

DATED

6th AUGUST

2014

(1) ALBERT RALPH HAY

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
FIRST FLOOR FLAT
72 HAMPSTEAD HIGH STREET
LONDON NW3 1QP
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

Andrew Maughan
Head of Legal Services
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 1918
Fax: 020 7974 2962

CLS/COM/FP/1685.2506
Final 14.7.2014

THIS AGREEMENT is made the 6th day of AUGUST 2014

B E T W E E N:

1. **ALBERT RALPH HAY** of 25 Hampstead Grove London NW3 6SR (hereinafter called "theOwner ") 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 third part

1. **WHEREAS**

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number 347201.
- 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 submitted to the Council and validated on 11 December 2013 and the Council resolved to grant permission conditionally under reference number 2013/7598/P subject to the conclusion of this legal Agreement.
- 1.4 A Listed Building Consent Application for the Property was submitted to the Council and validated on 11 December 2013 and the Council resolved to grant consent conditionally under reference number 2013/7659/L.
- 1.5 The Council is the local planning authority for the purposes of the Act for the area in which the Property is situated and 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.
- 1.6 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

- 1.7 The Property is subject to an occupational lease which contains restrictions on the occupational tenant's use of the Property. The Owner accepts an obligation that it will not alter any lease or tenancy of the Property existing at the date hereof so as to permit the lessee or tenant to Implement the Planning Permission and will not permit any alterations to the occupational lease which will allow the occupational tenant to Implement the Planning Permission or dispose of its interest in the Property to the occupational tenant without in each case first requiring the lessee, tenant or occupational tenant concerned to enter into an agreement with the Council covenanting in identical terms to this Agreement.

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 Development" | <p>(i) Planning Permission</p> <p>change of use of 1st floor from retail to residential as shown on drawing numbers:- Site location plan; PA2111 01; PA2110 01; PA1012 00; PA1011 00; PA1010 00; PA1111 00; PA1013 00; PA1210 00; PA1211 00; PA1212 00; PA1110 00; PA1014 00; PA1512 00; PA1511 00; PA1510 00; PA1611 00; PA1513 00; PA1710 00; PA1711 00; PA1712 00; PA1610 00; PA1514 00; PA2012 00; PA2011 00; PA2010 00; PA2210 00; PA2211 00; PA2212 00; PA2014 00</p> <p>(ii) Listed Building Consent</p> <p>internal alterations and refurbishment in connection with the change of use of 1st floor</p> |

from retail to residential as shown on drawing numbers PA2111 01; PA2110 01; PA1012 00; PA1011 00; PA1010 00; PA1111 00; PA1013 00; PA1210 00; PA1211 00; PA1212 00; PA1110 00; PA1014 00; PA1512 00; PA1511 00; PA1510 00; PA1611 00; PA1513 00; PA1710 00; PA1711 00; PA1712 00; PA1610 00; PA1514 00; PA2012 00; PA2011 00; PA2010 00; PA2210 00; PA2211 00; PA2212 00; PA2014 00

2.4 "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

2.5 "the Listed Building Consent Application"

an application in respect of Development at the Property submitted to the Council and validated on 11 December 2013 for which a resolution to grant consent has been passed conditionally under reference number 2013/7659/L subject to conclusion of this Agreement

2.6 "the Listed Building Consent"

a listed building consent granted for the Development substantially in the draft form annexed hereto

2.7 "Occupation Date"

the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly

2.8 "the Parties"

mean the Council and the Owner

- 2.9 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 11 December 2013 for which a resolution to grant permission has been passed conditionally under reference number 2013/7598/P subject to conclusion of this Agreement
- 2.10 "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
- 2.11 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.12 "the Property" the land known as First Floor Flat 72 Hampstead High Street London NW3 1QP the same as shown shaded grey on the plan annexed hereto
- 2.13 "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
- 2.14 "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 or interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6 and 7 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 CAR FREE

- 4.1.1 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.
- 4.1.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1.1 above will remain permanently.
- 4.1.3 On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the residential units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those residential units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.1.1 of this Agreement.

4.2 IMPLEMENTATION

- 4.2.1 Not to Implement or permit Implementation or otherwise take any steps to carry out the Development until such time as the Owner has demonstrated to the Council's satisfaction that Everything Everywhere Limited (or anyone deriving Title from Everything Everywhere Limited) has ceased to have any legal or equitable interest in the Property and has permanently vacated the Property by providing the following evidence:
- i) that the lease of the Property has been surrendered or terminated; and
 - ii) an updated copy of the Land Registry freehold title referenced 347201 showing the leasehold title numbered NGL683779 relating to the Property has been removed from the freehold title
- 4.2.2 Not to permit Everything Everywhere Limited (or anyone deriving Title from Everything Everywhere Limited) to make any alterations to the Property which will

Implement the Planning Permission without Everything Everywhere Limited (or anyone deriving Title from Everything Everywhere Limited) first entering into a Section 106 Agreement with the Council covenanting in identical terms of this Agreement.

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 seven 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 2013/7598/P the date upon which the Development will be 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 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its Head of

Legal Services a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.

- 5.6 Submission of any plan for approval by the Council under the terms of this Agreement shall be made by the Owner to the Council sending the full document and any appendices in electronic format (where practicable) 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 plan relates quoting the Planning Permission reference 2013/7598/P

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, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 2013/7598/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 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 them 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 this Agreement shall forthwith determine and cease to have effect.

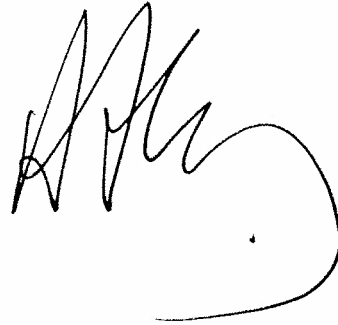
7. **RIGHTS OF THIRD PARTIES**

7.1 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
ALBERT RALPH HAY
in the presence of:

)
)
)



.....
Witness Signature

Witness Name: FRANCES HARBER

Address: 42 ROSEMARY DRIVE, ST. ALBANS AL2 1UD

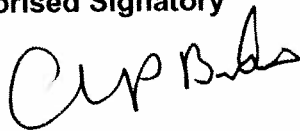
Occupation: P.A.

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

)
)
)
)



.....
Authorised Signatory



Patalab
Unit 4.3
2-6 Northburgh Street
London
EC1V 0AY

Application Ref: **2013/7598/P**

14 July 2014

Dear Sir/Madam

DRAFT
FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION
Town and Country Planning Act 1990 (as amended)

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:
**72 Hampstead High Street
London
NW3 1QP**

DECISION
Proposal:
Change of use of 1st floor from retail to residential
Drawing Nos: Site location plan; PA2111 01; PA2110 01; PA1012 00; PA1011 00; PA1010 00; PA1111 00; PA1013 00; PA1210 00; PA1211 00; PA1212 00; PA1110 00; PA1014 00; PA1512 00; PA1511 00; PA1510 00; PA1611 00; PA1513 00; PA1710 00; PA1711 00; PA1712 00; PA1610 00; PA1514 00; PA2012 00; PA2011 00; PA2010 00; PA2210 00; PA2211 00; PA2212 00; PA2014 00

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 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans Site location plan; PA2111 01; PA2110 01; PA1012 00; PA1011 00; PA1010 00; PA1111 00; PA1013 00; PA1210 00; PA1211 00; PA1212 00; PA1110 00; PA1014 00; PA1512 00; PA1511 00; PA1510 00; PA1611 00; PA1513 00; PA1710 00; PA1711 00; PA1712 00; PA1610 00; PA1514 00; PA2012 00; PA2011 00; PA2010 00; PA2210 00; PA2211 00; PA2212 00; PA2014 00

Reason: For the avoidance of doubt and in the interest of proper planning.

- 4 The lifetime homes features and facilities, as indicated on the drawings and documents hereby approved shall be provided in their entirety prior to the first occupation of any of the new residential units and shall be permanently maintained and retained thereafter.

Reason: To ensure that the internal layout of the building is acceptable with regards to accessibility by future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 (Providing quality homes) of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 (Lifetime homes and wheelchair homes) of the London Borough of Camden Local Development Framework Development Policies.

- 5 The development hereby permitted must not be implemented until the Council has been provided with evidence that the Leasehold title has been terminated and removed from the Freehold title

Reason: To ensure implementation of the car-free development can be carried out unimpeded and in full accordance with policies DP16 (The transport implications of development); DP17 (Walking cycling and public transport); DP18 (Parking standards and limiting the availability of car parking) and DP19 (Managing the impact of parking) of the London Borough of Camden Local Development Framework.

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 Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> 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 The Mayor of London intends to introduce a Community Infrastructure Levy (CIL) to help pay for Crossrail on 1st April 2012. Any permission granted after this time will need to pay a CIL including those submitted before April. This CIL will be collected by Camden on behalf of the Mayor of London. From April Camden will be sending out liability notices setting out how much CIL will need to be paid if an affected planning application is implemented and who will be liable. The proposed charge in Camden will be £50 per m2 on all uses except affordable housing, education, healthcare, and development by charities for their charitable purposes. You will be expected to advise us when planning permissions are implemented and we will issue a CIL demand notice setting out what monies needs to paid when and how to pay The CIL will be collected from Camden on behalf of the Mayor.
- 4 You are reminded that this decision only grants permission for permanent residential accommodation (Class C3). Any alternative use of the residential units for temporary accommodation, i.e. for periods of less than 90 days for tourist or short term lets etc, would constitute a material change of use and would require a further grant of planning permission.
- 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. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Culture and Environment Directorate

DRAFT

DECISION

Patalab
Unit 4.3
2-6 Northburgh Street
London
EC1V 0AY

Application Ref: **2013/7659/L**

24 February 2014

Dear Sir/Madam

DRAFT
FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION
Town and Country Planning Act 1990 (as amended)

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:
72 Hampstead High Street
London
NW3 1QP

Proposal:
Internal alterations and refurbishment in connection with the change of use of 1st floor from retail to residential.
Drawing Nos:

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 works hereby permitted shall be begun not later than the end of three years from the date of this consent.

Reason: In order to comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2 The works hereby approved are only those specifically indicated on the drawing(s) referred to above.

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 All new work and work of making good shall be carried out to match the original work as closely as possible in materials and detailed execution.

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan; PA2111 01; PA2110 01; PA1012 00; PA1011 00; PA1010 00; PA1111 00; PA1013 00; PA1210 00; PA1211 00; PA1212 00; PA1110 00; PA1014 00; PA1512 00; PA1511 00; PA1510 00; PA1611 00; PA1513 00; PA1710 00; PA1711 00; PA1712 00; PA1610 00; PA1514 00; PA2012 00; PA2011 00; PA2010 00; PA2210 00; PA2211 00; PA2212 00; PA2014 00

Reason: For the avoidance of doubt and in the interest of proper planning.

Informative(s):

1

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Culture and Environment Directorate

72 Hampstead High Street, London
NW3 1QP



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DATED

6TH AUGUST

2014

(1) ALBERT RALPH HAY

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
FIRST FLOOR FLAT
72 HAMPSTEAD HIGH STREET
LONDON NW3 1QP
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

Andrew Maughan
Head of Legal Services
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