

DATED

20 MARCH

2014

(1) FROGNAL PROPERTY DEVELOPMENTS LIMITED

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 13 December 2012
Between the Mayor and the Burgesses of the
London Borough of Camden and Russell Keith Ambrose
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
**LAND TO THE REAR OF 1A FROGNAL
LONDON NW3 6AL**

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/1685.2377 (2013/7145/P)
Final 17.2.2014



THIS DEED is made on the 20 day of MARCH 2014

BETWEEN

1. **FROGNAL PROPERTY DEVELOPMENTS LIMITED** (Co. Regn. No.8725751) whose registered office is at 17 Pennine Parade Pennine Drive London NW2 1NT (hereinafter called "the Owner") 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 second part

WHEREAS:

- 1.1 The Council and Russell Keith Ambrose entered into an Agreement dated 13 December 2012 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number NGL718253.
- 1.3 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.4 The Council is the local planning authority for the purposes of the Act 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 Deed.
- 1.5 A new Planning Application in respect of the Property and to amend the Original Planning Permission was submitted to the Council by the Owner and validated on 14 November 2013 for which the Council resolved to grant permission conditionally under reference 2013/7145/P subject to the conclusion of this Deed.
- 1.6 This Deed of Variation is made by virtue of the Town and Country Planning Act 1990 Section 106A (as amended) and is a planning obligation for the purposes of that section.

1.7 Without prejudice to the terms of the other covenants contained in the Existing Agreement the parties hereto have agreed to vary the terms of the Existing Agreement as hereinafter provided.

2. INTERPRETATION

2.1 All words and phrases defined in the Existing Agreement shall have the same meaning in this Deed save where the context otherwise dictates and for the avoidance of any doubt the Existing Agreement shall remain in full force and effect save as varied by this Deed.

2.2 All reference in this Deed to clauses in the Existing Agreement are to clauses within the Existing Agreement.

2.3 Where in this Deed reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Agreement.

2.4 Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not be construed as part of this Agreement and shall not effect the construction of this Deed.

2.5 Unless the context otherwise requires references to the singular shall include the plural and vice versa.

2.6 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, and 6 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Deed shall become binding upon the Owner upon the Implementation Date.

2.7 References in this Deed to the Owner and Mortgagee shall include their successors in title.

2.8 In this Deed the following expression shall unless the context otherwise states have the following meaning now allocated to it.

- 2.8.1 "Deed" this Deed of Variation made pursuant to Section 106A of the Act
- 2.8.2 "Existing Agreement" the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 13 December 2012 made between the Council and Russell Keith Ambrose
- 2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 13 December 2012 referenced 2012/5492/P allowing the erection of building comprising lower ground and ground floor level to provide 2 x 2-bedroom dwellings (Class C3) (following the demolition of existing garages) as shown on drawing numbers [Prefix: ED/1FR/] 101-A/A, 302-A/A, 301-B/B, 401-A/A, 402-B/B, 102 (existing), Daylight and Sunlight Study dated 23/11/2012, Basement Impact Assessment Screening report by Soil Consultants dated 27/11/2012, Foundation report by JNP Group ref. Q4005/FRO/MPD/JP.001 dated 5/4/12 and Basement impact assessment: hydrology and hydrogeology: Land to the rear of No. 1 Frognaal by ESI (Reference 60652R1) dated June 2012, Tree Care Proposal 0612 by TRETEC

3. VARIATION TO THE EXISTING AGREEMENT

3.1 The following definitions contained in the Existing Agreement shall be varied as follows:

- 3.1.1 "Development" variation of planning permission dated 13 December 2012 (Ref. No 2012/5492/P) to amendment to planning permission dated 13/12/2012 (ref 2012/5492/P) for the erection of

building comprising lower ground and ground floor level to provide 2 x 2-bedroom dwellings (Class C3) (following the demolition of existing garages), namely for the addition of a new basement level as shown on drawing numbers [Prefix: ED/1FR/] 101, 301-B, 302-B, 303 401-b, 402-b/C, bre global CfSH pre-assessment document, Tre Tec Arboricultural Report, BIA report by ESI ref. 60652/R2 Rev 1D1 (Soil consultants report ref. 9298) 9298/SCW/JRCB-Rev 1 dated 6th November 2013.

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2013/7145/P granted by the Council in the form of the draft annexed hereto

3.1.3 "Planning Application" the application for Planning Permission in respect of the Property submitted on 14 November 2013 by the Owner and given reference number 2013/7145/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2012/5492/P" shall be replaced with "Planning Permission reference 2013/7145/P".

3.3 In all other respects the Existing Agreement (as varied by this Deed) shall continue in full force and effect.

4. COMMENCEMENT

4.1 Without prejudice to the effect of Clause 3.5 in the Existing Agreement the provisions in this Deed shall take effect on the Implementation of the Planning Permission referenced 2013/7145/P.

5 PAYMENT OF THE COUNCIL'S LEGAL COSTS

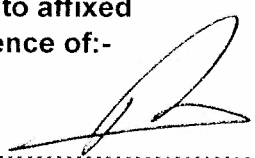
5.1 The Owner agrees to pay the Council (on or prior to completion of this Deed) its reasonable legal costs incurred in preparing this Deed

6. REGISTRATION AS LOCAL LAND CHARGE

6.1 This Deed shall be registered as a Local Land Charge

IN WITNESS WHEREOF the Council and the Owner has caused their respective Common Seals to be affixed and has caused this Deed to be executed as a Deed the day and year first above written.

EXECUTED AS A DEED BY)
FROGNAL PROPERTY DEVELOPMENTS LIMITED)
was hereunto affixed)
in the presence of:-)

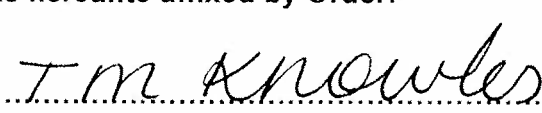


.....
Director



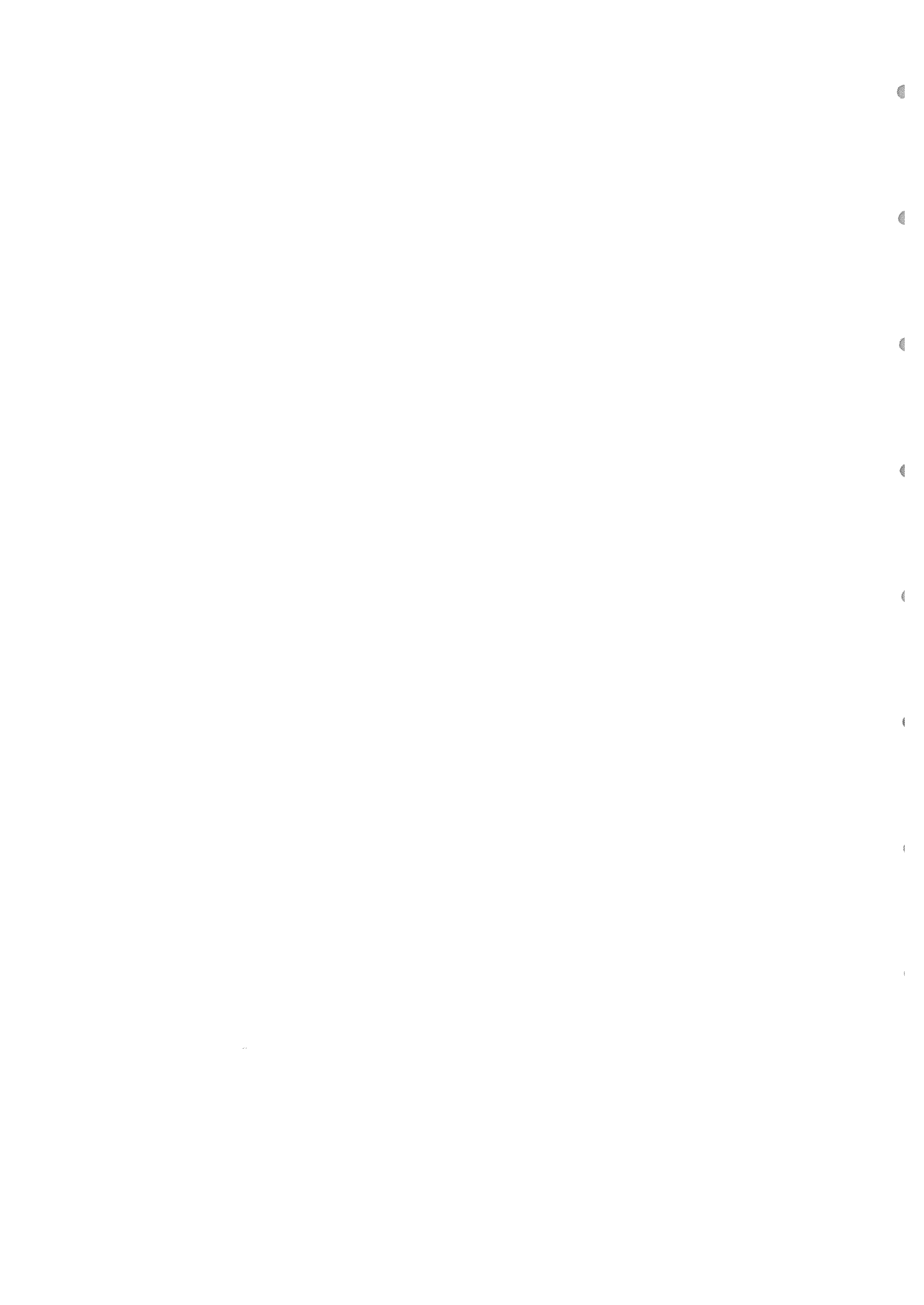
.....
Director/Secretary

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



.....
Duly Authorised Officer





Etch Design
62 Mount View Road
London
N4 4JR

Tel 020 7974 4444
Fax 020 7974 1930
Textlink 020 7974 6866

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

Application Ref: **2013/7145/P**

22 January 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:
**Land to the rear of
1A Frognal
London
NW3 6AL**

Proposal:

DECISION
Amendment to planning permission dated 13/12/2012 (ref.2012/5492/P) for the erection of building comprising lower ground and ground floor level to provide 2 x 2-bedroom dwellings (Class C3) (following the demolition of existing garages), namely for the addition of a new basement level

Drawing Nos: [Prefix: ED/1FR/] 101, 301-B, 302-B, 303 401-b, 402-b/C, bre global CfSH pre-assessment document, Tre Tec Arboricultural Report, BIA report by ESI ref. 60652/R2 Rev 1D1 (Soil consultants report ref. 9298) 9298/SCW/JRCB- Rev 1 dated 6th November 2013.

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 [Prefix: ED/1FR/] 101, 301-B, 302-B, 303 401-b, 402-b/C.

Reason:

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

- 3 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.

- 4 Plan, elevation and section drawings of the refuse store, all fenestration and boundary treatment including materials, at a scale of 1:10 (showing construction details of junctions including eaves, external window and door heads, jambs and cills/thresholds, steps, balustrading and associated features);

b) Manufacturer's specification details of all facing materials (to be submitted to the Local Planning Authority) and samples of those materials (to be provided on site).

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.

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 of the London Borough of Camden Local Development Framework Development Policies.

- 5 No development shall take place until full details of hard and soft landscaping and means of enclosure of all un-built, open areas have been submitted to and approved by the local planning authority in writing. Such details shall include details of any proposed earthworks including grading, mounding and other changes in ground levels. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 6 All hard and soft landscaping works shall be carried out in accordance with the approved landscape details, prior to the occupation for the permitted use of the development or any phase of the development, whichever is the sooner. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a high quality of visual amenity in the scheme in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 7 Full details in respect of the green roof in the area indicated on the approved roof plan shall be submitted to and approved by the local planning authority before the relevant part of the development commences. The buildings shall not be occupied until the approved details have been implemented and these works shall be permanently retained and maintained thereafter.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies CS13, CS15 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

- 8 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the (No. 2) (England) Order 2008 or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A and E) of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the Council.

Reason: To ensure that the future occupation of the building does not adversely affect the adjoining premises/immediate area by reason of overdevelopment in accordance with policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 and DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 9 1.8 metre high screening, details of which shall have been submitted to and approved in writing by the local planning authority, shall be erected on the southern boundary prior to commencement of use of the roof terrace and shall be permanently retained.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 10 Before the development commences, details of secure and covered cycle storage area for 1 cycle for each dwelling shall be submitted to and approved by the local planning authority in writing. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and thereafter 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.

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 introduced a Community Infrastructure Levy (CIL) to help pay for Crossrail on 1st April 2012. Any permission granted after this time which adds more than 100sqm of new floorspace or a new dwelling will need to pay this

CIL. It will be collected by Camden on behalf of the Mayor of London. 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 sqm 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. Please use the forms at the link below to advise who will be paying the CIL and when the development is to commence. You can also access forms to allow you to provide us with more information which can be taken into account in your CIL calculation and to apply for relief from CIL.

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

We will then issue a CIL demand notice setting out what monies needs to paid when and how to pay. Failure to notify Camden of the commencement of development will result in a surcharge of £2500 or 20% being added to the CIL payment. Other surcharges may also apply for failure to assume liability and late payment. Payments will also be subject to indexation in line with the construction costs index.

Please send CIL related documents or correspondence to CIL@Camden.gov.uk

- 4 Your proposals may be subject to control under the Party Wall etc Act 1996 which covers party wall matters, boundary walls and excavations near neighbouring buildings. You are advised to consult a suitably qualified and experienced Building Engineer.
- 5 If a revision to the postal address becomes necessary as a result of this development, application under Part 2 of the London Building Acts (Amendment) Act 1939 should be made to the Camden Contact Centre on Tel: 020 7974 4444 or Environment Department (Street Naming & Numbering) Camden Town Hall, Argyle Street, WC1H 8EQ.
- 6 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.
- 7 The applicant should incorporate protection to the property by installing a non-return valve or other suitable device to avoid the risk of backflow at a later date and during storm conditions. It is also advised to make proper provision for surface water drainage. For further information please contact Thames Water on 0845 850 2777 and visit the Thames Water website www.thameswater.co.uk.

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

DRAFT

DECISION



DATED

20 MARCH

2014

(1) FROGNAL PROPERTY DEVELOPMENTS LIMITED

-and-

(2) THE MAYOR AND THE BURGESSES OF
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