

DATED

31<sup>st</sup> October

2005

**(1) SARFIELD PROPERTIES 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  
**69-73 THEOBALDS ROAD, LONDON WC1X 8TA**  
pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended) and  
Section 278 of the Highways Act 1980

Alison Lowton  
Borough Solicitor  
London Borough of Camden  
Town Hall  
Judd Street  
London WC1H 9LP

Tel: 020 7974 1918  
Fax: 020 7974 2962

S:\plan\Imm\s106 Agreements/Theobalds Road 69-73 (EC, HC, CF)  
REF: CLS/COM/LMM/1431.390

**THIS AGREEMENT** is made the 31<sup>st</sup> day of October 2005

**BETWEEN:**

1. **SARFIELD PROPERTIES LIMITED** (Co. Regn. No. 687278) whose registered office is at 16 Hans Road London SW3 1RS (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 HM Land Registry as the freehold proprietor with Title absolute of the Property under Title Number LN199631 subject to a charge to National Westminster Bank plc (hereinafter referred to as "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 The Mortgagee of the Property has a charge over the Property that is entitled to be registered at the Land Registry and has consented to this Agreement by letter of consent appended hereto.
- 1.4 A planning application for the Development of the Property was submitted to the Council and validated on 1 August 2005 and the Council resolved to grant permission conditionally under reference number 2005/3138/P subject to conclusion of this legal Agreement.
- 1.5 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.

## 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 "Affordable Housing" low cost housing provided by a Registered Social Landlord or the Council available for rent to people nominated by the Council through its housing allocation scheme who cannot afford to occupy homes available in the open market
- 2.3 "the Agreement" this Planning Obligation made pursuant to Section 106 of the Act
- 2.4 "the Application" a planning application in respect of the Development of the Property submitted to the Council and validated on 1 August 2005 for which a resolution to grant permission has been passed conditionally under reference number 2005/3138/P subject to conclusion of this Agreement
- 2.5 "the Development" the change of use and works of conversion of third and fourth floor levels from office use (Class B1) to residential use (Class C3) the erection of a two storey roof extension to provide residential accommodation demolition of existing two storey side office wing fronting Old North Street and replacement with new four storey side wing to provide residential accommodation, and

erection of six storey rear extension to accommodate a circulation core to accommodate a total of 7 x 2-room flats 5 x 3-room flats and 1 x 4-room flat as shown on drawing numbers 224.01, 02/rev A, 03-06, 07/rev A, 08-09, 10/rev A, 11-14, 224.30, 224.50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, Report on Daylight and Sunlight and Design Statement

**2.6 "the Education Contribution"**

the sum of £27,912 (twenty seven thousand nine hundred and twelve 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 the event of receipt for the provision of education needs arising in the London Borough of Camden

**2.7 "the Financial Contributions"**

the Education Contribution and the Highways Contribution

**2.8 "the Highways Contribution"**

the sum of £15,106 (fifteen thousand one hundred and six 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 following ("the Highways Works"):-

- (a) removal of redundant crossovers
- (b) repaving works along Old North Street frontage to Boulevard Standard
- (c) reconstruction of crossover to provide an improved level footway

all works will be subject to final measure 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 "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"

mean the Mayor and Burgesses of the London Borough of Camden and the Owner

2.12 "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

2.13 "the Planning Permission"

a planning permission granted for the Development substantially in the draft form annexed hereto

Please quote our reference when replying

Your ref: CLS/COM/LMM/1431.390

Our ref: 1651211/CO1/KS/NWCPRL/RMP71956

Date: 28 October 2005

Credit Documentation

PO Box 339

Manchester

M60 2AH

DX 714895 Manchester-25

Telephone: Kay Southwell

Direct Dial: 0161 755 5889

Facsimile: 0161 242 9013



Borough Solicitor  
Camden Legal Services  
Planning  
DX 2106 EUSTON

Dear Sirs

RE: TOWN AND COUNTRY PLANNING ACT 1990  
SECTION 106 AGREEMENT BETWEEN  
SARFIELD PROPERTIES LIMITED  
AND THE LONDON BOROUGH OF CAMDEN  
NAME OF PROPERTY: 69-73 THEOBALDS ROAD, LONDON WC1X 8TA

We understand that the above parties intend to enter into an Agreement with the Council in relation to the above premises. The Agreement is to be in the form annexed hereto and is to be entered into pursuant to Section 106 of the Town and Country Planning Act 1990.

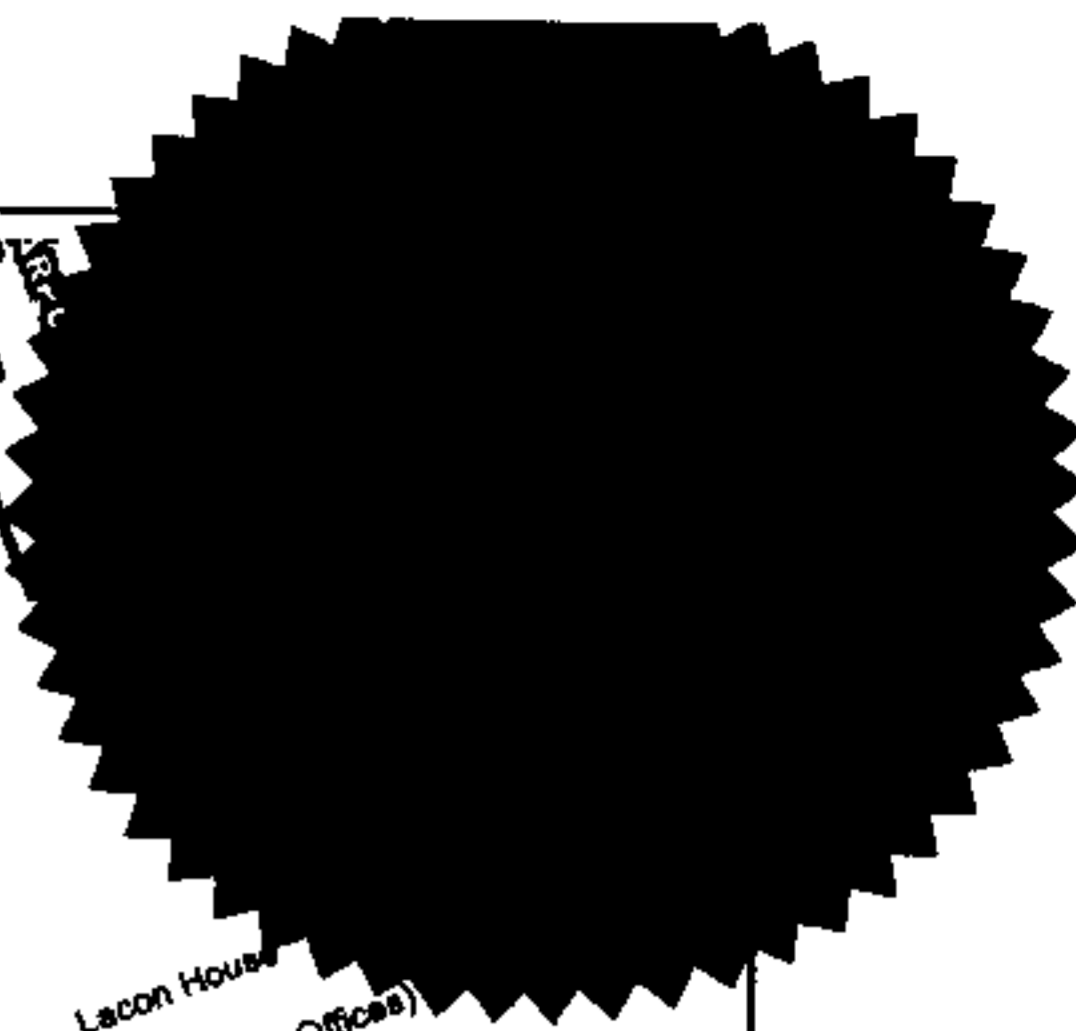
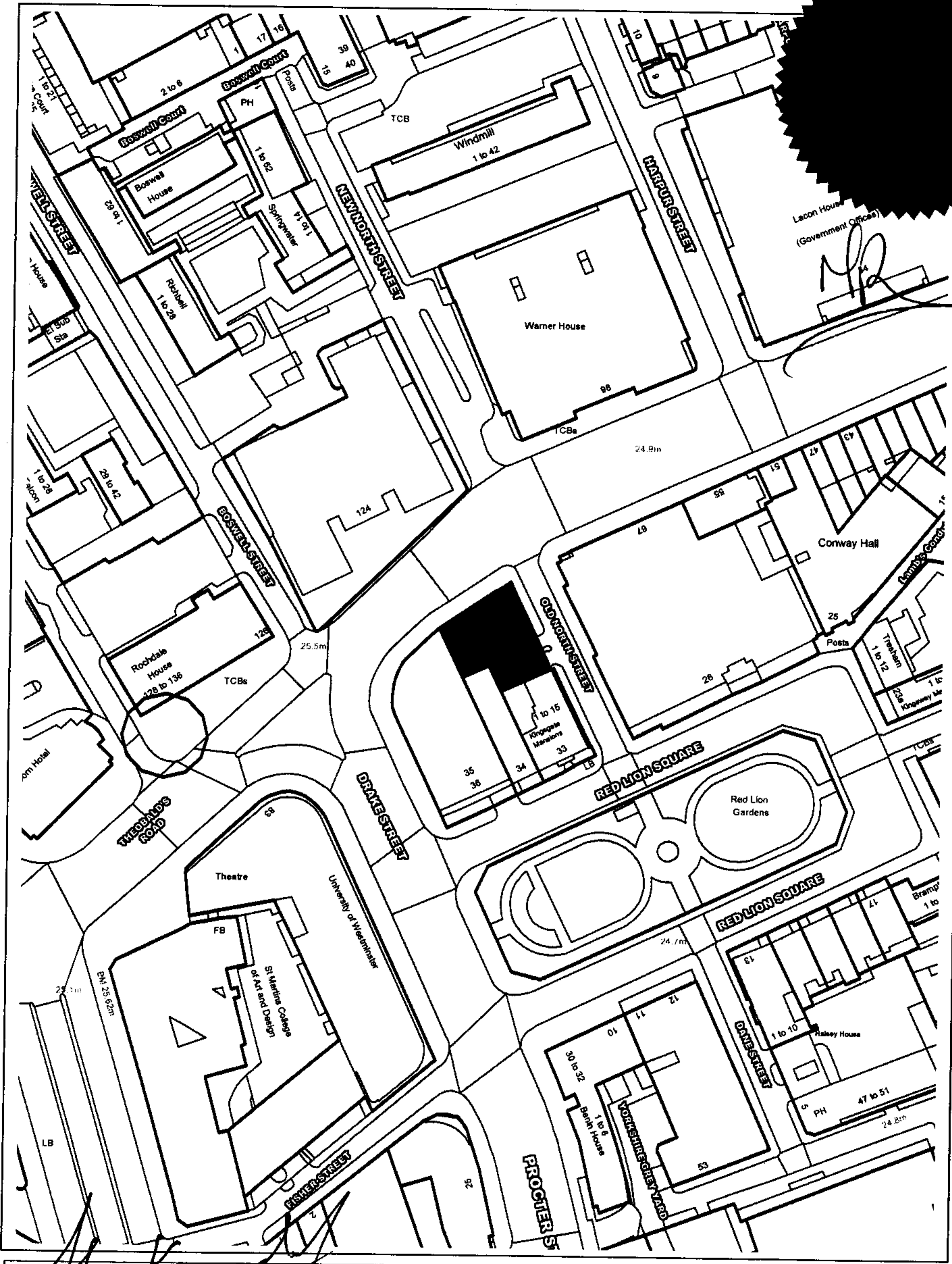
Pursuant to a fixed charge made the 20 October 2005, the above premises are charged by way of mortgagee to National Westminster Bank Plc ("the Bank") to secure the repayment of certain monies with interest thereon. We agree that the Agreement pursuant to Section 106 should be entered into and **HEREBY CONFIRM AND ACKNOWLEDGE**

1. That the Bank consents to the said Agreement being entered into by Sarsfield Properties Limited and the London Borough of Camden.
2. That the Bank's interest pursuant to the Charge aforesaid should be bound by the said Agreement but only in the event that the Bank becomes a mortgagee in possession of the above premises.
3. That the said Agreement be entered in the Charges Register at HM Property Registry under Title Number LN199631 pursuant to Clause 6.4 of the Agreement.

SIGNED BY .....

*K. H. Southwell*

FOR AND ON BEHALF OF NATIONAL WESTMINSTER BANK PLC



Lacon House  
(Government Offices)

*[Handwritten signature]*

*[Handwritten signature]*  
**For and on behalf of  
 Hanover Management  
 Services Limited  
 Secretaries to the Company**

**Application No: 2005/3138/P**  
**69-73 Theobalds Road**  
**London**  
**WC1X 8TA**

**Scale:**  
**1:1250**  
**Date:**  
**21-Oct-05**



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*[Handwritten signature]*

Hepher Dixon  
100 Temple Chambers  
Temple Avenue  
London  
EC4Y 0HP

Application Ref: 2005/3138/P

21 October 2005

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:  
**69-73 Theobalds Road  
London  
WC1X 8TA**

**DECISION**

Proposal:

Change of use and conversion of this and four other flats from office use (Class B1) to residential use (Class C3) together with a two storey roof extension to provide residential accommodation, demolition of existing two storey side office wing fronting Old North Street and replacement with new four storey side wing to provide residential accommodation, and erection of six storey rear extension to accommodate a circulation core, to accommodate a total of 7 x 2 room flats, 5 x 3 room flats and 1 x 4 room flat.

Drawing Nos: Report on Daylight and Sunlight; Design Statement.

224.01, 02/rev A, 03-06, 07/rev A, 08-09, 10/rev A, 11-14, 224.30, 224.50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60

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 five 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 all external facing materials with respect to the following elements - windows, glazing, screening, stairs, doors, balustrading, facing materials (brick), metal cladding and timber boarding, to be used on the building shall not be otherwise than as shall be approved by the Council before any work is commenced on the development. 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.

- 3 A 1.8 metre high screen, details of which shall have been submitted to and approved by the Council, shall be erected on all balconies facing south (Kingsgate Mansions) prior to commencement of use of the roof terrace and shall be permanently retained and maintained thereafter.

Reason: In order to present a pleasant appearance to the surrounding premises in accordance with the requirements of policy EN13 of the London Borough of Camden Unitary Development Plan 2000.

- 4 The details of the secure and protected storage for 18 cycle parking spaces at basement level shall not be otherwise than as shall have been submitted to and approved by the Council before any work is commenced on the relevant part of the development. This part of the development shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To facilitate the use of alternative modes of transport in accordance with the requirements of policy TR22 of the London Borough of Camden Unitary Development Plan 2000.

- 5 The existing car park shall be retained for office use only and shall not accommodate for residential parking in connection with this permission.

Reason: In order to deter non-essential vehicle trips and minimise the use of private cars in Central London, in accordance with the requirements of policy TR12 of the Camden Unitary Development Plan 2000.

- 6 The new roller shutter to the car park entrance hereby approved shall be of the open mesh variety and shall not be a solid shutter.

Reason: In the interest of the visual appearance of the building and the community safety of the area, in accordance with policies EN1, EN13, and EN20 of the London Borough of Camden Unitary development Plan 2000.

- 7 The details of the new residential entrance on Old North Street shall not be otherwise than as shall have been submitted to and approved by the Council before the relevant part of the work is begun.

Reason: To ensure that the entrance is safe and attractive, and to eliminate the use of recessed entrances which provide opportunities for criminal and anti-social behaviour, in accordance with the requirements of policies EN1, EN13, and EN20 of the London Borough of Camden Unitary development Plan 2000.

Informative(s):

- 1 Your proposals may be subject to the Building Regulations and/or the London Buildings Acts which cover structural soundness, 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. The penalty for contractors undertaking noisy works outside permitted hours is a maximum fine of 5,000 per offence. You are advised to consult the Council's Environmental Health Division, Town Hall, Argyle Street, WC1H (Tel. No. 020 7974 4444) for more information on the provisions of the Act if you anticipate any difficulty in carrying out construction earlier than within the hours stated above.
- 3 This consent is without prejudice to, and shall not be construed as derogating from, any of the rights, powers, and duties of the Council pursuant to any of its statutory functions or in any other capacity and, in particular, shall not restrict the Council from exercising any of its powers or duties under the Highways Act 1980 (as amended). In particular your attention is drawn to the need to obtain licences for any part of the structure which overhangs the public highway (including footway). Licences may be obtained from the Council's Highways Section, Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7278 4444).
- 4 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, RE5, RE6, EN1, EN13, EN18, EN19, EN22, EN24, HG8, HG9, HG12, HG16, EC3, EC5, TR12, TR16, TR22 and TR23. For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officers report.

- 5 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.
- 6 If a revision to the postal address becomes necessary as a result of this development, application under Part 2 of the London 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 8EQ (tel: 020-7974 5613).
- 7 The correct street number or number and name must be displayed permanently on the premises in accordance with regulations made under Section 12 of the London Building (Amendments) Act 1939.

Yours faithfully

**DRAFT**

Culture and Environment Directorate

**DECISION**

- 2.14 "the Property" the land known as 69-73 Theobalds Road London WC1X 8TA the same as shown shaded grey on the plan annexed hereto
- 2.15 "Registered Social Landlord" a registered social landlord registered as such by the Housing Corporation who has entered into an agreement with the Council to secure at least fifty per cent of the units of Affordable Housing created as part of the Development as accommodation for people nominated by the Council through its housing allocation scheme
- 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 and 6 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.

#### **4. OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

##### **4.1 FINANCIAL CONTRIBUTIONS**

- 4.1.1 On or prior to the Implementation Date to pay to the Council the Financial Contributions.
- 4.1.2 Not to Implement or to permit Implementation until such time as the Council has received the Financial Contributions.
- 4.1.3 On completion of the Highway Works the Council shall provide to the Owner a certificate specifying the sum ("the Certified Sum") expended by the Council in carrying out the Highway Works.
- 4.1.4 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.

## **4.2 CAR FREE HOUSING**

- 4.2.1 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.
- 4.2.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.2.1 above will remain permanently.

## **4.3 REQUIREMENT TO PROVIDE AFFORDABLE HOUSING**

- 4.3.1 Unless otherwise agreed by the Council in writing if at any time after the date of the Planning Permission a separate planning permission is granted to develop any part of the Property other than those parts comprised in the Development for residential purposes to create more than one residential unit in addition to the Development the Owner shall not permit Implementation of that planning permission until such time as it has entered into a planning obligation under Section 106 of the Act (or any subsequent Act) with the Council to secure those of the Council's policies on Affordable Housing as are applicable at the date of the relevant planning permission and as applied to all of the residential units within the Property (including those residential units forming part of the Development) with a view to securing at least fifty per cent of the residential units within the Property as a whole (including those residential units forming part of the Development) as Affordable Housing.

## **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 2005/3138/P the date upon which the residential 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 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 Financial Contributions 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 ZL962ZL065 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 AllRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AllRP figure published before the date such payment or application is made ("Y") less the last published AllRP 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 or by 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, Forward Planning and Projects Team, Planning Division Environment Department, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 2005/3138/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.



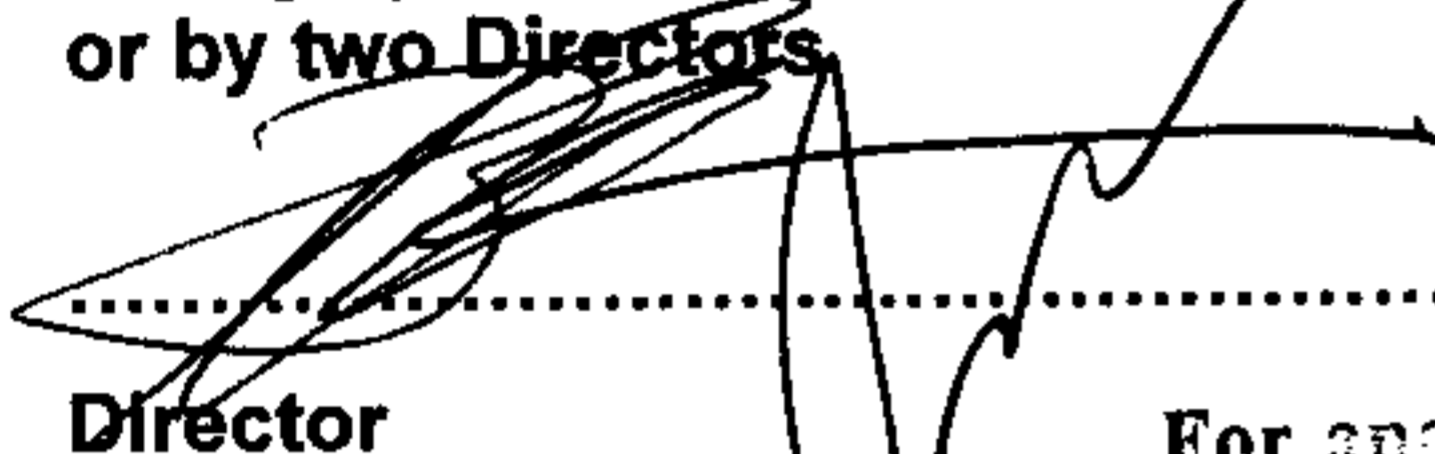
- 6.3 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement on or prior to the date of completion of the Agreement.
- 6.4 The Owner hereby covenants with the Council that it will within 28 days from the date hereof apply to the Chief Land Registrar 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 the Owner 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.
- 6.8 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.
- 6.9 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.
- 6.10 Nothing in this Agreement shall be construed as affecting prohibiting or limiting any rights to develop any part of the land in accordance with any other planning

permission granted whether before or after the date of this Agreement by the Council or the First Secretary of State or any other competent authority.

7. 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 have executed this instrument as their Deed the day and year first before written

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


  
.....

**Director**

**For and on behalf of**  
**Hanover Management**  
**Services Limited**  
**Secretaries to the Company**

.....  
**Director/Secretary**

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

  
.....  
**Authorised Signatory**

