reference 2012/2736/P.

5.7 Payment of the financial contribution pursuant to **Clause 4.2 (Highways)** 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 ZN523ZL065 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

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

5.10 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, 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 2012/2736/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 on written demand with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property.
- 6.5 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.

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

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



8. **RIGHTS OF THIRD PARTIES**

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

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

**EXECUTED AS A DEED BY
ALAN EDWARD HOBART
in the presence of:**

Witness Signature:

) 
)
)
) 
)

Witness Name: (CAPITALS)

) MICHAEL MCKENNA
.....

Address:

) 5 RICHARDS PLACE
.....

) LONDON SW3 2LA
.....

Occupation:

) COMPANY DIRECTOR
.....

EXECUTED AS A DEED BY
MARY ALICE HOBART
in the presence of:

) MARY A. HOBART
.....

Witness Signature:

) MICHAEL MCKENNA
.....

Witness Name: (CAPITALS)

) MICHAEL MCKENNA
.....

Address:

) 5 RICHARDS PLACE
.....

) LONDON SW3 2LA
.....

Occupation:

) COMPANY DIRECTOR
.....

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

)
)
)
)

..... T M Knowles

Authorised Signatory



SITE ADJACENT TO 41 FERNCROFT AVENUE, LONDON, NW3 7PG



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36 Millharbour
London
E14 8TX

Tel 020 7974 4444
Fax 020 7974 1930
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planning@camden.gov.uk
www.camden.gov.uk/planning

Application Ref: **2012/2736/P**

22 January 2013

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:

**Site Adjacent to
41 Ferncroft Avenue
London
NW3 7PG**

Proposal:

Erection of single-storey building with basement for use as a single-family dwellinghouse (Class C3) (following demolition of existing garage).

Drawing Nos: Site Location Plan PL 001; Drawing No(s) (Prefix PL): 002 Rev D; 010 Rev D; 020 Rev D; 021 Rev C; 022 Rev C; 023 Rev C; 030 Rev D; 031 Rev D; 032 Rev D; 033 Rev C; 040 Rev D; 041 Rev D; 050; 051; 052; 080 Rev D; 200; 210; 400 Rev D;

Design and Access Statement by BUJ Architects dated August 2012 (Rev C);

Code for Sustainable Homes Pre-Assessment by Mendick Waring Ltd dated July 2012;

Energy Strategy by Mendick Waring Ltd dated July 2012;

Flood Risk Assessment Code for Sustainable Homes by Dr Paul Garrad dated April 2012;

Arboricultural Impact Assessment Report by Landmark Trees dated 10th May 2012;

Construction Management Plan by CJ O'Shea & Co Ltd dated 22nd January 2010;

Existing Garage Demolition Planning Permission Decision Notice dated 6th October 2009;

Daylight / Sunlight Report by Drivers Jonas Deloitte;

Movement Report by Walsh Associates dated 16th July 2007;

Basement Impact Assessment (consisting of: Main Report; Screening part 1 & 2; Scoping part 2 - 4) by CJ O'Shea & Company Ltd dated April 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 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan PL 001; Drawing No(s) (Prefix PL): 002 Rev D; 010 Rev D; 020 Rev D; 021 Rev C; 022 Rev C; 023 Rev C; 030 Rev D; 031 Rev D; 032 Rev D; 033 Rev C; 040 Rev D; 041 Rev D; 050; 051; 052; 080 Rev D; 200; 210; 400 Rev D;
Design and Access Statement by BUJ Architects dated August 2012 (Rev C);
Code for Sustainable Homes Pre-Assessment by Mendick Waring Ltd dated July 2012;
Energy Strategy by Mendick Waring Ltd dated July 2012;
Flood Risk Assessment Code for Sustainable Homes by Dr Paul Garrad dated April 2012;
Arboricultural Impact Assessment Report by Landmark Trees dated 10th May 2012;
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Movement Report by Walsh Associates dated 16th July 2007;
Basement Impact Assessment (consisting of: Main Report; Screening part 1 & 2; Scoping part 2 - 4) by CJ O'Shea & Company Ltd dated April 2012.

Reason:

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

- 3 Sample panels of all materials used in the external construction of the development hereby approved demonstrating the proposed colour, texture, face-bond and pointing shall be provided on site and approved by the Council before the relevant parts of the works are commenced and the development shall be carried out in accordance with the approval given. The sample panel shall be retained on site until the work has been completed.

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

- 4 All work shall be carried out in accordance with the relevant recommendations of British Standard 3998: 2010 and in strict accordance with the recommendations of the Arboricultural Impact Assessment Report by Landmark Trees dated 10th May 2012.

Reason: To ensure the preservation of the amenity value and health of the tree(s).

- 5 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 to the satisfaction of the Council. Details shall be submitted to and approved by the Local Planning Authority before works commence on site to demonstrate how trees to be retained shall be protected during construction work: such details shall follow guidelines and standards set out in BS5837:2012 "Trees in Relation to design, demolition and construction".

Reason: To ensure that the Council may be satisfied that the development will not have an adverse effect on existing trees and in order to maintain the character and amenities of the area in accordance with the requirements of policy CS15 of the London Borough of Camden Local Development Framework Core Strategy.

- 6 No development shall take place until full details of hard and soft landscaping and means of enclosure of all un-built, open areas have been submitted to and approved by the Council. Such details shall include details of any proposed earthworks including grading, mounding and other changes in ground levels. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To enable the Council to ensure a reasonable standard of visual amenity in the scheme in accordance with the requirements of policy CS14 and CS15 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 7 All hard and soft landscaping works shall be carried out to a reasonable standard in accordance with the approved landscape details by not later than the end of the planting season following completion of the development or any phase of the development, whichever is the sooner. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the Council gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and

to maintain a satisfactory standard of visual amenity in the scheme in accordance with the requirements of policy CS14 and CS15 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 8 Before the development commences, details of the proposed cycle storage area for 1 x cycle shall be submitted to and approved by the Council. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and thereafter permanently maintained and retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 of the London Borough of Camden Local Development Framework Development Policies..

- 9 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, approve and monitor the critical elements of both permanent and temporary basement construction works throughout their duration to ensure compliance with the design which has been checked and approved by a building control body. Details of the appointment and the appointee's responsibilities shall be submitted to and approved in writing by the Council prior to the commencement of development. Any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Development Policies and policy DP27 (Basements and Lightwells) of the London Borough of Camden Local Development Framework Development Policies.

- 10 Prior to occupation of any relevant part of the development, the applicant will have constructed and implemented all the measures contained in the Code for Sustainable Homes Pre-Assessment and Energy Strategy (by Mendick Waring Ltd, dated July 2012) and such measures shall be permanently retained and maintained thereafter. The measures shall include the installation of a meter to monitor the energy output from the approved renewable energy systems.

Reason: In order to secure the appropriate energy and resource efficiency measures and on-site renewable energy generation in accordance with policies CS13 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..

- 11 Full details in respect of the green roof in the area indicated on 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.

- 12 The green roof shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme of maintenance.

Reason:

To ensure that the green roof is suitably designed and maintained in accordance with the requirements of policies CS13, CS14, CS15 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23, DP24 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

- 13 Prior to commencement of the development hereby approved, a Construction Management Statement (CMS) shall be submitted to and approved in writing by the Local Planning Authority. Details of the Construction Management Statement will relate to the scale and kind of the development, however, in terms of assessing the impact on transport the plan should demonstrate that the following has been considered and where necessary the impacts mitigated:

(Note the term 'vehicles' used here refers to all vehicles associated with the implementation of the development, e.g. demolition, site clearing, delivering of plant & material and construction)

- a) The access arrangements for vehicles.
- b) Details (including accurate scaled drawings) of any highway works necessary to enable construction to take place.
- c) Parking and Loading arrangement of vehicles and delivery of materials and plant to the site.
- d) Details of proposed parking bays suspensions and temporary traffic management orders.
- e) Details of security hoarding required on the public highway
- f) The proposed site working hours.

g) Details of any other measure designed to reduce the impact of associated traffic (such as the use of construction material consideration centres, measures to control dust and dirt and schemes for recycling/disposal of waste from demolition).

h) Details of any Construction Working Group that maybe required, addressing the concerns of surrounding residents.

i) Details of any schemes such as the 'Considerate Contractors Scheme' (www.considerateconstructorsscheme.org.uk) that the project will be signed up to. Contractors will also be required to follow the 'Guide for Contractors Working in Camden' also referred to as 'Camden's Considerate Contractor's Manual'

j) Any other relevant information.

k) The CMS should also include the following statement:

"The agreed contents of the Construction Management Statement must be complied with unless otherwise agreed with the Council. The project manager shall work with the Council to review this Construction Management Statement if problems arise in relation to the construction of the development. Any future revised plan must be approved by the Council and complied with thereafter."

Reason: To avoid obstruction of the surrounding streets and to safeguard amenities of adjacent premises in accordance with the requirements of policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP16 of the London Borough of Camden Local Development Framework Development Policies.

- 14 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the (No. 2) (England) Order 2008 or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A-H) [and Part 2 (Classes A-C)] of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the Council.

Reason: To safeguard the visual amenities of the area and to prevent over development of the site by controlling proposed extensions and alterations in order to ensure compliance with the requirements of policies CS14 and CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 and DP26 of the London Borough of Camden Local Development Framework Development Policies..

- 15 Prior to first occupation of the development a plan showing details of bird and bat box locations and types and indication of species to be accommodated shall be submitted to and approved in writing by the local planning authority. The boxes shall be installed in accordance with the approved plans prior to the occupation of the development and thereafter retained and maintained, unless prior written permission is given by the local planning authority.

Reason: In order to secure appropriate features to conserve and enhance wildlife habitats and biodiversity measures within the development, in accordance with the

requirements of the London Plan (Consolidated with Alterations Since 2004) and Camden Planning Guidance 2006 and policy CS15 of the London Borough of Camden Local Development Framework Core Strategy.

- 16 Details of the design of building foundations and the layout, with dimensions and levels, of service trenches and other excavations on site in so far as these items may affect trees on or adjoining the site, shall be submitted to and approved by the Council as the local planning authority before any works on site are commenced. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the Council may be satisfied that the development will not have an adverse effect on existing trees and in order to maintain the character and amenities of the area in accordance with the requirements of policy CS15 of the London Borough of Camden Local Development Framework Core Strategy.

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 2363).
- 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 Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> 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 Reasons for granting permission. [Delegated]

The proposed development is in general accordance with the London Borough of Camden Local Development Framework Core Strategy, with particular regard to policies CS1 (Distribution of growth), CS4 (Areas of More Limited Change), CS5 (Managing the impact of growth and development), CS6 (Providing Quality Homes), CS11 (Promoting sustainable and efficient travel), CS13 (Tackling climate change through promoting higher environmental standards), CS14 (Promoting high quality places and conserving our heritage), CS15 (Protecting and improving our parks and open spaces and encouraging biodiversity), CS17 (Making Camden a Safer Place), CS18 (Dealing with Our Waste and Encouraging Recycling), CS19 (Delivering and Monitoring the Core Strategy) and the London Borough of Camden

Local Development Framework Development Policies, with particular regard to policies DP2 (Making Use of Camden's Capacity for Housing), 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), DP26 (Managing the impact of development on occupiers and neighbours), DP27 (Basements and lightwells), DP28 (Noise and vibration), DP29 (Improving Access). For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officers report.

- 4 The Mayor of London introduced a Community Infrastructure Levy (CIL) to help pay for Crossrail on 1st April 2012. Any permission granted after this time which adds more than 100sqm of new floorspace or a new dwelling will need to pay this CIL. It will be collected by Camden on behalf of the Mayor of London. Camden will be sending out liability notices setting out how much CIL will need to be paid if an affected planning application is implemented and who will be liable.

The proposed charge in Camden will be £50 per sqm on all uses except affordable housing, education, healthcare, and development by charities for their charitable purposes. You will be expected to advise us when planning permissions are implemented. Please use the forms at the link below to advise who will be paying the CIL and when the development is to commence. You can also access forms to allow you to provide us with more information which can be taken into account in your CIL calculation and to apply for relief from CIL.

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

We will then issue a CIL demand notice setting out what monies needs to paid when and how to pay. Failure to notify Camden of the commencement of development will result in a surcharge of £2500 or 20% being added to the CIL payment. Other surcharges may also apply for failure to assume liability and late payment. Payments will also be subject to indexation in line with the construction costs index.

Please send CIL related documents or correspondence to CIL@Camden.gov.uk

- 5 With regards to condition 6, the means of enclosure / boundary treatments with No. 41 Ferncroft Avenue (rear section) and No. 21 Kidderpore Avenue should be 1.8m high minimum. *Gardens th*
- 6 The applicant is reminded that the installation of any external plant or mechanical equipment would be subject to separate full planning permission and should be accompanied by an acoustics 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

Culture and Environment Directorate

DRAFT

DECISION

BUJ Architects LLP
36 Millharbour
London
E14 8TX

Application Ref: **2012/2740/C**
Please ask for: **Neil Zaayman**
Telephone: 020 7974 2630

22 January 2013

Dear Sir/Madam

DRAFT
DECISION

Planning (Listed Building and Conservation Areas) Act 1990
Planning (Listed Buildings and Conservation Areas) Regulations 1990

Conservation Area Consent Granted

Address:

**Site Adjacent to
41 Ferncroft Avenue
London
NW3 7PG**

DECISION

Proposal:

Demolition of existing garage.

Drawing Nos: Site Location Plan PL 001; Drawing No(s) (Prefix PL): 002 Rev D; 010 Rev D; 020 Rev D; 021 Rev C; 022 Rev C; 023 Rev C; 030 Rev D; 031 Rev D; 032 Rev D; 033 Rev C; 040 Rev D; 041 Rev D; 050; 051; 052; 080 Rev D; 200; 210; 400 Rev D;
Design and Access Statement by BUJ Architects dated August 2012 (Rev C);
Code for Sustainable Homes Pre-Assessment by Mendick Waring Ltd dated July 2012;
Energy Strategy by Mendick Waring Ltd dated July 2012;
Flood Risk Assessment Code for Sustainable Homes by Dr Paul Garrad dated April 2012;
Arboricultural Impact Assessment Report by Landmark Trees dated 10th May 2012;
Construction Management Plan by CJ O'Shea & Co Ltd dated 22nd January 2010;
Existing Garage Demolition Planning Permission Decision Notice dated 6th October 2009;
Daylight / Sunlight Report by Drivers Jonas Deloitte;
Movement Report by Walsh Associates dated 16th July 2007;
Basement Impact Assessment (consisting of: Main Report; Screening part 1 & 2; Scoping part 2 - 4) by CJ O'Shea & Company Ltd dated April 2012.

The Council has considered your application and decided to grant conservation area consent subject to the following condition(s):

Conditions and Reasons:

- 1 The works hereby permitted shall be begun not later than the end of three years from the date of this consent.

Reason: In order to comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2 The demolition hereby permitted shall not be undertaken before a contract for the carrying out of the works of redevelopment of the site has been made and full planning permission has been granted for the redevelopment for which the contract provides.

Reason: To protect the visual amenity of the area in accordance with the requirements of policy B7 of the London Borough of Camden Replacement Unitary Development Plan 2006.

Informative(s):

- 1

Your attention is drawn to the notes attached to this notice which tell you about your Rights of Appeal and other information.

Yours faithfully

Culture and Environment Directorate
(Duly authorised by the Council to sign this document)

DATED 12 FEBRUARY 2013

(1) ALAN EDWARD HOBART AND MARY ALICE HOBART

and

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

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

**Site Adjacent to
41 Ferncroft Avenue
London
NW3 7PG**

**pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended) and
Section 278 of the Highways Act 1980**

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

Tel: 020 7974 5647
Fax: 020 7974 1920

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