

DATED

11th August

1995

BERKELEY HOMES (NORTH LONDON) LIMITED

- and -

THE MAYOR AND BURGESSES OF
THE LONDON BOROUGH OF CAMDEN

A G R E E M E N T

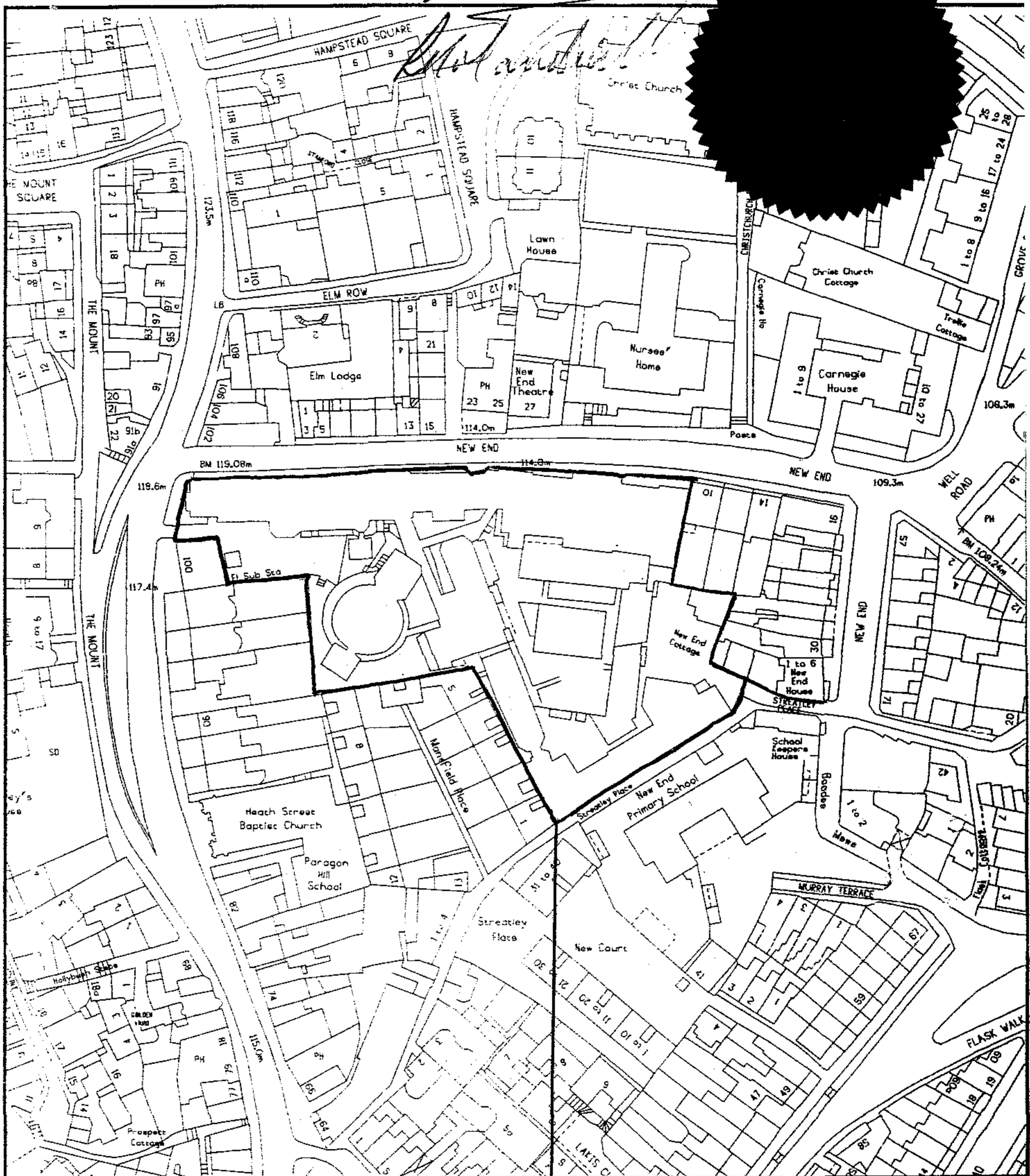
Relating to Property known as
New End Hospital,
New End, Hampstead, London NW3
pursuant to Section 106 Town
and Country Planning Act 1990
(as amended)

Amanda Kelly
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Ref: LEGAL/ENV/CHL/JAL/6460

Tel: 0171 278 4444 (Ext: 5000)
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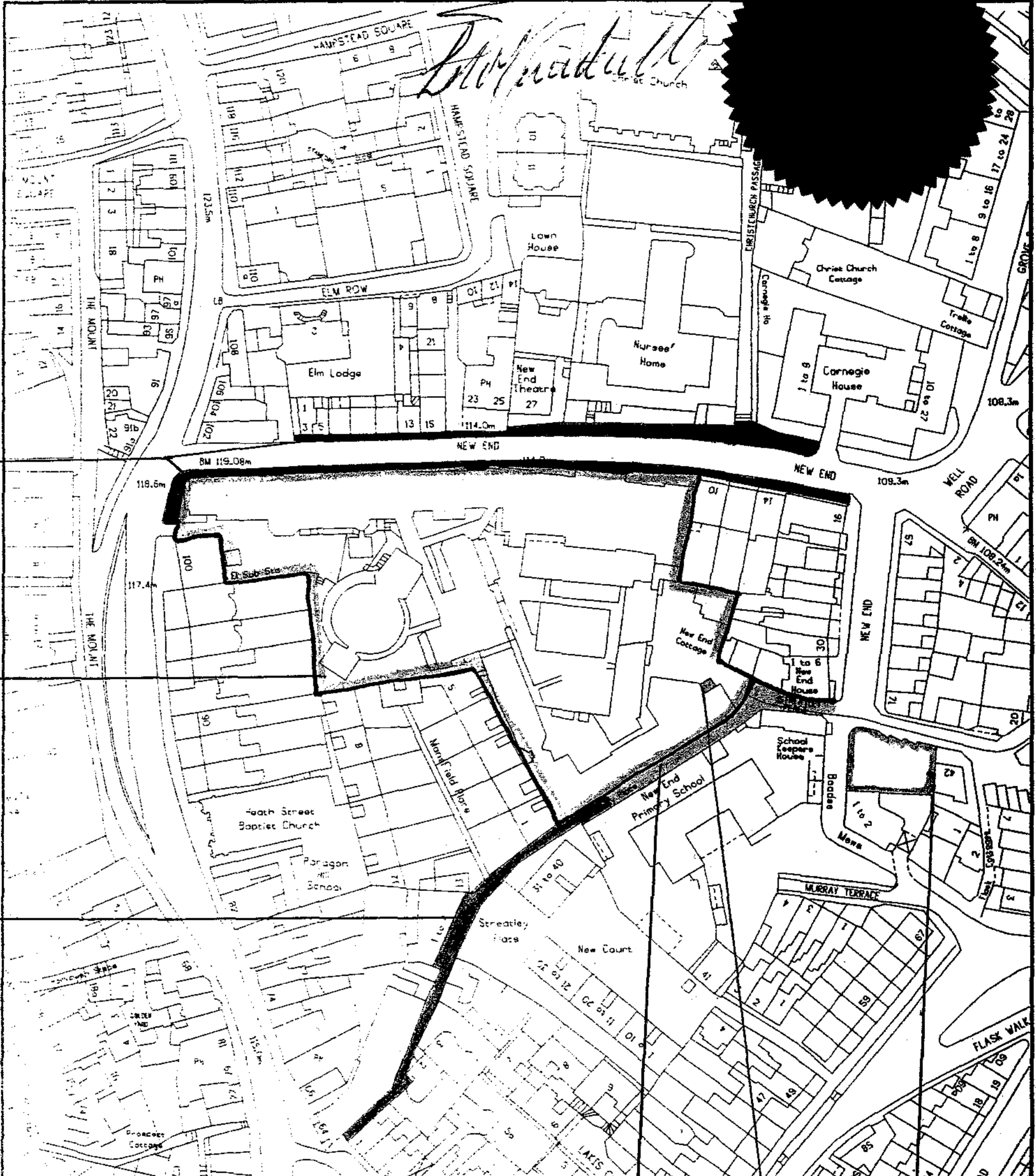
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NEW END HOSPITAL SITE **EDGED RED**

London Borough of Camden **PLAN I**

Planning Transport & Health Services
 Town Hall Extension
 Argyle Street Entrance
 London WC1H 8EQ



NEW END HOSPITAL SITE

SHADED BLUE

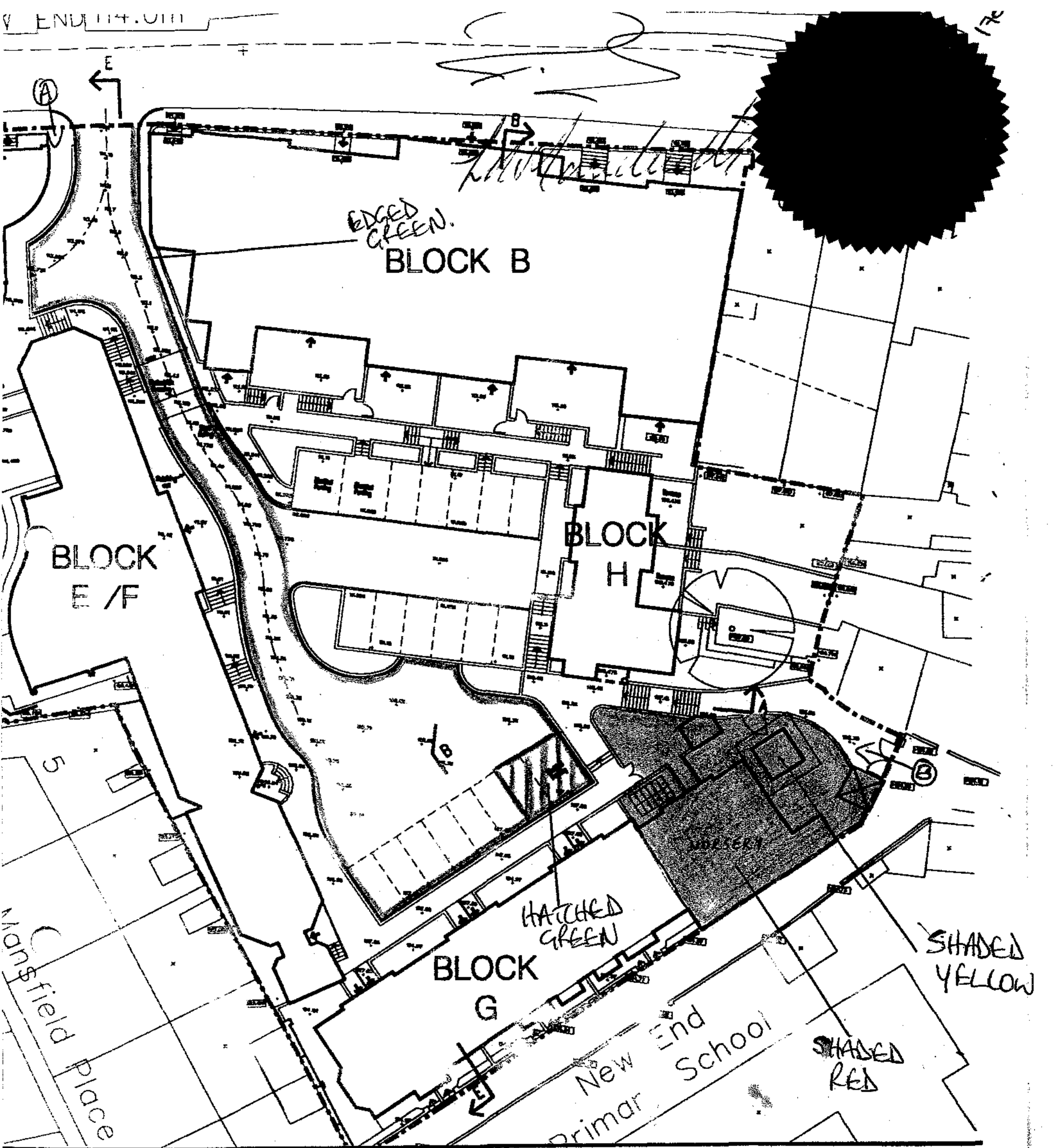
SHADED YELLOW

EDGED GREEN

London Borough of Camden

PLAN II

Planning Transport & Health Services
 Town Hall Extension
 Argyle Street Entrance
 London WC1H 8EQ



LONDON BOROUGH OF CAMDEN
SITE PLAN

NEW END HOSPITAL SITE

PLAN III



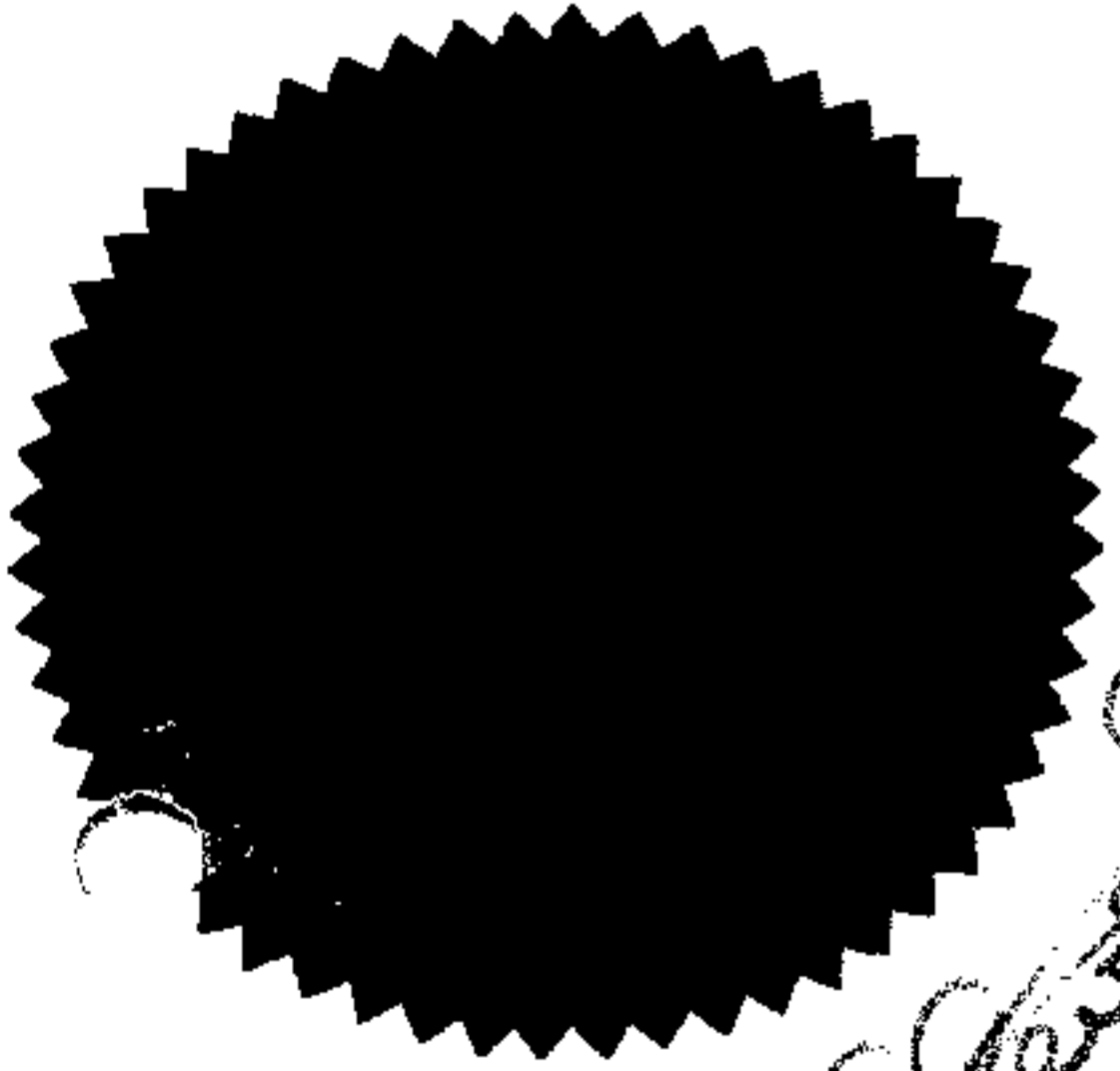
Address (outlined in black)
 Scale 1:1250

106 AGREEMENT - NEW END HOSPITAL

THIS AGREEMENT is made the *Eleventh* day of *August* One thousand nine hundred and ninety five B E T W E E N BERKELEY HOMES (NORTH LONDON) LTD whose registered office is at The Old House 4 Heath Road Weybridge Surrey KT13 8TB (hereinafter called "the Owner") of the one part and THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN of Town Hall Judd Street London WC1H 9LP (hereinafter called "the Council") of the other part

WHEREAS

1. The Owner is registered at H.M. Land Registry title number NGL616870 with freehold title absolute of land and buildings known as New End Hospital, New End, London NW3 (hereinafter called "the Property") (which is shown for the purposes of identification only on the plan marked Plan I annexed hereto and thereon edged red) and is interested in the Property within the meaning of Section 106 (9)(b) of the Act (as hereinafter defined).
2. The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 as amended (hereinafter called "the Act").
3. A Planning Application was submitted by the Owner to the Council on the 18th January 1993 and was given reference number PL9300042 for Planning Permission for the part refurbishment and part redevelopment of the Property to provide 57 self-contained residential units and a school nursery building and associated playground, together with associated car-parking and servicing for 59 cars and new vehicular access from New End and pedestrian access from Streatley Place as shown on drawings:
AL(0)01D, 02D, 05C, 06B, 07A-10A, 11B-13B, 14A-16A, 17D, 18A, 19, 20A-23A, 24B, 25C-27C, 28B, 29D, 30C, 31B-35B, 36C, 37E, 38C, 39C, 40B-42B, 43, 44A, 45C, 46D, 47C, 48B, 49B, 52D, 53C, 54, 56, 58, 113B, 114A-116A, 125C-127C,



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PART II COVENANTS BY THE COUNCIL:-

1. The Council covenants with the Owner:-

- 1.1 Forthwith to issue the Planning Permissions.
- 1.2 To apply the sum of £70,000 received from the Owner pursuant to Clause 1.2 of Part I of the Schedule directly in connection with the;
 - a) start up costs of the nursery;
 - b) fixtures fittings and equipment for the nursery;
 - c) payment of the Education Department fees incurred;
 - d) refurbishment and improvement of the playground at New End Primary School.
 - e) landscaping and improvement of the existing school environmental area;
- 1.3 To undertake within 6 months of the practical completion of the development the highway and environmental improvements as set out in Clauses 2.1 - 2.4 of Part I of the Schedule the costs (including the Council's fees) of which are to be borne entirely by the Owner.
- 1.4 To provide upon 7 days notice (unless an emergency) at weekends and during school vacations, a right of way over the nursery school playground to the chimney to enable such works of maintenance and repair as are necessary from time to time, and to permit the erection of such scaffolding or other like structure to enable such repair and maintenance to take place.

2. The costs (to include the Council's fees) of the following environmental and highway improvements in the vicinity of the property shall be borne entirely by the Owner.
 - 2.1 The replacement and/or restoration of lighting columns to a specification to be agreed in writing by the Council on the pavement on both sides of New End to the north of the Property at New End and along the whole length of Streatley Place.
 - 2.2 The relaying with York Stone materials to a specification to be agreed in writing by the Council the length of Streatley Place including the cul-de-sac section of road adjoining New End as shown shaded blue on Plan II annexed hereto.
 - 2.3 The renewal and restoration of the remaining length of Streatley Place between New End and Heath Street with York Stone materials to a specification to be agreed in writing by the Council, as shown shaded brown on Plan II annexed hereto.
 - 2.4 The relaying with York Stone materials, to a specification to be agreed in writing by the Council the length of the pavements on both sides of New End to the north of the property at New End and shown coloured black on Plan II annexed hereto.
3. To provide public pedestrian access through the Property between the proposed entrances at New End and Streatley Place from dawn to dusk on everyday throughout the year those entrances and for the purposes of identification only are shown marked 'Access A' and 'Access B' on Plan III annexed hereto.
4. To provide two car parking spaces which for the purposes of identification only are shown hatched green on Plan III attached hereto for the sole use by the employees of the Council engaged in the said nursery in perpetuity and without charge.

128B, 145C-147C, 148A, 149A, 151-156 & 219-227, AC(2)801A, 802A, 803, 804A, 806-808, 811A, 812, 813A, 814, 901A, 902A, 903, 905A, 906, 907, 908A, 909A & 911-913, AND AA(2)701A, 702A, 703, 704, 705A-707A & 708

4. A linked Listed Building Application was submitted to the Council on 18th January 1993 and was given reference number HB/9470158 for Listed Building Consent to alter Building "A and B" to demolish Buildings C, G, H and I and partially demolish Buildings D and E/F and for alterations/extentions to Buildings E/F as shown on drawing numbers: AL(0)01D, 02D, 05C, 06B, 07A-10A, 11B-13B, 14A-16A, 17D, 18A, 19, 20A-23A, 24B, 25C-27C, 28B, 29D, 30C, 31B-35B, 36C, 37E, 38C, 39C, 40B-42B, 43, 44A, 45C, 46D, 47C, 48B, 49B, 52D, 53C, 54, 56, 58, 113B, 114A-116A, 125C-127C, 128B, 145C-147C, 148A, 149A, 151-156 & 219-227, AC(2)801A, 802A, 803, 804A, 806-808, 811A, 812, 813A, 814, 901A, 902A, 903, 905A, 906, 907, 908A, 909A & 911-913, AND AA(2)701A, 702A, 703, 704, 705A-707A & 708

5. The Planning Application and Listed Building Application Numbered respectively PL9300042 and HB/9470158 are together hereinafter referred to as "the Application" and the works required to implement the Application are hereinafter referred to as "the Development".

5. To permit vehicular access at all times on everyday throughout the year and without charge along the vehicular right of way which for the purposes of identification only is shown edged in green on Plan III annexed hereto from Access A to the two car-parking spaces shown hatched green on Plan III annexed hereto.
6. To maintain, repair and keep insured at all times the chimney which for the purposes of identification only is shown shaded yellow on Plan III annexed hereto and to provide a sinking fund of £1000 for such a purpose.
7. To indemnify the Council for any repair, renovation or restoration of the playground to the nursery school required as a result of repair and maintenance to the aforementioned chimney.
8. To indemnify the Council for any costs incurred by it in suspending, removing or replacing on street parking restrictions including the cost of removing re-siting or replacing any associated equipment or signs required as a result of any of the works undertaken by the Developer pursuant to the Planning Permissions.
9. That any contribution to be made by the Owner under this Agreement is to be index linked from the date hereof to the date that the Owner makes the relevant payment in accordance with the indices of cost of labour materials and transport in civil engineering construction compiled by the Departments of the Environment and Transport or such other cost index superseding or replacing the same aforesaid

6. The Council has resolved to grant Planning Permission and Listed Building Consent upon the Application subject to the conditions set out in the Planning Permissions and Listed Building Consents of even date herewith (hereinafter called "the Planning Permissions") and subject to the covenants, undertakings and restrictions herein contained.
7. The Council considers it expedient in the interest of the proper planning of its area that the Development of the Property should be restricted or regulated in accordance with the Agreement.
8. For that purpose the Owner is willing to enter into this Agreement pursuant to provisions of Section 106 of the Act as substituted by the Planning and Compensation Act 1991.

NOW THIS DEED WITNESSETH:

9. This Agreement is made in pursuance of Section 106 of the Act as substituted by the Planning and Compensation Act 1991 and is a Planning Obligation for the purposes of Section 106 as aforesaid and shall be enforceable by the Council against the Owner and against the person deriving title to the Property from the Owner.

IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:

10. Save for the provisions of Clauses 13, 20 and 21 which will come into effect on the date hereof the parties hereto intend that the Agreement shall come into effect on the date (hereinafter called "the Implementation Date") of the implementation of the Development by the carrying out of a material operation within the meaning of Section 56 of the Act.

For the purposes of determining whether or not a material operation as aforesaid has been carried out there shall be disregarded such operations as demolition site clearance site preparation diversion and laying of services archaeological investigation and the construction of roads within the Development

11. Save for the provisions of Clauses 13, 20 and 21 below which will come into effect on the date hereof the covenants, undertakings and obligations contained within this Agreement shall become binding upon the Owner forthwith upon the Implementation Date.
12. If the Planning Permission is quashed, revoked or otherwise withdrawn (without the consent of the Owner) modified by any statutory procedure or expires before it has been implemented this Agreement shall cease to have effect.
13. The Owner hereby covenants with the Council that it will within 10 days of the date of this Agreement apply to the Chief Land Registrar to register this Agreement in the Charges Register of the title number hereinbefore mentioned, and will furnish to the Council forthwith on written demand office copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property.
14. The Owner agrees, declares and covenants with the Council that it will observe and perform the conditions, restrictions and other matters mentioned herein.
15. The Owner hereby covenants with the Council that subject to Part II of the Schedule it will not make any claim for compensation in respect of any condition, restriction, provision or other matter mentioned in this Agreement or arising from the existence of this Agreement.

16. This Agreement 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.
17. The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice to be served under or in connection with this Agreement, any notice to the Council to be in writing and addressed to the Chief Executive (reference ENV/LEGAL/CHL/10006460), London Borough of Camden Town Hall Judd Street London WC1H 9LP and any notice to the Owner to be addressed to its registered office for the time being.
18. It is hereby agreed and declared by the Owner and the Council that the Schedule hereto forms Part of this Agreement and the Owner hereby agrees with the Council to observe and perform the provisions in Part I thereof and the Council hereby agrees with the Owner to observe and perform the provisions in Part II thereof.
19. The Owner shall indemnify and keep indemnified the Council against all claims, actions, demands or expenses which may arise out of or in consequence of a breach by the Owner of the provisions of this Agreement.
20. This Agreement shall be registered as a Local Land Charge.
21. The Owner agrees to pay the Council its reasonable costs incurred in preparing this Agreement.
22. At the termination of the Agreement (by effluxion of time or otherwise) the Council shall upon written notice from the Owner:-
 - (i) provide (at the expense of the Owner) a notice of withdrawal of the restriction or other entry at HM Land Registry mentioned in Clause 13 hereof;

(ii) procure the cancellation of the entry in the Local Land Charges register for the land relating to this Agreement registered pursuant to Clause 20 hereof

23. No person shall be liable for any breach of the covenants contracted in this Agreement after he has parted with his interest in the Property or the part thereof in respect of which such breach occurs.

24. The expression 'the Owner' and 'the Council' shall include their respective successors in title and assigns.

SCHEDULE

PART I COVENANTS BY THE OWNER

The Owner hereby covenants, declares, agrees and undertakes with the Council:-

1. not to occupy or cause permit or suffer to be occupied any of the self-contained residential units comprised in the Development until;

1.1 a new nursery building and playground has been constructed entirely at the Owner's expense in accordance with the drawings submitted with the Planning Permissions and a detailed written specification substantially in the form appended hereto and agreed between the Council and the Owner and fitted out with services and gifted as a freehold site to the Council the site of which for the purposes of identification only is shaded pink on the plan attached hereto and marked Plan III

1.2 a payment of £70,000 has been made by the Owner to the Council as a contribution towards;

- a) start up costs of the nursery;
- b) fixtures, fittings and equipment for the nursery;
- c) payment of the Education Departments fees incurred;
- d) refurbishment and improvement of the existing school playground at New End Primary School;
- e) landscaping and improvement of the existing school environmental area which for the purposes of identification only is shown shaded green on plan II annexed hereto.