

DATED 31 March 2015

**(1) CONSOLIDATED DEVELOPMENTS 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

**Garden Flat, 26 Wedderburn Road, London NW3 5QG  
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  
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CLS/COM/PM/1685.2620  
FINAL 200315



THIS AGREEMENT is made the 31 day of March 2015

**B E T W E E N:**

- i. **CONSOLIDATED DEVELOPMENTS LIMITED** (Co. Regn. No. 02904116) of 26a Wedderburn Road, London NW3 5QG (hereinafter called "the Owner") of the one part
  
- ii. **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

1. **WHEREAS**

- 1.1 The Owner is registered at the Land Registry as the leasehold proprietor with Title absolute of the Property under Title Number NGL913205.
  
- 1.2 A Planning Application for the development of the Property was submitted to the Council and validated on 7<sup>th</sup> October 2013 and the Council resolved to grant permission conditionally under reference number 2013/6418/P subject to conclusion of this legal Agreement.
  
- 1.3 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.
  
- 1.4 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 "the Agreement" this Planning Obligation made pursuant to Section 106 of the Act
- 2.3 "the Development" Erection of a single storey ground floor rear extension and conservatory and a single storey ground floor side extension, enlargement of basement floor including creation of rear lightwell all in connection with ground floor residential flat (Class C3) as shown on drawing numbers Site & Block plan 11.007/01; 11.007/02 Rev A; 11.007/03 Rev B; 11.007/11 Rev A; 11.007/21 Rev A; 11.007/24 Rev A; 11.007/25; Basement Impact Assessment, Appendices A - I, Engenuiti Limited, September 2013; Engenuiti Limited Letter dated 27/01/2014; Permeation Grouting Plan SKS\_011; Retaining Wall SKS\_012; Design and Access Statement.
- 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 "Neighbouring Properties" the neighbouring land and properties known as No 26 Wedderburn Road, No 24 Wedderburn Road and 5 Akenside Road (subject to and conditionally upon the owners and occupiers of 5 Akenside Road giving the Owner access to that property to carry out the Pre-Condition Survey in relation to that property).

- 2.6 "the Parties" mean the Council and the Owner
- 2.7 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 7<sup>th</sup> October 2013 for which a resolution to grant permission has been passed conditionally under reference number 2013/6418/P subject to conclusion of this Agreement
- 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 "Pre- Condition Survey" a survey of all Neighbouring Properties with the objective of assessing the structural stability of the Property and Neighbouring Properties with a view to mitigating impacts and minimizing risks arising from construction of the Development as described in the Basement Impact Assessment (Appendices A – I) by Engenuiti Limited dated September 2013 submitted with the Planning Application and to include the following:
- (i) that one or more trial pits is excavated at the Property to establish the required depth and design of the foundations for the Development

to ensure the safety and stability of the Neighbouring Buildings;

- (ii) provision of a detailed structural appraisal of the Neighbouring Properties and a method statement detailing the proposed method of ensuring the safety and stability of Neighbouring Properties throughout the Construction Phase including temporary works sequence drawings and assumptions with appropriate monitoring control risk assessment contingency measures and any other necessary methodologies associated with the basement and the basement temporary works; and
- (iii) to be undertaken by a suitably qualified certified engineer from a recognised relevant professional body (in accordance with the guidelines set out in Camden Planning Guidance 4: Basements and Lightwells) and having relevant experience of sub-ground level construction commensurate with the Development; and
- (iv) to be independently verified by a further suitably qualified engineer (potentially from the same company) from a recognised relevant professional body that the prepared survey has been undertaken fully and correctly and in accordance with this Agreement and only thereafter
- (v) to submit the survey to the Council for its written approval with a letter of professional certification confirming that the detailed measures set out in this Agreement have been inspected and approved by the second engineer and are

sufficient to achieve the objectives of the required survey

- 2.11 "the Property" the Garden Flat 26 Wedderburn Road, London NW3 5QG the same as shown shaded grey on the plan annexed hereto

3. **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, 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.

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

The Owners hereby covenants with the Council as follows:-

##### 4.1 **PRE CONDITION SURVEY**

4.1.1 To request consent from owners and occupiers of 5 Akenside Road to have access to that property in order to carry out the Pre-Condition Survey in respect of that property.

4.1.2 Prior to the Implementation Date to provide the Council for approval the Pre-Condition Survey

4.1.3 Not to Implement nor allow Implementation of the Development until such time as the Council has approved the Pre-Condition Survey as demonstrated by written notice to that effect.

4.1.4 The Owner acknowledges and agrees that the Council will not approve the Pre-Condition Survey unless it demonstrates by way of certification by a suitably qualified engineer from a recognised relevant professional body to the Council's reasonable satisfaction that the Development can be constructed safely in light of the ground and water conditions and will not cause any structural problems with Neighbouring Properties nor the Development itself.

4.1.5 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with any requirements set out in the Pre-Condition Survey and not to permit the carrying out of any works comprised in building out the Development at any time when the requirements of the Pre-Condition Survey are not being complied with and in the event of non-compliance with this sub-clause the Owner shall upon notice from the Council forthwith take any steps required to remedy such non-compliance.



4.1.6 The Owner agrees to fully reimburse the Council for any costs expended which require the instruction of any further technical engineering assessment in order to clarify or resolve any deficiencies in its consideration of the submitted Pre-Condition Survey.

**4.2 DEED OF ADHERENCE ON SURRENDER**

The Owner will not surrender the Lease to its landlord, unless on or before completion of that surrender (should the Council consider that any of the obligations (or part thereof) on the part of the Owner contained within this Agreement remain to be observed and performed) the landlord has entered into a deed of adherence with the Council and agrees to be bound by the obligations set out in this Agreement and which remain to be observed and performed by the Owner as deemed by the Council.

**5. NOTICE TO THE COUNCIL AND 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 Planning Permission has taken or is about to take place.
- 5.2 The Owners shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and during the carrying out of the Development 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 Owners possession (at the Owners expense) for the purposes of monitoring compliance with the obligations contained herein.
- 5.3 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 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.
- 5.4 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.

- 5.5 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 2013/6418/P.
- 5.7 Payment of any fees in relation to this Agreement shall be made by the Owner to the Council sending the full amount via electronic transfer (where practicable). The Owners shall notify the Planning Obligations Monitoring Officer that payment has been made referring to names date and Parties to this Agreement and citing the specific clause of this Agreement to which such contribution relates quoting the planning reference 2013/6418/P. Electronic Transfer be made directly to the National Westminster Bank of Hampstead Village, Enfield Customer Service Centre, PO Box 145 Baird Road Middlesex EN1 1FN quoting Sort Code 50-30-03 and London Borough of Camden General Account no. 24299480
- 5.7 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.
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 Permission reference number 2013/6418/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 its 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.

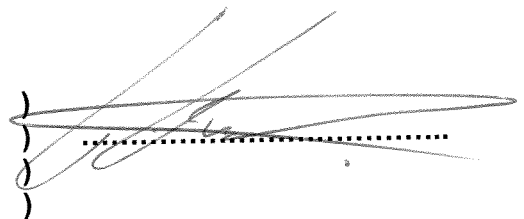
- 6.8 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of development this Agreement shall forthwith determine and cease to have effect.
- 6.9 Following submission of the Pre-Condition Survey for approval the Council shall provide approval or any comments within 28 days of receipt.
- 6.10 The Owner agrees to reimburse the Council for the cost of having the Pre- Condition Survey independently reviewed on behalf of the Council.
- 6.11 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time before the commencement of the 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 or at the Land Registry in respect of this Agreement.

7. **RIGHTS OF THIRD PARTIES**

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  
 CONSOLIDATED DEVELOPMENTS LIMITED  
 acting by a Director Laurence Kirschel  
 in the presence of:**




Witness Signature

Witness Name *Susan Richardson*

Address *Coopers Cottage, 11 Phoenix Terrace  
 Hartley Wintney RG27 8UN*

Occupation *PERSONAL ASSISTANT.*

CONTINUATION OF S106 AGREEMENT RELATING TO THE GARDEN FLAT, 26  
WEDDERBURN ROAD, LONDON NW3 5QG - 2013/6418/P

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

*S. Alexander*

.....  
**Authorised Signatory**





*R Alexander*

26a Wedderburn Road, London NW3 5QG  
2013/6418/P



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63 Islington Park Street  
London  
N1 1QBTel 020 7974 4444  
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Textlink 020 7974 6866planning@camden.gov.uk  
www.camden.gov.uk/planningApplication Ref: **2013/6418/P**

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:  
**26 Wedderburn Road**  
London  
**NW3 5QG**

## Proposal:

**DECISION**  
Erection of a single storey ground floor rear extension and conservatory and a single storey ground floor side extension, enlargement of basement floor including creation of rear lightwell all in connection with ground floor residential flat (Class C3).

Drawing Nos: Site &amp; Block plan 11.007/01; 11.007/02 Rev A; 11.007/03 Rev B; 11.007/11 Rev A; 11.007/21 Rev A; 11.007/24 Rev A; 11.007/25; Basement Impact Assessment, Appendices A - I, Engenuiti Limited, September 2013; Engenuiti Limited Letter dated 27/01/2014; Permeation Grouting Plan SKS\_011; Retaining Wall SKS\_012; Design and Access Statement.

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 & Block plan 11.007/01; 11.007/02 Rev A; 11.007/03 Rev B; 11.007/11 Rev A; 11.007/21 Rev A; 11.007/24 Rev A; 11.007/25; Engenuiti Limited Letter dated 27/01/2014; Permeation Grouting Plan SKS\_011; Retaining Wall SKS\_012; Basement Impact Assessment, Appendices A - I, Engenuiti Limited; Design and Access Statement. ]

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

- 4 The development hereby approved shall not commence until such time as a suitably qualified chartered engineer with membership of the appropriate professional body has been appointed to inspect, approve and monitor the critical elements of both permanent and temporary basement construction works throughout their duration to ensure compliance with the design which has been checked and approved by a building control body. Details of the appointment and the appointee's responsibilities shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. Any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Development Policies and policy DP27 (Basements and Lightwells) of the London Borough of Camden Local Development Framework Development Policies.

- 5 Prior to the basement excavation works, a trial pit shall be excavated to determine the foundation levels of 24 Wedderburn Road and to inform the final design of the basement works. Details of the findings of the trial pit excavation and any subsequent amendments of the basement design shall be submitted to and approved by the Council and the basement shall be constructed in accordance with approved details.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Development Policies and policy DP27 (Basements and Lightwells) of the London Borough of Camden Local Development Framework Development Policies.

- 6 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for: (a) the parking of vehicles of site operatives and visitors; (b) the loading and unloading of plant and materials; (c) storage of plant and materials used in constructing the development; (d) the erection and maintenance of security hoarding; (e) wheel washing facilities; (f) measures to control the emission of dust and dirt during construction; (g) a scheme for recycling/disposing of waste resulting from demolition, excavation and construction works; and (h) the times within which demolition, excavation and construction and associated servicing and deliveries will take place.

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.

- 7 No works associated with the development hereby approved shall take place until the proposed method of grouting associated with the basement works have been submitted to and approved in writing by the Council in conjunction with the advice of the appointed independent engineering assessors. The works shall be carried out in accordance with the approved method statement.

Reason: To protect the built and natural environment and the wellbeing of neighbouring buildings in accordance with the requirements of policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Development Policies and policy DP27 (Basements and Lightwells) of the London Borough of Camden Local Development Framework Development Policies.

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.

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

**DECISION**



DATED 31 March 2015

**(1) CONSOLIDATED DEVELOPMENTS LIMITED**

and

**(2) THE MAYOR AND BURGESSES OF  
THE LONDON BOROUGH OF CAMDEN**

**A G R E E M E N T**  
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pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended)**