

RECEIVED 28 FEB 2005

DATED 17 FEBRUARY 2005

(1) MICHAEL POKORNY and ALEXANDRA FANNING

and

(2) C HOARE & CO

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
167 SUMATRA ROAD, LONDON NW6 1PN
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

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

Tel: 020 7974 2463
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S:plan/lr/Sumatra Road 167 /s106 Agmt (CF)

THIS AGREEMENT is made the 17 day of FEBRUARY 2005

BETWEEN:

1. **MICHAEL POKORNY and ALEXANDRA FANNING** both of 46 Westbere Road, London NW6 (hereinafter called "the Owner") of the first part
2. **C HOARE & CO (Company Registration Number 240822)** of 37 Fleet Street, London EC4P 4DQ (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

WHEREAS

- 1.1 The Owner is registered at HM Land Registry as the freehold proprietor with Title absolute of the Property under Title Number LN187112 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 validated by the Council on 24 November 2004 and the Council resolved to grant permission conditionally under reference number 2004/5113/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 C HOARE & CO as Mortgagee under a legal charge registered under Title Number LN187112 and dated 18 December 1987 (hereinafter called "the 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 by the Planning and Compensation Act 1991)
- 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 validated by the Council on 24 November 2004 for which a resolution to grant permission has been passed conditionally under reference number 2004/5113/P subject to conclusion of this Agreement
- 2.4 "the Development" change of use from medical consulting rooms (D1 use) to 4 x self-contained flats (C3 use), including erection of a single-storey rear extension and conversion of loft space into a habitable room involving erection of a rear dormer window and 2 x rooflights as shown on drawing numbers 192/2/1 – 4 (inc.)
- 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 references to Occupied and Occupation shall be construed accordingly

2.7 "the Parties"

mean the Mayor and Burgesses of the London Borough of Camden the Owner and the 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 167 Sumatra Road, London NW6 1PN the same as shown edged in red 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

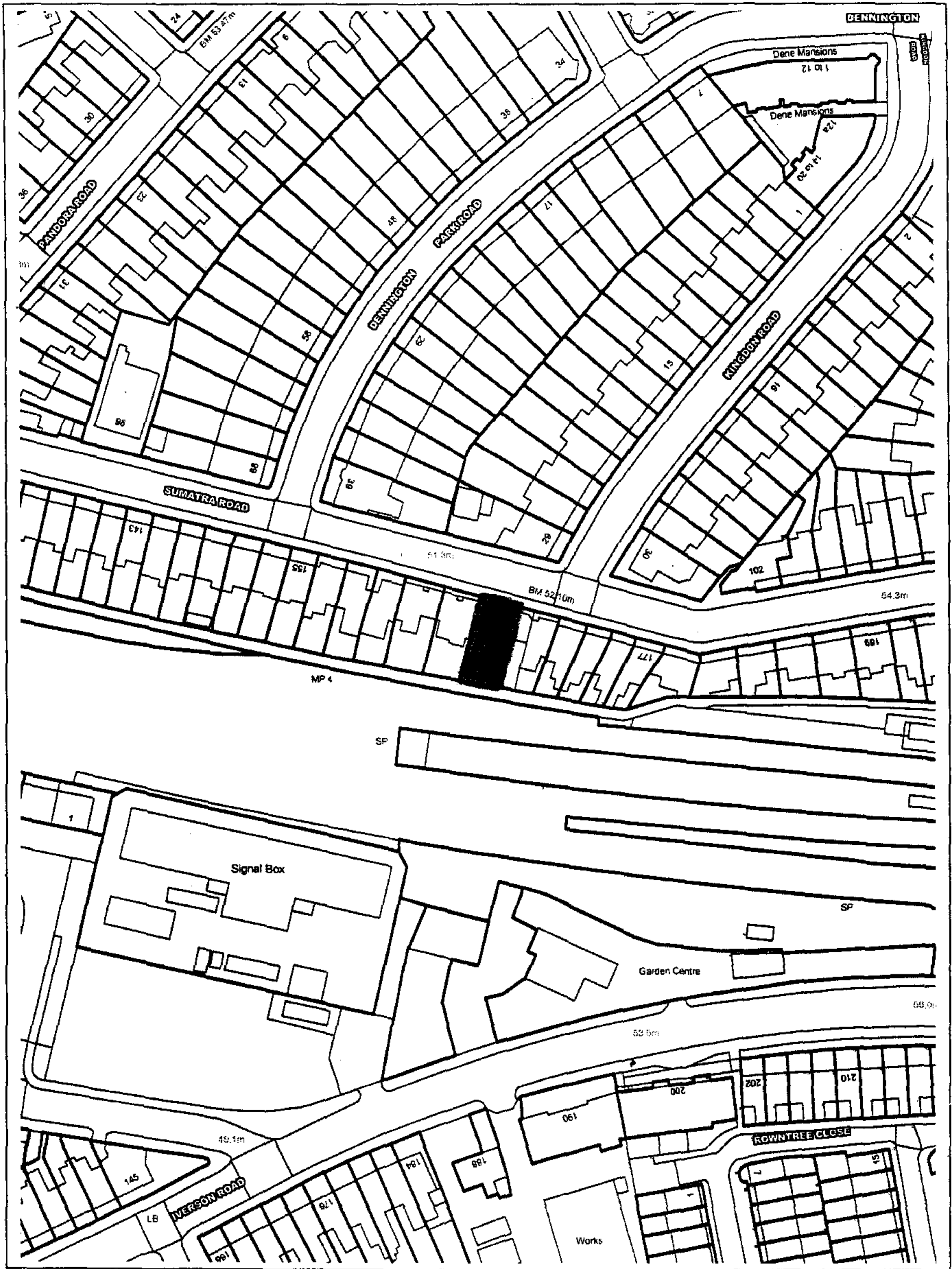
2.12 "Residents Parking Permit"

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.
- 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 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.
- 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.



Application No: 2004/5113/P

**167 Sumatra Road
London
NW6 1PN**

**Scale:
1:1250
Date:
19-Jan-05**



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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 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 2004/5113/P the date upon which the residential units forming the Development are ready for occupation.

5.2 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.

5.3 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, Forward Planning and Projects Team, Planning Division Environment Department, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 2004/5113/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 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,

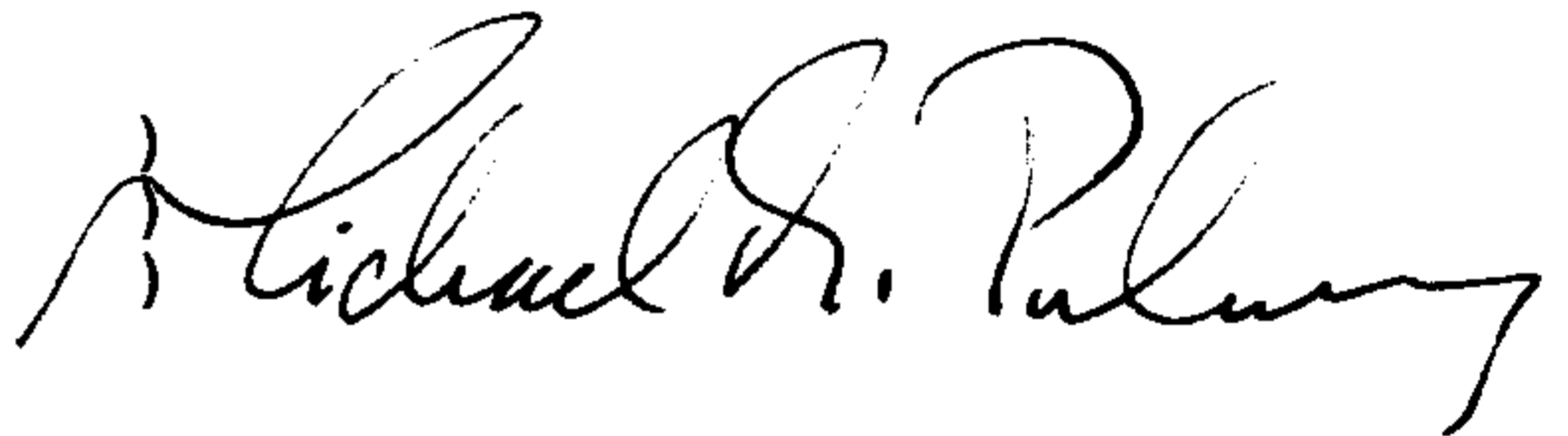
powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.

- 6.6 Neither the Owner nor the Mortgagee nor their successors in title nor any person deriving title from the Owner or the 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.
- 6.9 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 Secretary of State for the Department for Transport Local Government and the Regions or any other competent authority.
7. The Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at HM Land Registry as provided in Clause 6.4 hereof provided that the Mortgagee shall only be directly liable for a breach of any of the obligations contained in this Agreement during any such periods as it is a mortgagee in possession of the land and then only if it shall have caused such breach to have been occasioned and provided further for the avoidance of doubt that it shall not in any event be liable for any breach of this Agreement arising prior to it becoming mortgagee in possession of the land regardless of whether or not such pre-existing breach shall continue for any period during which it is a mortgagee in possession of the land.

8. All Covenants made by the MICHAEL POKORNY and ALEXANDRA FANNING in this Agreement are made jointly and severally and are enforceable as such.
9. 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 MICHAEL POKORNY
In the presence of:



Witness Name

Ayad M AL-Tukhafi

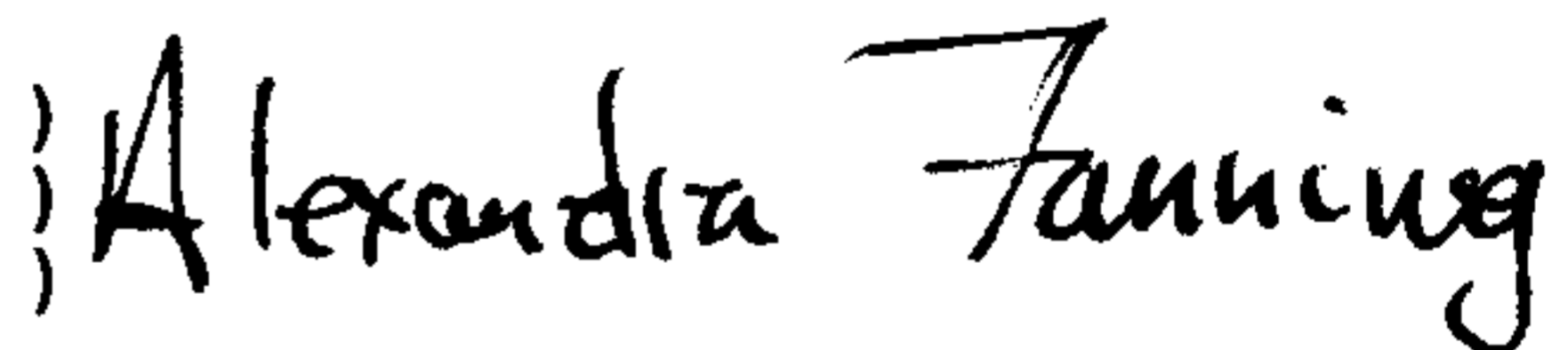
Address

20 IVOR PLACE, LONDON NW1 6EN

Occupation

Architect

EXECUTED as a Deed
by ALEXANDRA FANNING
In the presence of:



Witness Name

Ayad M AL-Tukhafi

Address

20 IVOR PLACE, LONDON NW1 6EN

Occupation

Architect.

CONTINUED SECTION 106 AGREEMENT FOR 167 SUMATRA ROAD, LONDON NW6 1PN

EXECUTED as a Deed)
By C HOARE & CO)
~~by~~ ACTING BY)
~~in the presence of.~~)

Alman
MANAGING PARTNER

.....
Authorised Signatory

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

Shue
MANAGING PARTNER

NR
.....
Authorised Signatory

