

DATED

19 August

2015

(1) NATVAR NATHA and AMIT NATHA

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

1F, 2F, & 3F 206 Kilburn High Road, London NW6 4JD

**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 5680

Fax: 020 7974 1920

THIS AGREEMENT is made the 19 day of August 2015

B E T W E E N:

- i. **NATVAR NATHA** and **AMIT NATHA** of 113 Shaftesbury Avenue, Kenton, Middlesex HA3 0RD (hereinafter called "the Owner") of the first part

- iv. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second 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 423524.

- 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 15 January 2015 and the Council resolved to grant permission conditionally under reference number 2014/5496/P subject to conclusion of this legal Agreement.

- 1.4 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.

- 1.5 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" change of use of 1st, 2nd and 3rd floor office/storage rooms ancillary to the A1 unit on ground floor to 1no. x 2 bedroom flat and 2no. x 1 bedroom Flats (Class C3) as shown on drawing numbers Existing: 1085-BA-129,128,126 RevA,125, 124,123,122,121,120, 119,116RevA, Lifetime Homes Report
- 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 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 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 15 January 2015 for

which a resolution to grant permission has been passed conditionally under reference number 2014/5496/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 "the Property"

the land known as 1F, 2F, & 3F 206 Kilburn High Road London NW6 4JD the same as shown shaded grey 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

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 or interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7 and 8 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 Owner hereby covenants with the Council as follows:-

CAR FREE HOUSING

- 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.
- 4.3 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 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 Planning Permission 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 the Planning Permission reference 2014/5496/P the date upon which the Development is 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 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, 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 2013/4815/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 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. **JOINT AND SEVERAL LIABILITY**

- 7.1 All Covenants made by the Owner in this Agreement are made jointly and severally and shall be enforceable as such.

8. **RIGHTS OF THIRD PARTIES**

- 8.1 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
NATVAR NATHA
in the presence of:

)
)
) *Natha*

.....
[Signature]
Witness Signature

Witness Name *SUNJAY VERSANI*
Address *185 CARLTON AVENUE EAST, WEMBLEY*
MIDDLESEX, HA9 8QB
Occupation *SOLICITOR ADVOCATE*

EXECUTED AS A DEED BY
AMIT NATHA
in the presence of:

)
)
) *[Signature]*

.....
[Signature]
Witness Signature

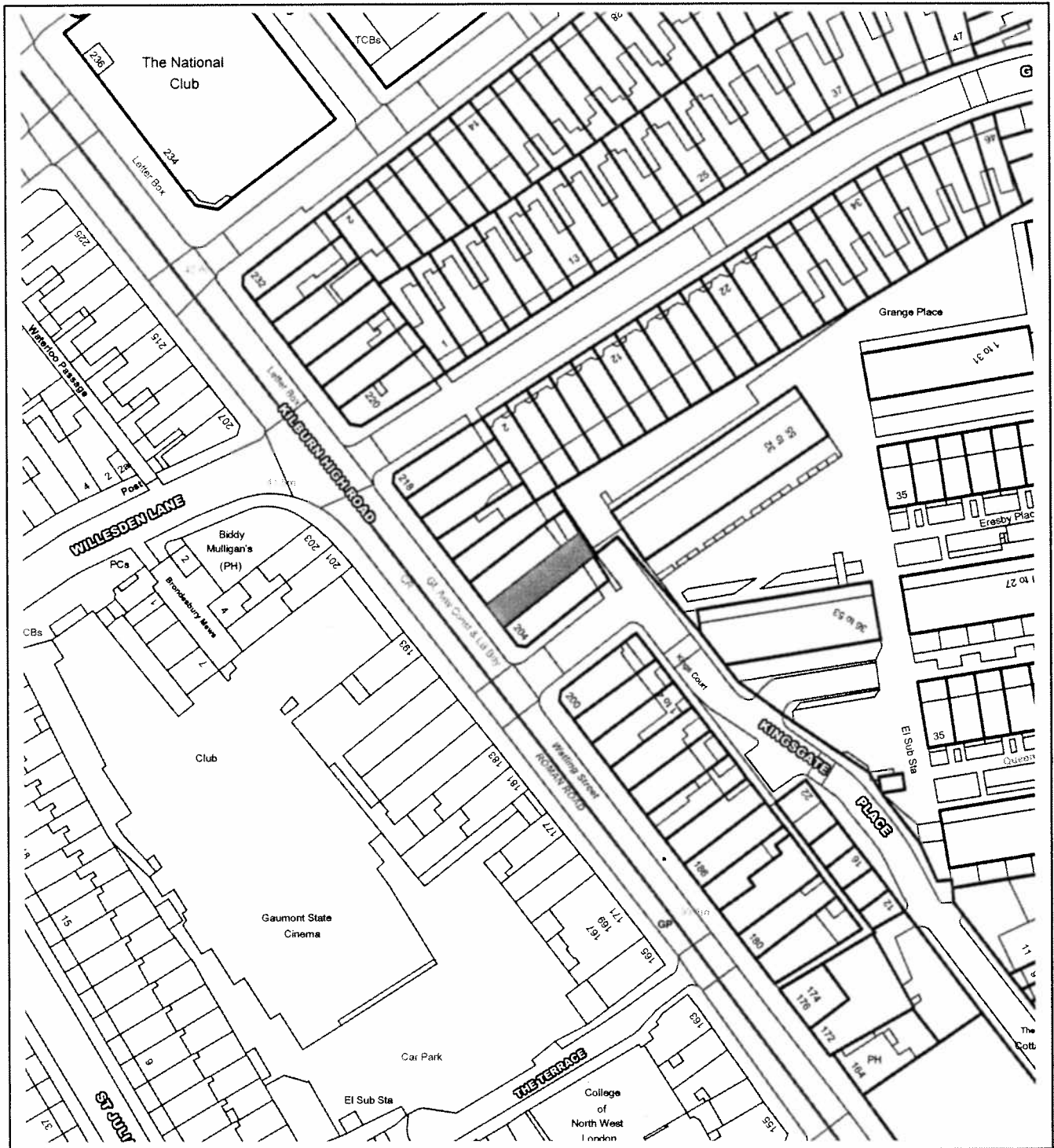
Witness Name *SUNJAY VERSANI*
Address *185 CARLTON AVENUE EAST, WEMBLEY*
MIDDLESEX, HA9 8QB
Occupation *SOLICITOR ADVOCATE*

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

.....
[Signature]
Authorised Signatory



206 Kilburn High Road London NW6 4JH 2013/4815/P



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**Regeneration and Planning
Development Management**
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WC1H 8ND

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planning@camden.gov.uk
www.camden.gov.uk/planning

Donald Shearer Architects
Scholar's House
Shottery Brook Office Park
Timothy's Bridge Road
Stratford-upon-Avon
Warwickshire
CV37 9NR

Application Ref: **2014/5496/P**

16 July 2015

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:

**1F
2F
& 3F
206 Kilburn High Road
London
NW6 4JH**

DECISION

Proposal:

Change of Use of 1st, 2nd and 3rd floor office/storage rooms ancillary to the A1 unit on ground floor to 1no. x 2 bedroom flat and 2no. x 1 bedroom Flats (Class C3).

Drawing Nos:

1085-BA-129,128,126 RevA,125, 124,123,122,121,120, 119,116RevA, Lifetime Homes Report.

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 The development hereby permitted shall be carried out in accordance with the following approved plans:

1085-BA-129,128,126 RevA,125, 124,123,122,121,120, 119,116RevA, Lifetime Homes Report.

Reason:

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

- 3 Before the development commences, details of secure and covered cycle storage area for two cycles shall be submitted to and approved by the local planning authority. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and permanently retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 of the London Borough of Camden Local Development Framework Development Policies.

- 4 Prior to the commencement of the development, an acoustic report including full details of any proposed noise mitigation measures which demonstrates that resultant indoor noise levels will be below British Standard 8233, shall be submitted to and approved by the Council in writing. The development shall not be carried out otherwise than in accordance with any approval given and shall be maintained and retained as such thereafter.

Reason: To safeguard the amenities of the occupiers of the proposed development in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 5 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.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 of the London Borough of Camden Local

Development Framework Core Strategy and policy DP6 of the London Borough of Camden Local Development Framework Development Policies.

- 6 Details of security measures including external lighting, lighting to entrance areas and other related measures shall be submitted to and approved by the local planning authority prior to commencement of the development. The development shall be carried out in accordance with any such approved measures and thereafter maintained.

REASON: To ensure that suitable measures are taken in respect of security.

Informative(s):

- 1 Reasons for granting planning permission.

In terms of land use issues, although consumes part of an existing A1 retail shop, the upper floors are away from the main activity area of the existing A1 retail, hence would not cause material impact to the vitality of the retail store. Furthermore the new residential floorspace would not impact upon the street frontage and would provide a good quality residential unit, it is considered that the small loss of A1 floor space to residential would not cause harm to the vitality of the town centre street scene. The principle for the proposal is acceptable.

This application proposal was revised to add the change of use for the first floor into a 2 bedroom unit, this came was a result of combining a previously submitted application in 2013/4815/P. The proposed one bedrooms measuring 42 and 45 square metres floor area and the first floor 2 bedroom unit would meet the minimum space standards. The proposed new units would provide a good standard of residential accommodation in terms of layout, amenity space, room sizes, sunlight, daylight, ventilation and outlook. Shared access through a doorway to the rear between the retail and residential units is not considered to significantly impact on residential amenity considering that adequate space exists to the front and separate internal access. A condition has been attached to the consent requesting that the lifetime homes features indicated in the drawings and the Lifetime Homes Statement submitted. Concerning the constrained access to the site, given vehicles are often parked on the narrow passageway. There is no such parking space associated with this passageway and the parking of vans and cars is considered to appear to occur ad hoc. A drawing has been submitted showing a recessed bollard restricting parking on this passageway to the rear. This will ensure that access for occupiers of the new residential unit is prioritised in this space, as well as protecting existing users for residential units above ground floor retail at No.'s 204, 208 and 210. Refuse and recycling would be left out for collection on the appropriate day similar to other residential units in the vicinity. The recessed bollard incorporated would assist in efficient arrangements. A car free development therefore needs to be secured as a Section 106 planning obligation.

Given the position of the unit, above an A1 retail shop and fronting onto a busy main road (Kilburn High Road) it is considered necessary to attach a condition to the application to requesting the submission of a Noise Impact Assessment demonstrating that the unit can be acoustically protected. There are no impacts with regards to outlook and loss of light.

Letters were sent notifying neighbours on the previous and this current application and one neighbour objection and seven letters of support have been received prior to making this decision. The site's planning history was also taken into account.

As such, the proposal is in accordance with policies CS5, CS14 of the Core Strategy, policies DP2, DP5, DP6, DP16, DP18, DP19, DP22, DP24, DP26 and DP28 of the Development Policies Document The proposed development also accords with policies 3.3, 3.4, 3.5, 3.8, 5.11, 6.9, 7.4, 7.6 and 8.2 of the London Plan March 2015 consolidated since 2011, and paragraphs 9, 11-14, 17, 23, 50 and 56-66 of the National Planning Policy Framework.

- 2 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).
- 3 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

DATED

19 August

2015

(1) NATVAR NATHA and AMIT NATHA

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

1F, 2F, & 3F 206 Kilburn High Road, London NW6 4JD

**pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)**

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Head of Legal Services
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