

**DATED** 1 July

**2009**

**(1) FENCEBROOK LIMITED**

**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  
Lower Ground Floor, Norfolk Mansions, 1a Lithos Road, London. NW3 6DU  
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 5647  
Fax: 020 7974 2962

v1

**THIS AGREEMENT** is made the 1<sup>st</sup> day of July 2009

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

1. **FENCEBROOK LIMITED** (Co. Regn. No. 01338496) whose registered office is at 2<sup>nd</sup> Floor, Saxon House, Heritage Gate, Friary Street, Derby, DE1 1NL (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 fourth 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 NGL363948.
- 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 21 March 2009 and the Council resolved to grant permission conditionally under reference number 2009/1154/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.

## **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"          | change of use of lower ground floor from office (Class B1) to one x 1-bedroom self contained flat (Class C3)                                                                                                                                                                     |
| 2.4 | "the Implementation Date"  | the date of implementation of the Development by the carrying out of a material operation as defined in Section 56 of the Act and references to "Implementation" and "Implement" shall be construed accordingly                                                                  |
| 2.5 | "Occupation Date"          | the first date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly                                                                                                                                 |
| 2.6 | "the Parties"              | mean the Council and the Owner                                                                                                                                                                                                                                                   |
| 2.7 | "the Planning Application" | a planning application in respect of the development of the Property submitted to the Council and validated on 21 April 2009 for which a resolution to grant permission has been passed conditionally under reference number 2009/1154/P subject to conclusion of this Agreement |

- 2.8 "Planning Obligations Monitoring Officer" a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof
- 2.9 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.10 "the Property" the land known as Norfolk Mansions, 1A Lithos Road, London NW3 6DU the same as shown shaded grey on the plan annexed hereto
- 2.11 "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
- 2.12 "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 The Owner hereby covenants with the Council to ensure that prior to occupying the new 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.

- 4.2 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.
- 4.3 On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit number of the new residential unit forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying it as that residential unit that in the Owner's opinion is affected by the Owner's obligation in Clause 4.1 of this Agreement.

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

- 5.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken or is about to take place.
- 5.2 Within seven days following completion of the Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting planning reference 2009/1154/P the date upon which the Development will be ready for Occupation.
- 5.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.
- 5.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall jointly and severally indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission

of the Council its employees or agents has caused or contributed to such expenses or liability.

**6. IT IS HEREBY AGREED AND DECLARED by the Parties hereto that:-**

- 6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 2009/1154/P and in the case of any notice or approval or agreement from the Council this shall be signed by a representative of the Council's Environment Department.
- 6.2 This Agreement shall be registered as a Local Land Charge.
- 6.3 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement on or prior to the date of completion of the Agreement.
- 6.4 The Owner hereby covenants with the Council that it will within 28 days from the date hereof apply to the Chief Land Registrar of the Land Registry to register this Agreement in the Charges Register of the title to the Property and will furnish the Council forthwith with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property.
- 6.5 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.

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

8. **RIGHTS OF THIRD PARTIES**

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



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

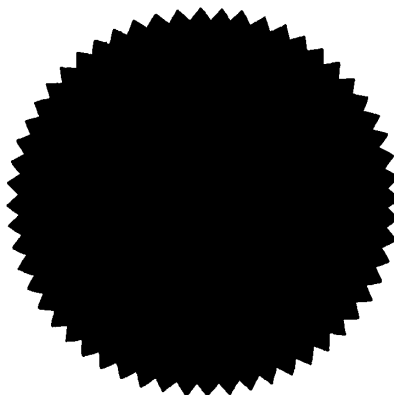
**EXECUTED AS A DEED BY** )  
**FENCEBROOK LIMITED** )  
**acting by a Director and its Secretary** )  
**or by two Directors** )

.....*P. Newman*.....  
**Director**

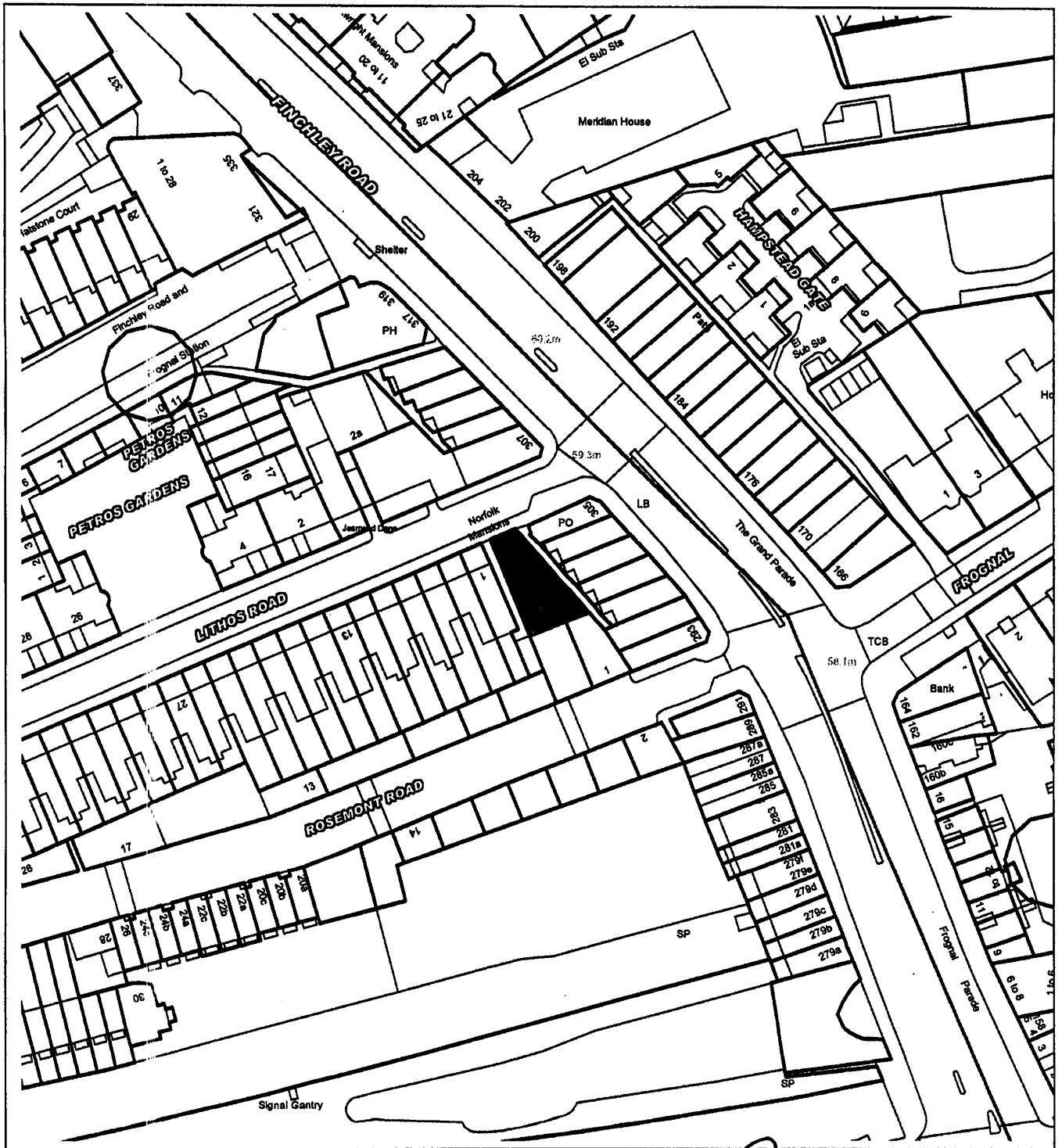
.....*[Signature]*.....  
**Director/Secretary**

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

.....*[Signature]*.....  
**Authorised Signatory**

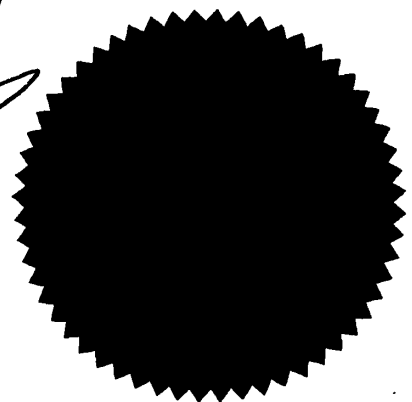


# 1 a Lithos Road, London, NW3 6DU



P. Newman

P. Newman



Design Solutions  
18 Lidell Road  
Lodnon  
UK  
NW6 2EW

Application Ref: 2009/1154/P

11 June 2009

Dear Sir/Madam

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

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

Address:  
**Norfolk Mansions**  
**1A Lithos Road**  
**London**  
**NW3 6DU**

Proposal:  
Change of use of land from residential (Class C3) to residential (Class C3) x 1 bedroom self contained flat (Class C3)

**DECISION**

Drawing Nos: 09/0211/001; 002; 003 Rev.01

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).

Informative(s):

- 1 Reasons for granting permission:

The proposed development is in general accordance with the policy requirements of the London Borough of Camden Replacement Unitary Development Plan 2006, with particular regard to policies S1, S2, SD1, SD6, H1, H7, E2, T3, T8 and T9. For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the reasons statement.

- 2 Your proposals may be subject to 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).

- 3 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 12.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Environmental Health Service, Camden Town Hall, Argyle Street, Camden WC1H 8EQ. Tel: 020 7974 2090 or by email [environment@camden.gov.uk](mailto:environment@camden.gov.uk) or on the website [www.camden.gov.uk/pollution/](http://www.camden.gov.uk/pollution/) 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.

- 4 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Sites Team, Urban Design and Regeneration.

- 5 You are reminded that filled refuse sacks shall not be deposited on the public footpath, or forecourt area until within half an hour of usual collection times. For further information please contact the Council's Street Environment Service (Rubbish Collection) on 020 7974 6914. or by email [recycling@camden.gov.uk](mailto:recycling@camden.gov.uk) or on the website [www.camden.gov.uk/recycling](http://www.camden.gov.uk/recycling)

- 6 You are advised that the Council expects all development to be as sustainable and energy efficient as possible and welcomes any measures that can be introduced to facilitate this. To this end, you are encouraged to introduce measures that can

practically be incorporated into the refurbishment of the building and the subsequent operation of the use.

Yours faithfully

Culture and Environment Directorate

**DRAFT**

**DECISION**

DATED

1 July

2009

**(1) FENCEBROOK LIMITED**

**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**

**Lower Ground Floor, Norfolk Mansions, 1a Lithos Road, London. NW3 6DU  
pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended)**

**Andrew Maughan  
Head of Legal Services  
London Borough of Camden  
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London WC1H 9LP**

**Tel: 020 7974 5647  
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