

DATED 15th November

1990

NOTTING HILL PROPERTIES LIMITED

-and-

THE MAYOR AND BURGESSES OF THE

LONDON BOROUGH OF CAMDEN

A G R E E M E N T

-relating to-

Land and buildings situate at Lithos Road
London NW3 in the London Borough of Camden

THIS AGREEMENT is made the day of
One thousand nine hundred and ninety BETWEEN NOTTING HILL
PROPERTIES LIMITED whose registered office is situate at 26
Paddenswick Road London W6 OUB (hereinafter called "the
Applicants") of the one part and THE MAYOR AND BURGESSES OF THE
LONDON BOROUGH OF CAMDEN of Town Hall Euston Road London NW1 2RU
whose reference is Legal/PL233 (hereinafter called "the Council")
of the other part

WHEREAS:

- (1) THE Applicants are registered as the registered proprietors
with title absolute of the land and buildings more particularly
described in the First Schedule hereto (hereinafter called "the
Application Site") the same being registered at HM Land Registry
with a title number NGL631987
- (2) THE Council is the Local Planning Authority for the area
within which the Application Site is situated for the purpose of
the Town and Country Planning Act 1990 (hereinafter called "the
Act")
- (3) THE Applicants have submitted to the Council a written
application dated the 14th day of March 1990 the same having been
allocated the reference of PL8905223R1 by the Council and subject
as herein mentioned and as mentioned in the planning permission
(hereinafter called "the planning permission") for the development
described in the Second Schedule hereto (hereinafter called "the
Development")
- (4) THE Council is satisfied that the Development may be
approved and granted permission SUBJECT HOWEVER to the
Development and use of the Application Site being restricted and

regulated in the manner hereinafter contained

(5) THE parties hereto have agreed for the reasons hereinbefore recited to enter into this Agreement pursuant to the powers and provisions of Section 106 of the Town and Country Planning Act 1990 Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 Section 16 of the Greater London Council (General Powers) Act 1974 Section 111 of the Local Government Act 1972 and all other powers them enabling

NOW THIS DEED WITNESSETH and it is hereby agreed and declared as follows

1. THIS Agreement is made in pursuance of the powers and provisions hereinbefore recited and in pursuance and by virtue of each and every other power statutory or otherwise the Council hereunto enabling

2. (a) THIS Agreement shall come into full force and effect from the date of a material operation on the Application Site in connection with the planning permission and "material operation" shall have the meaning assigned to it by Section 56 of the Act

(b) The Applicants covenant and undertake with the Council that not later than seven days before commencing a specified operation on the Application Site in connection with the planning permission they shall serve a notice on the Council of their intention so to do

3. THE Applicants for themselves their successors in title and all persons deriving title under them hereby covenant declare and agree and undertake with the Council as follows:-

(a) That no later than the disposal of eighty per cent of

the floor area of the accommodation permitted by the planning permission with the exception of the leisure centre and for the purposes of this clause "disposal" shall include the sale or lease or occupation of part only of the Application Site whether or not such part shall have been developed in accordance with the planning permission so that such part or parts shall be deemed to form part of the said eighty per cent as if it had been developed in accordance with the planning permission and had been disposed of and shall also include the sale or letting of any building erected thereon pursuant to the planning permission or the occupation of any such building other than in the course of construction or refurbishment thereof and discounting for this purpose the portion of the Application Site occupied or to be occupied by the London Electricity Board and the amenity building or

(b) Within a period of 5 years from the date this agreement comes into effect whichever shall be the earlier PROVIDED ALWAYS that the said period of 5 years may be varied by agreement between the parties hereto and that if the Applicants request the Council to extend the period of 5 years the Council shall not unreasonably withhold its consent then the Applicants shall cause to be vested in the Council and the Council agrees to accept a lease (hereinafter called "the lease") of such part or parts of the light industrial buildings along the south-eastern embankment of the Application Site referred to in and to be constructed pursuant to the planning permission as shall

comprise not less than 9,000 square feet of floorspace (hereinafter called "the Council's floorspace")

(c) The Council's floorspace shall be constructed in the position and to a design to be agreed between the parties hereto

(d) The Council's floorspace will be finished and fitted out by the Applicants to the Council's reasonable specification as workshops at the expense of the Applicants up to the sum of £180,000.00 such sum to be increased by an amount calculated utilising the Price Adjustment formulae for construction Contracts (the Monthly Bulletin of Indices) published by the Property Services Agency and HMSO from the eleventh day of August One thousand nine hundred and eighty nine until the date when the specification for the fitting out of the floorspace has been agreed

(e) The lease shall be in a form reasonably required by the Applicants and may contain similar provisions to the form of leases adopted by the Applicants on other parts of the Application Site PROVIDED HOWEVER THAT without prejudice to the generality of the foregoing the lease shall contain the following terms covenants or conditions:-

(i) the term of the lease shall be a period of not less than ninety nine years from the date upon which the Council's floorspace is available for occupation

(ii) there shall be no premium payable for the lease

(iii) the annual rental shall be one peppercorn (if demanded)

(iv) the lease shall contain such reasonable provisions

as to insurance as the Applicants may require but upon the basis that the Council shall indemnify the Applicants in respect of all insurance premiums

(v) the lease shall permit the Council in its absolute discretion to assign or sub-let its interest in all or part of the premises leased

(vi) any lease or sub-lease shall be in a form consistent with the terms of the said lease

(f) Each party will be responsible for and shall bear its own costs of and in connection with the said lease

4. PROVIDED however and it is hereby agreed and declared that in respect of the lease the Council shall accept and enter into the lease within 6 months of their being required so to do (provided that the said period of 6 months shall not commence until such date as the Council's floorspace shall be completed in accordance with the requirements of this Agreement)

5. THE Applicants for themselves their successors in title and all persons deriving title under them hereby jointly and severally declare agree covenant and undertake with the Council as follows:-

(a) In respect of the light industrial buildings along the south-eastern embankment of the Application Site permitted by the planning permission

(i) an area of not less than 2925 square metres (31,500 square feet) to include the accommodation referred to in clause 3(b) hereof (hereinafter called "the restricted area") shall be used only for purposes of Class B1(C) of the Town and Country Planning (Use

Classes) Order 1987 (and for no other purposes whatsoever notwithstanding that other purposes may fall within the said Class B1) being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise vibration smell fumes soot ash dust or grit and "industrial process" means a process for or incidental to any of the following purposes

- (1) the making of any article or part of any article (including a ship or vessel or a film video or sound recording)
- (2) the altering repairing maintaining ornamenting finishing cleaning washing packing canning adapting for sale breaking up or demolition of any article or
- (3) the getting dressing or treatment of minerals

(ii) the remainder of the light industrial buildings shall be used for all or any purpose of Class B1 of the Town and Country Planning (Use Classes) Order 1987

(b) The Applicants shall notify the Council of the location of the restricted area before the first occupation of any of the proposed industrial buildings

(c) The Council hereby agrees that the Council's floorspace shall for the purposes of this clause only be deemed to form part of the restricted area notwithstanding the actual use of the Council's floorspace

6. IF IT IS HEREBY AGREED AND DECLARED by the parties hereto that:-

(a) 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

(b) The Schedules hereto form part of this Agreement

(c) The Applicant covenants and undertakes that it shall within fourteen days from the date hereof lodge their Land Charges Certificates to the Application Site with H.M. Land Registry and will apply to the Chief Registrar to register this Agreement in the Charges Register thereof and shall forthwith after such lodgement inform the Council of the deposit number and will furnish to the Council authority for the Council to inspect the title to the Application Site and office copies of such title to show the entry of this Agreement in the Charges Register of the title to the Application Site

(d) Any notice or certificate served upon any party pursuant to this Agreement shall be in writing and shall be sufficiently served if left at or posted by recorded delivery post to that party at the respective addresses set forth on the first page of this Agreement with the references there given

(e) Any reference in this Agreement to any of the parties hereto shall be deemed to include the successors and assigns of that party

(f) The Applicant shall indemnify and keep indemnified the Council against all claims actions demands or expenses which may arise out of or in consequence of the provisions of this Agreement

(g) Nothing in this Agreement shall imply any obligation on the part of the Council to the Applicant or to any person to ensure that the development and works mentioned herein are properly constructed

7. THE Applicants for themselves their successors in title and all persons deriving title under them hereby covenant declare and agree and undertake with the Council as follows:-

(a) The new garden (hereinafter called "the garden") permitted by the planning permission which is shown for the purposes of approximate location and size only on the plan marked 2 attached hereto and thereon edged in red and which is to be developed as a garden shall be implemented and constructed by the Applicants not later than the date of occupation of the last residential unit or the date of issue of the Certificate of Practical Completion in respect thereof whichever is the sooner

(b) The garden shall be available for use not only to residents of the accommodation permitted by the planning permission but also to all residents of that area of land shown edged in red on plan 3 attached hereto (hereinafter called "the second occupiers") and the Applicants shall make no distinctions between the use of the garden by the second occupiers and any other authorised users thereof

(c) Access to the garden shall be by means of a key which shall be provided to any of the second occupiers upon request and after payment of a charge to the Applicants and for the purposes of these provisions the word "key" shall be deemed to include electronic access devices

(d) The charge demanded of the second occupiers for a key as mentioned in the sub-clause immediately preceding shall not include any element of the cost of initial planning developing constructing or setting out the garden or any access thereto but shall comprise only a reasonable apportionment of the periodic cost of maintenance and management of the garden or reasonable estimate thereof

(e) The Applicants shall annually use their reasonable endeavours to notify the second occupants of their rights to use the garden and the likely order of charge for a key thereto

(f) The Applicants shall provide to the Council such reasonable information as the Council may reasonably require to satisfy the Council that the Developers have observed and performed their obligations under this clause and that such of the second occupiers as may wish to use the garden and obey the rules laid down for its use are not prevented or obstructed in any way from doing so

8. PROVIDED however and it is hereby agreed and declared that in the event that there shall be any dispute as to the meaning or effect of any of the provisions herein contained or if the parties hereto shall fail to agree on any of the matters upon which their agreement is required by the provisions hereof then and in any such event any such dispute or failure to agree shall be referred for determination by an independent expert (acting as expert and not as an arbitrator) to be appointed jointly by the parties hereto or in default of such agreement to be appointed by the President for the time being of the Royal Institution of

Chartered Surveyors upon the joint application of both parties hereto (or if there shall not be a joint application upon the application of any party hereto) the decision of such expert being final and binding upon the parties hereto and whose costs shall be borne as he shall direct or in default of any direction as to costs to be borne by the parties hereto in equal shares

9. (a) S.33 of the Local Government (Miscellaneous Provisions)

Act 1982 shall apply to all the covenants given by the Applicants to the Council and mentioned in Clauses 2, 3, 5, 6 and 7 of this Agreement

(b) All undertakings given or made by the Applicant to the Council and mentioned in this Agreement are given or made in pursuance of S.16 of the Greater London Council (General Powers) Act 1974

IN WITNESS whereof the parties have caused their Common Seals to be hereunto affixed the day and year first before written

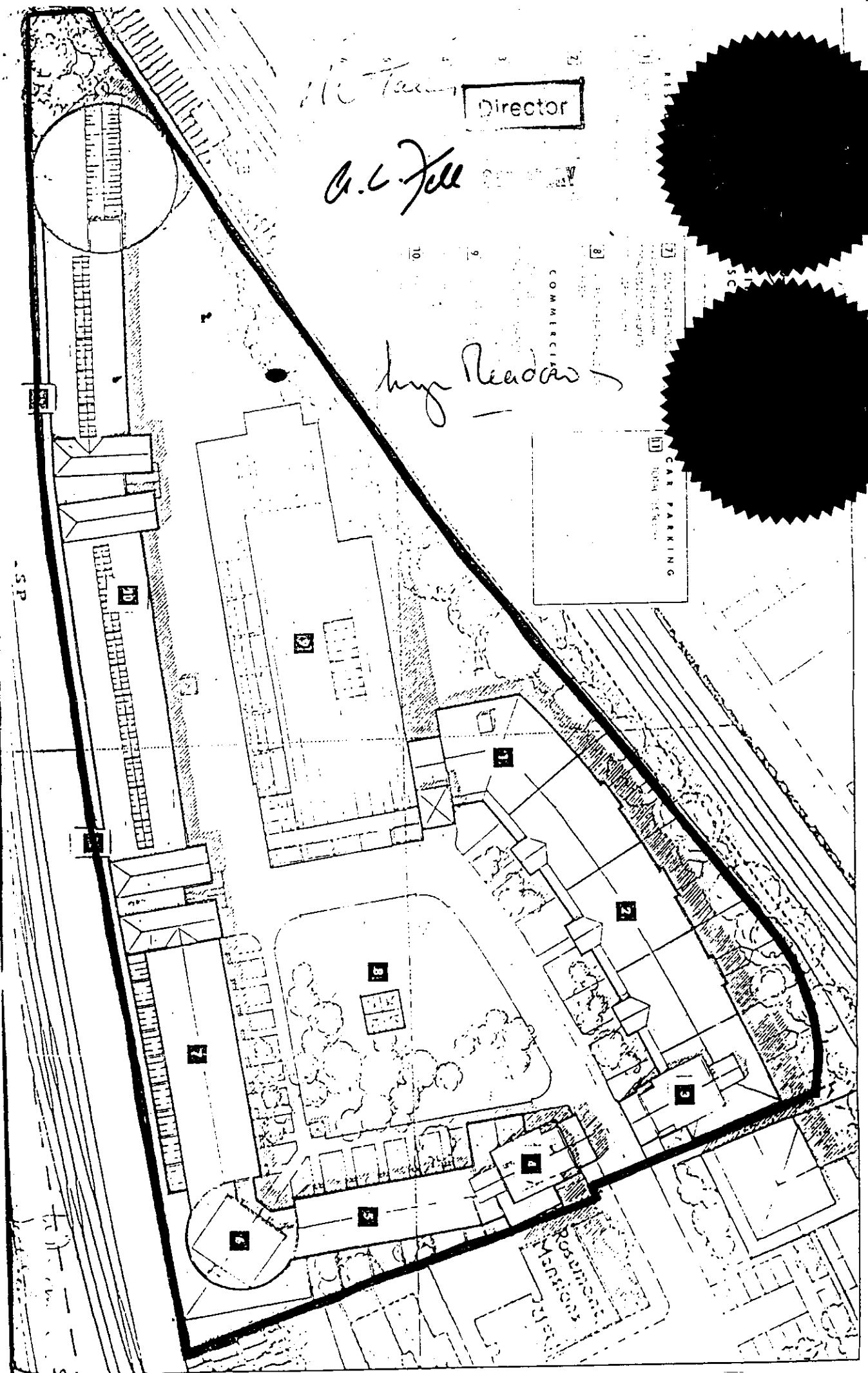
THE FIRST SCHEDULE hereto

ALL THAT land and buildings situated in the London Borough of Camden and shown for the purpose of identification only edged red on the plan marked 1 annexed hereto

THE SECOND SCHEDULE hereto

The development and refurbishment of land and buildings at the western end of Lithos Road so as to provide the refurbishment and alteration of the main building as Health Club with transformer retained; the redevelopment of the rest of the site to provide

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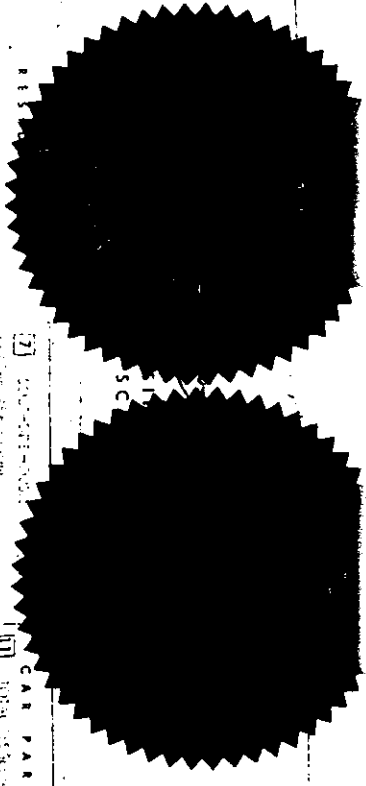


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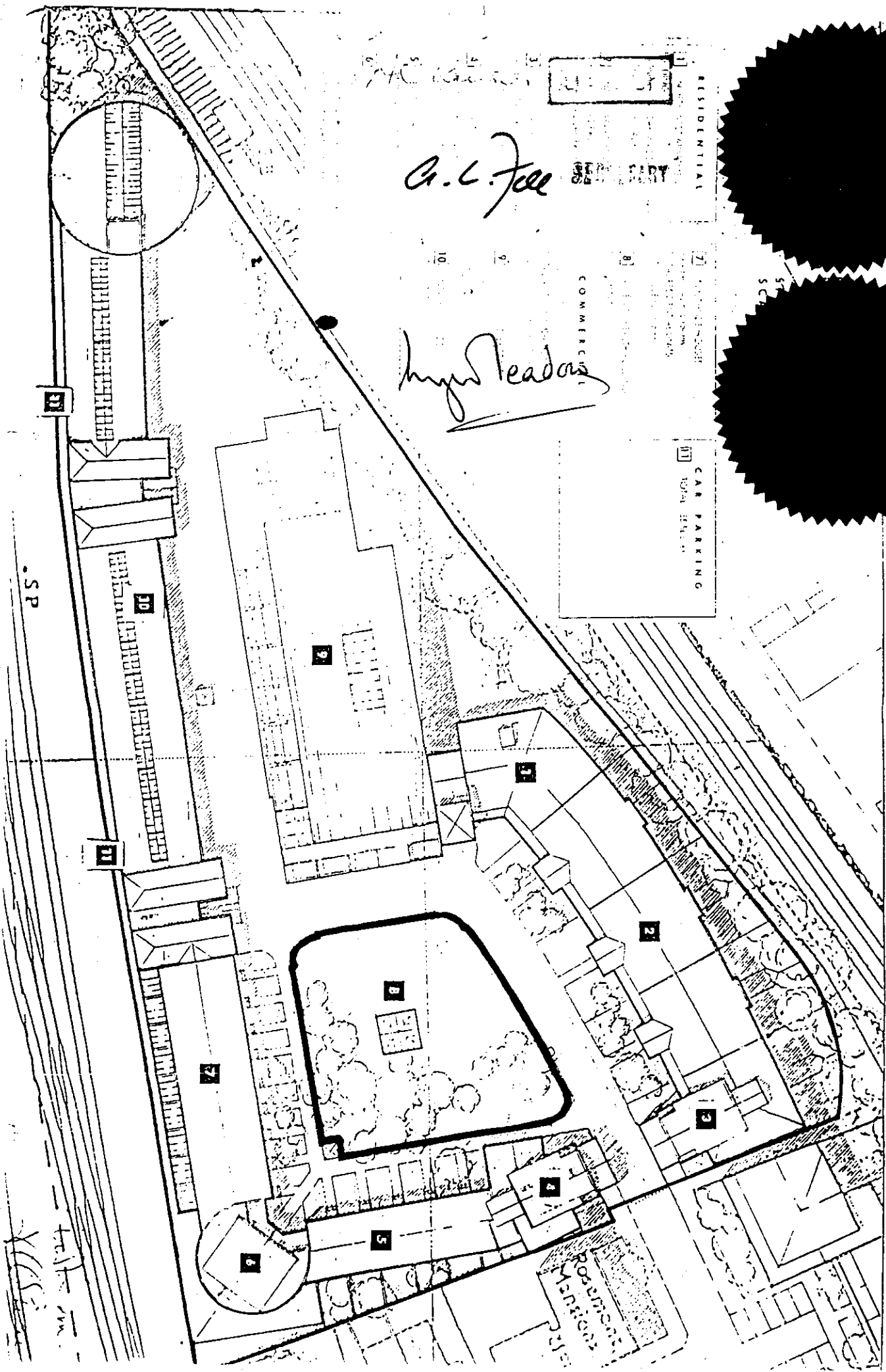
Director

A. C. Felt

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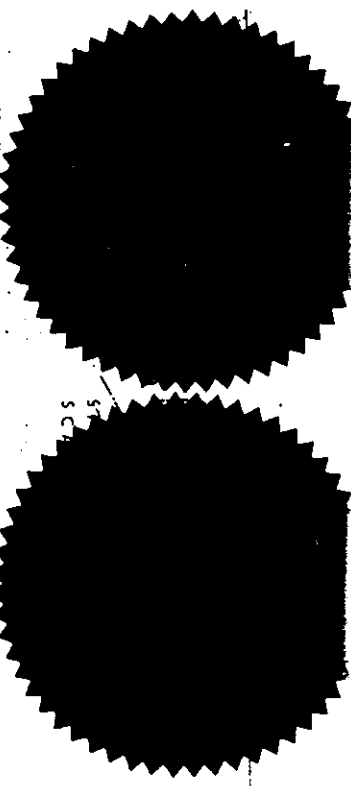


PLAN 1

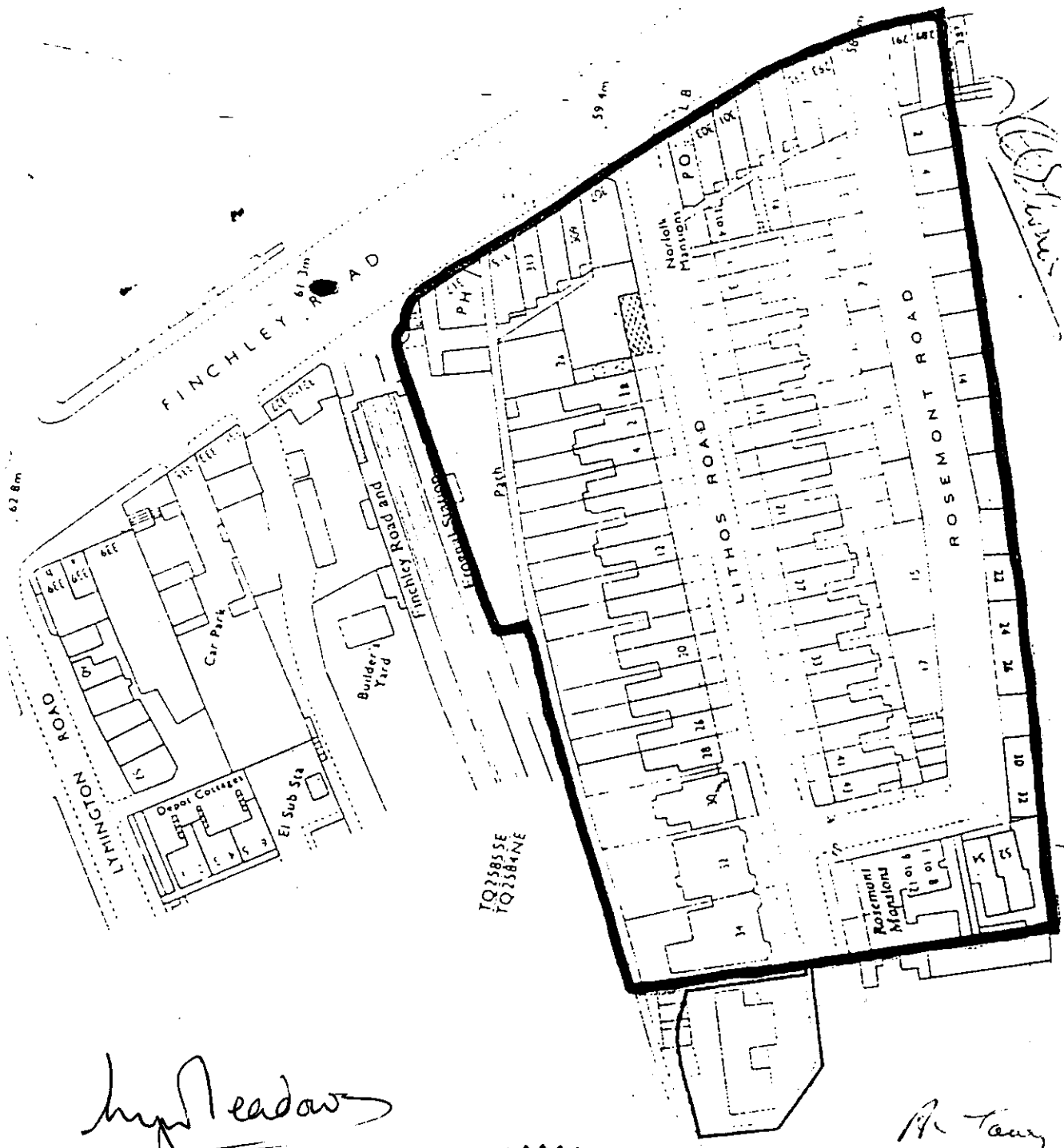


A.C. Fee

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Director

SECRETARY A.C. Fee

offices and light industrial buildings along the south-eastern embankment comprising 70,500 square feet of B1 use and 31,500 square feet of light industrial use; a residential development of 128 units, basement car space; a new garden and retention of existing footpath together with access to Lithos Road, as shown on drawing numbers

THE COMMON SEAL of THE MAYOR AND
BURGESSES OF THE LONDON BOROUGH)
OF CAMDEN was hereunto affixed)
by order:-)

Myr Meadow

Duty Authorised Officer.

THE COMMON SEAL of NOTTING HILL
PROPERTIES LIMITED was hereunto)
affixed in the presence of:-)

A C Tansley

Director

A.C. Felle . Secretary