

DATED 3RD JANUARY

2005⁷

(1) VENTRA INVESTMENTS LTD

and

(2) THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND

and

(3) GARTH ENTERPRISES LTD

and

(4) BRISTOL AND WEST PLC

and

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

A G R E E M E N T
relating to land known as
308 Kilburn High Rd NW6 2DG
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

Alison Lowton
Director of Law and Administration
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 5244
Fax: 020 7974 5580

S:plan/DAL/1431.488/2005-1421-P (CF)

THIS AGREEMENT is made the

3RD

day of

JANUARY

2006⁷

BETWEEN:

1. **VENTRA INVESTMENTS LTD** (Co. Regn. No. 03175347) whose registered office is at Roxburghe House 273/287 Regent St London W1B 2HA (hereinafter called "the Owner") of the first part
2. **THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND** of The Mound Edinburgh Scotland EH1 1YZ (hereinafter called "First Mortgagee") of the second part
3. **GARTH ENTERPRISES LTD** (Co. Regn. No. 02410444) whose registered office is at The Clock House 140 London Rd Guildford Surrey GU1 1UW (hereinafter called the "Freeholder" of the third part
4. **BRISTOL & WEST PLC** (Co. Regn. No. 02124201) whose registered office is at One Temple Back East Temple Quay Bristol BS1 6DX (hereinafter called the "Second Mortgagee") of the fourth Part
5. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the fifth part

WHEREAS

- 1.1 The Owner is registered at HM Land Registry as the leasehold proprietor with Title absolute of part of the Property under Title Number NGL768562 subject to a charge to the First Mortgagee.
- 1.2 The Owner is the leasehold Owner of part of the Property 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 12 October 2005 and the Council resolved to grant

permission conditionally under reference number 2005/1421/P subject to conclusion of this legal Agreement.

- 1.4 The Council 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 First Mortgagee as Mortgagee under a legal charge registered under Title Number NGL768562 and dated 23 April 2003 (hereinafter called "the First Legal Charge") is willing to enter into this Agreement to give its consent to the same.
- 1.7 The Freeholder is registered at HM Land Registry as the freehold proprietor with Title absolute of the Property under Title Number 305332.
- 1.8 The Freeholder hereby consents to the Owner entering into this Deed and agrees that its freehold interest in the Property shall be subject to the terms obligations and covenants in this Deed.
- 1.9 The Second Mortgagee as Mortgagee under a legal charge registered under Title Number 305332 and dated 6 October 2004 (hereinafter called "the Second Legal Charge") 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 Application" a planning application in respect of the development of the Property submitted to the Council and validated on 12 October 2005 for which a resolution to grant permission has been passed conditionally under reference number 2005/1421/P subject to conclusion of this Agreement
- 2.4 "the Development" the erection of a 3-storey building to provide 4 self-contained units as shown on drawing numbers Site Location Plan No. 643/BA/001; 643/BA 005; 643/BA/002 Rev F
- 2.5 "the Implementation Date" the date of implementation of the Development by the carrying out of a material operation as defined in Section 56 of the Act and references to "Implementation" and "Implement" shall be construed accordingly
- 2.6 "Occupation Date" the first date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.7 "the Parties" means the Council the Owner the First Mortgagee the Freeholder and the Second Mortgagee
- 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 308 Kilburn High Rd London NW6 2DG 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 includes any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.

308 Kilburn High Rd NW6 2DG



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- 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 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.

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 7 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 2005/1421/P the date upon which the units forming the Development are 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.

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, Forward Planning and Projects Team, Planning Division Environment Department, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference

number 2005/1421/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 HM Land Registry to register this Agreement in the Charges Register of the title to the Property under Title Number 305332 and NGL768562 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 titles 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 the Freeholder the First Mortgagee the Second Mortgagee nor their successors in title nor any person deriving title from the Owner the Freeholder the First Mortgagee or the Second Mortgagee 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. The Freeholder the First Mortgagee and the Second Mortgagee hereby consent to the completion of this Agreement and agree to be bound by it and to the same being registered at HM Land Registry as provided in Clause 6.4 hereof and for the avoidance of doubt agree to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.
8. 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 the Freeholder [the First Mortgagee and the Second Mortgagee] have executed this instrument as their Deed the day and year first before written

OR

IN WITNESS whereof the Council the Owner and the Freeholder have caused their respective common seals to be hereunto affixed [and the First Mortgagee and the Second Mortgagee have executed this instrument as a Deed] the day and year first before written

THE COMMON SEAL OF/
EXECUTED AS A DEED BY
Ventra Investments Ltd
was hereunto affixed
in the presence of:-/
acting by a Director and its Secretary
or by two Directors

)
)
)
)
)
)
)

.....
Director

.....
Director/Secretary

Donald Shearer Architects
29 Shelbourne Road
Stratford-upon-Avon
Warwickshire
CU37 9JP

Application Ref: **2005/1421/P**

27 September 2006

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:
**308 Kilburn High Road
London
NW6 2DG**

Proposal:
Erection of a 3 storey building to provide 4 self-contained flats.
Drawing Nos: Site Location Plan No 644/BK/001/1-3 & A/05/644/BK/002 Rev F.

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):

- 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 facing materials (front brickwork/render, roof tile, window sample) to be used on the building shall not be otherwise than as shall have been submitted to and approved in writing by the Council before any work is commenced on the relevant part of the development. Such details shall include proposed slab levels of the building in relation to the existing and proposed levels of the site and the surrounding land. These parts of the development 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 EN1 and EN13 of the London Borough of Camden Unitary Development Plan 2000, and those of the Proposed Modifications to the Revised Deposit Draft [as approved by the Council's Executive on 11th January 2006] with particular regard to policies S1, S2 & B1.

- 3 No development shall commence before a contract has been entered into with the Local Highway Authority to remove the existing of a level public footway, by removing the existing vehicle crossover and dropped kerb. None of the four self-contained flats hereby permitted shall not be occupied until the works that are the subject of that contract have been completed.

Reason: To ensure that the pedestrian environment is improved through the removal of the unnecessary vehicle crossover in accordance with policy TR21 of the adopted Unitary Development Plan 2000 and those of the Proposed Modifications to the Revised Deposit Draft [as approved by the Council's Executive on 11th January 2006] with particular regard to policy T3.

- 4 No development shall take place until:
 - a) The applicant has submitted a programme of ground investigation for the presence of soil and groundwater contamination and landfill gas for approval by the Council; and
 - b) The investigation has been carried out in accordance with the approved details and the results and remediation measures (if necessary) have been submitted to and approved by the Council. All approved remediation measures shall be implemented strictly in accordance with the approved details.

Reason: To protect future occupiers of the development from the possible presence of ground contamination arising in connection with the previous industrial/storage use of the site in accordance with policy EN10 of the London Borough of Camden Unitary Development Plan 2000, and those of the Proposed Modifications to the Revised Deposit Draft [as approved by the Council's Executive on 11th January 2006] with particular regard to policies SD10B and S3.

- 5 Three new trees, the details of which [in respect of their position, species and size] shall first have been submitted to and approved by the Tree Preservation Officer before any work is commenced on site, shall be planted by not later than the end of the planting season following the completion of the development hereby permitted. Any trees removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees of a similar size and species to

those originally required to be planted.

Reason: To enable the Council to ensure a reasonable standard of visual amenity in the scheme in accordance with the requirements of policy EN15 of the London Borough of Camden Unitary Development Plan 2000, and those of the Proposed Modifications to the Revised Deposit Draft [as approved by the Council's Executive on 11th January 2006] with particular regard to policy B1.

- 6 None of the flats in the development hereby permitted shall be occupied until the whole of the cycle storage provision shown on the approved drawings is provided. Thereafter the whole of the cycle storage provision shall be retained permanently and used for no purpose other than for the parking of cycles of the occupiers and users of the development.

Reason: To ensure that the development makes adequate provision for cycle storage, in accordance with the requirements of policy TR22 of the London Borough of Camden Unitary Development Plan 2000 and policy T3 of the Proposed Modifications to the Revised Deposit Draft [as approved by the Council's Executive on 11th January 2006].

- 7 None of the flats in the development hereby permitted shall be occupied until the whole of the waste storage provision shown on the approved drawings is provided. Thereafter the whole of the waste storage provision shall be retained permanently and used for no purpose other than for the storage of the waste generated by the occupiers and users of the development.

Reason: To ensure that the development makes adequate provision for waste storage, in accordance with the requirements of policy U1 of the London Borough of Camden Unitary Development Plan 2000 and policy U1 of the Proposed Modifications to the Revised Deposit Draft [as approved by the Council's Executive on 11th January 2006].

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 2 Noise from demolition and construction works is subject to control under the 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 Division, Camden Town Hall, Argyle Street, WC1H (Tel. No. 020 7974 4444) 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.

The proposed development is in general accordance with the policy requirements of the adopted London Borough of Camden Unitary Development Plan 2000, with particular regard to policies RE2, 6, EN1, 10, 13, 14, 15, 16, 18, 19, 20, 21, 22, 24, HG8, 12, 13, 15, 16, TR 16, 17, 19, 22, PU5 and those of the Proposed Modifications to the Revised Deposit Draft [as approved by the Council's Executive on 11th January 2006] with particular regard to policies S3, SD1, 2, 6, 10B, H1, 8, B1, 3, T3, 8, 9 and the advice as set out in Supplementary Planning Guidance 2002. For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officer's report.

- 4 If a revision to the postal address becomes necessary as a result of this development, application under the Building Acts (Amendment) Act 1939 should be made to the Council's Records and Information Service, Environment Department (Street Naming & Numbering) Camden Town Hall, Argyle Street, WC1H 8EP. Tel: 020 7974 5133.
- 5 The applicant is advised to contact Mr Darren Beesley, of Camden Council's Environmental Health Team (Tel: 020 7974 2638) prior to the submission of any details relating to the requested site investigation.
- 6 In good time, prior to the start of construction on site, the contractor shall discuss and agree with the Council's Streets Management Traffic Management Section (tel: 020-7974 5629) detailed arrangements for the transportation of goods and materials to and from the site. The Council will prosecute those responsible for any breaches of the provisions of the Highways and Litter Acts which occur as a result of construction on the site.

Yours faithfully

Culture and Environment Directorate

Continuation of section 106 Agreement for 308 Kilburn High Road, London, NW6 2DG

~~THE COMMON SEAL OF/~~
EXECUTED AS A DEED BY
Garth Enterprises Ltd
~~was hereunto affixed~~
in the presence of:-/
acting by a Director and its Secretary
or by two Directors

.....  Khadanchi

Director

.....

Director/Secretary

EXECUTED as a Deed
By The Governor & Company of the
Bank of Scotland
by
in the presence of:-

.....

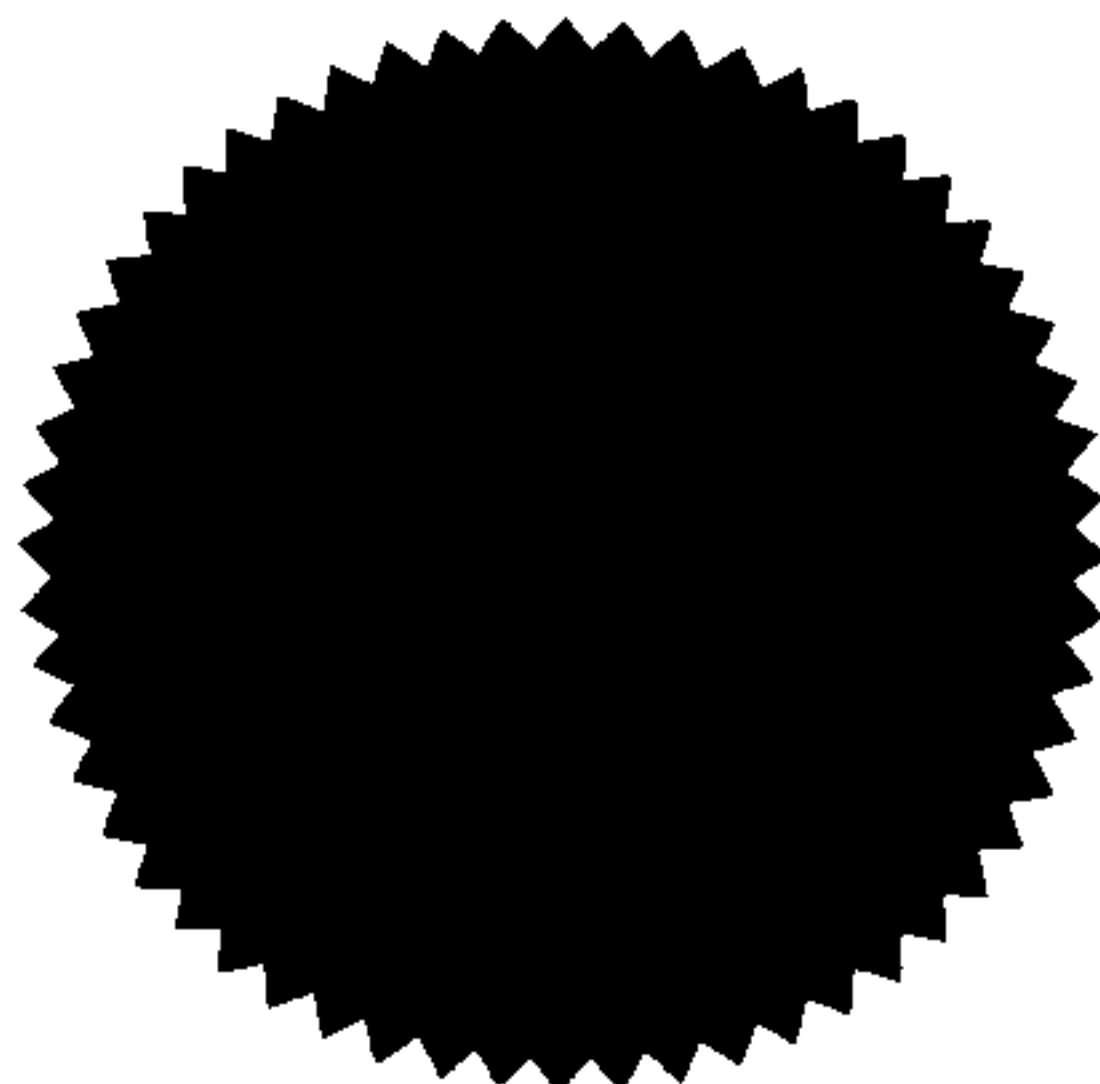
EXECUTED as a Deed
By Bristol & West PLC
by
in the presence of:-

.....

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

..... 

Authorised Signatory



DATED 3RD JANUARY

2008⁷

(1) VENTRA INVESTMENTS LTD

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