

DATED

14 October

2009

(1) PINCROWN LIMITED

and

(2) NATIONAL WESTMINSTER BANK PLC

and

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

A G R E E M E N T

relating to land known as

39 BRECKNOCK ROAD

LONDON N7 0BT

**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

**G:\case files\culture & env\planning\Deborah Riley\39 Brecknock Road 2008-4782-P\Section 106
Agreement
CLS/COM/DR/1685.63**

THIS AGREEMENT is made the 14 day of October 2009

BETWEEN:

1. **PINCROWN LIMITED** (Co. Regn. No. 3210935) whose registered office is at 273-287 Regent Street, London W1B 2HA (hereinafter called "the Owner") of the first part
2. **NATIONAL WESTMINSTER BANK PLC** (Co. Regn. No. 0929027) whose registered office is at 135 Bishopsgate, London EC2M 3UR (hereinafter called "the Mortgagee") of the second part *AND whose address for service is 21017 Documentation to Box 339. MANCHESTER M60 2AH*
4. **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 128524 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 31 October 2008 and the Council resolved to grant permission conditionally under reference number 2008/4782/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 128524 and dated 16 April 2008 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 Certificate of Practical Completion" | the certificate issued by the Owner's contractor certifying that the Development has been completed |
| 2.4 | "the Council's Considerate Contractor Manual" | the document produced by the Council from time to time entitled "Guide for Contractors Working in Camden" relating to the good practice for developers engaged in building activities in the London Borough of Camden |
| 2.5 | "Construction Management Plan" | a plan setting out how the Owner will undertake the construction of the Development using good site practices in accordance with the Council's Considerate Contractor Manual to ensure the Construction Phase of the Development has minimal impacts on the surrounding environment including (but not limited to):- |

- (i) a statement concerning the construction of the Development to be submitted to the Council giving details of the environmental protection highways safety and community liaison measures proposed to be adopted by the Developer in order to mitigate and offset potential or likely effects and impacts arising from the demolition of the existing buildings on the Property
- (ii) effects on the health and amenity of local residences site construction workers local businesses adjoining developments undergoing construction;
- (iii) amelioration and monitoring measures over construction traffic including procedures for notifying the owners and or occupiers of the residents and businesses in the locality in advance of major operations delivery schedules and amendments to normal traffic arrangements (if any);
- (iv) proposed routes of vehicles to and from the Development and the access arrangements for vehicles;
- (v) sizes of all vehicles and the schedule of when they will need access to the site;
- (vi) swept path drawing for the vehicle routes for all vehicles sizes;

- (vii) parking and loading arrangement of vehicles and delivery of materials and plant to the Development;
- (viii) details of proposed parking bays suspensions and temporary traffic management orders;
- (ix) the proposed working hours;
- (x) the inclusion of a waste management strategy for handling and disposing of construction waste; and
- (xi) identifying means of ensuring the provision of information to the Council and provision of a mechanism for monitoring and reviewing as required from time to time

2.6 "the Construction Phase"

the whole period between

- (i) the Implementation Date and
- (ii) the date of issue of the Certificate of Practical Completion

2.7 "the Development"

the erection of new building comprising a Class A1 retail unit at ground and mezzanine in front and 3 self-contained flats in a 3 storey plus attic building behind, following demolition of existing building (containing retail unit and 2 flats) as shown on drawing numbers Site Location Plan, 198-01, 198-02, 198-03, 198-04, 198-05 rev C, 198-06 rev C, 198-07 rev A, 198-08 rev D

2.8 "the Highways Contribution"

the sum of £5,300.00 (five thousand three hundred 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 works to the public highway and associated measures in the vicinity of the Property such works to include the reinstatement of footway and vehicular crossover adjoining the Property ("the Highways Works") and 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 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

2.10 "the Level Plans"

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

2.11 "the Nominated Unit"

the residential unit forming part of the Development as shown outlined in red on the drawing numbers 198 05 Rev C marked Plan 2 annexed hereto

2.12 "Occupation Date"

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

- 2.13 "the Parties" mean the Council the Owner and the Mortgagee
- 2.14 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 31 October 2008 for which a resolution to grant permission has been passed conditionally under reference number 2008/4782/P subject to conclusion of this Agreement
- 2.15 "Planning Obligations Monitoring Officer" a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof
- 2.16 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.17 "the Property" the land known as 39 Brecknock Road, London N7 0BT the same as shown shaded grey on the plan annexed hereto
- 2.18 "the Public Highway" any carriageway footway and/or verge adjoining the Property maintainable at public expense
- 2.19 "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

- 2.20 "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 Nominated Unit 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 DEVELOPMENT

- 4.1.1 The Owner hereby covenants with the Council to ensure that prior to occupying the Nominated Unit forming part of the Development each new resident of the Nominated Unit 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.

4.2 CONSTRUCTION MANAGEMENT PLAN

- 4.2.1 Prior to Implementation to provide the Council for approval the Construction Management Plan.
- 4.2.2 Not to Implement or allow Implementation of the Development until such time as the Council has approved the Construction Management Plan as demonstrated by written notice to that effect.
- 4.2.3 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the Construction Management Plan as approved from time to time and in the event of non compliance with this sub-clause the Owner shall upon notice from the Council forthwith take any steps reasonably required by the Council to remedy such non-compliance.

4.3 HIGHWAYS CONTRIBUTION

4.3.1 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.

4.3.2 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.

4.3.3 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.

4.3.4 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.

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

4.3.6 If the Certified Sum is less than the Highways Contribution then the Council shall within fourteen days of the issuing of 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 2008/4782/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 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 Payment of the Contribution pursuant to Clause 4.1 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 ZM616ZL065 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.
- 5.6 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.

- 5.7 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

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

- 5.8 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 2008/4782/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)
PINCROWN LIMITED)
acting by a Director and its Secretary)
or by two Directors)

X P. S. P. R.
.....
Director PJP

X AJP
.....
Director/Secretary AJP

EXECUTED AS A DEED BY)
NATIONAL WESTMINSTER BANK PLC)
in the presence of:-)
by a duly authorised Attorney)

Signed and Delivered as a deed)
For and on behalf of)
National Westminster Bank PLC)
by a duly authorised Attorney)

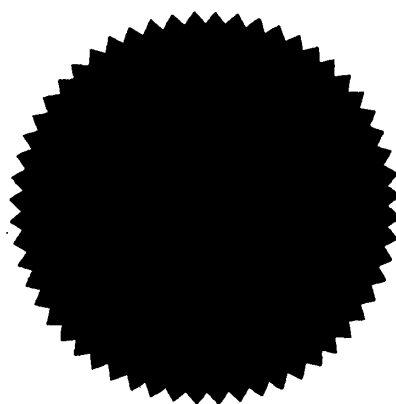
in the presence of: GORDON BRAN CRITEN

.....
Witness Signature-Bank employee

JOHN YATES Deputy
CR 217 Deputy
484449/R.21

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

[Signature]
.....
Authorised Signatory



39 Brecknock Road, London N7 0BT



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DIRECTOR

* P. S. Path

SECRETARY

x

AIIR

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Do not make use given dimensions only. All setting out to be verified on site and any discrepancies notified in the Architect's office.



A handwritten signature in black ink is located on the left side of the page. To the right of the signature is a large, solid black circular stamp with a serrated or jagged edge.

C	JAN 01	22	Planning consultant
A	DEC 00	18	Planning consultant
A	28.12.00	27	Planning consultant
Rev.	Date	By	Description

STATUS	PLANNING
Browning Lowe Ashdown ARCHITECTS ARCHITECTURE • DESIGN • DESIGN • PROJECT MANAGEMENT Polygon House 6000 Brimley Road London N4W 1QG T 020 7627 5000 e-mail: info@browninglowe.co.uk F 020 7627 5000	
CLIENT	THORNTH LTD
PROJECT	39 BRIDGECROFT ROAD LONDON N7
ISSUING	PROPOSED PLANS

ISSUANCE	DATE	STATUS
1.50 1.50	A1 A3	01 OCT
JAN 01	ISSUANCE NO.	REV
1.50	05	C

2/3

DIRECTOR	PSF	X	P. S. Pat
SECRETARY	PSF	X	A. J. Pat

BLA Architects
Polygon House
18/20 Bromells Road
LONDON
SW4 0BG

Application Ref: **2008/4782/P**

5 February 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:
39 Brecknock Road
London
N7 0BT

Proposal:

Erection of new building comprising Class A1 retail unit, ground floor mezzanine in front and 3 self-contained flats on 2 storeys plus associated works including demolition of existing building (containing retail unit and 2 flats)

DECISION

Drawing Nos: Site Location Plan, 198-01, 198-02, 198-03, 198-04, 198-05 rev C, 198-06 rev C, 198-07 rev A, 198-08 rev D.

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 details of the proposed roller shutter to the shopfront (including floor plans, elevations, sections and materials) shall not be otherwise than as those submitted to and approved by the Council before any work is commenced on the relevant part of the development. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies S1, S2, and B1 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 3 Prior to the occupation of any of these residential units, the cycle storage as outlined on drg no 05 rev B shall be provided in its entirety, and maintained and retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy T3 of the London Borough of Camden Replacement Unitary Development Plan 2006.

Informative(s):

- 1 Your proposals are also subject to control under the Building Regulations and/or the London Building 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 Environmental Health Service, Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 2090 or by email env.health@camden.gov.uk or on the website 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.
- 3 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.

4 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, SD2, SD6, B1, B4, T2, T3, T4 and T12. For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officers report.

Yours faithfully

Culture and Environment Directorate

DRAFT

DECISION

DATED

14 October

2009

(1) PINCROWN LIMITED

and

(2) NATIONAL WESTMINSTER BANK PLC

and

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

A G R E E M E N T

**relating to land known as
39 BRECKNOCK ROAD
LONDON N7 0BT**

**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**

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