

DATED

24 November

2009

(1) DILIP KUMAR PATEL

and

(2) NATIONAL WESTMINSTER 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

6 Fortess Road, London NW5 2ES

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 5826  
Fax: 020 7974 2962

THIS AGREEMENT is made the 24th day of November 2009

**BETWEEN:**

1. **DILIP KUMAR PATEL** of Anglesmede Crescent, Pinner, Middlesex HA5 5SP (hereinafter called "the Owner") of the first part
2. **NATIONAL WESTMINSTER BANK PLC** of First Floor, 57 Victoria Street, London SW1H 0HP (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 NGL613400 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 1 February 2006 and the Council resolved to grant permission conditionally under reference number 2006/0544/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 NGL613400 and dated 24 November 2006 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"         | the retention of existing self-contained lower ground and ground floor studio maisonette (Class C3) from former ancillary storage space to the above retail unit (Class A1) as shown on drawing number PMB/05/176A |
| 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 the Owner and the Mortgagee   |

- 2.7 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 1 February 2006 for which a resolution to grant permission has been passed conditionally under reference number 2006/0544/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 6 Fortess Road, London NW5 2ES 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 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 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 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.
- 4.2 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 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.

**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 2006/0544/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 2006/0544/P and in the case of any notice or approval or agreement from the Council this shall be signed by a representative of the Council's Environment Department.
- 6.2 This Agreement shall be registered as a Local Land Charge.
- 6.3 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement on or prior to the date of completion of the Agreement.
- 6.4 The Owner hereby covenants with the Council that it will within 28 days from the date hereof apply to the Chief Land Registrar of the Land Registry to register this Agreement in the Charges Register of the title to the Property and will furnish the Council forthwith with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property.

- 6.5 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.
- 6.6 Neither the Owner or the 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**

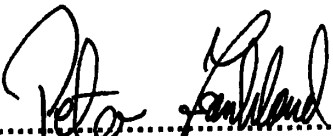
8.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.


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  
DILIP KUMAR PATEL  
in the presence of:

)  
)  
)

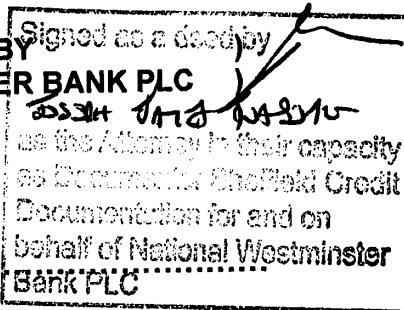


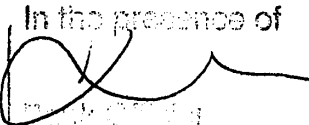
  
.....  
Witness Signature

Witness Name: 

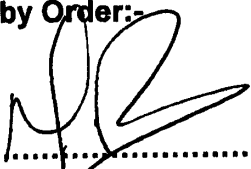
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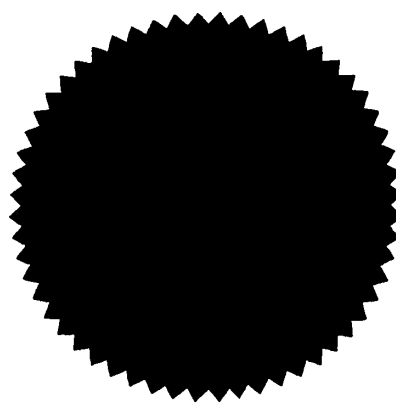
Occupation: SOLICITOR

EXECUTED AS A DEED BY  
NATIONAL WESTMINSTER BANK PLC  
in the presence of:-  
.....  


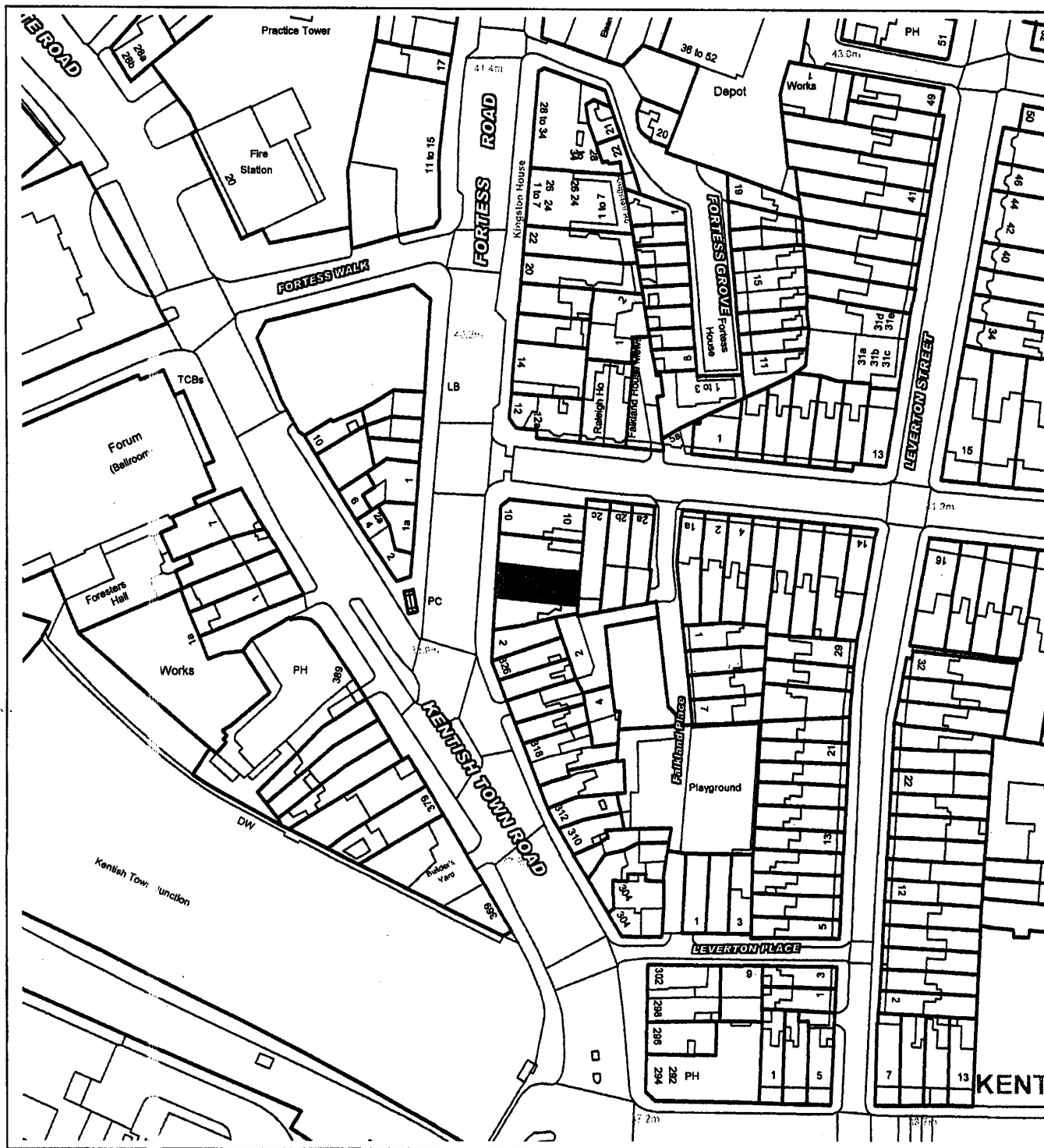
In the presence of  
  
Karen Richardson  
Solicitor for Documentation  
Room 10.502  
2nd Floor, 42 High Street  
Sheffield S1 2YW

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

  
.....  
Authorised Signatory



# 6 Fortress Road, London NW5 2ES



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Sheffield Credit

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Manager

Anthony J Blyth & Co  
17 Sequoia Park  
Hatch End  
Pinner  
Middlx  
HA5 4DG

Application Ref: **2006/0544/P**

10 March 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:  
**6 Fortess Road**  
**London**  
**NW5 2ES**

**Proposal:**

Retention of existing self-contained lower ground and equal fronted maisonette (Class C3) from former ancillary storage space to use as a dwelling (Class C3).

Drawing Nos: Site location plan; PMB/05/176A.

**DECISION**

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):

Informative(s):

- 1 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.
- 2 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 B1; B3; R7B; H1; H7; H8; T3; T7 and T8. For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the reasons report.

Yours faithfully

**DRAFT**

Culture and Environment Directorate

**DECISION**

DATED

24 November

2009

**(1) DILIP KUMAR PATEL**

and

**(2) NATIONAL WESTMINSTER 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  
6 Fortess Road, London NW5 2ES  
pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended)

Andrew Maughan  
Head of Legal Services  
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Tel: 020 7974 5826  
Fax: 020 7974 2962

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