

DATED 16 September 2015

(1) WESTBERE PROPERTY DEVELOPMENTS LTD

and

(2) PETER CLEMENTS

and

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

A G R E E M E N T
relating to land known as
44 Westbere Road London NW2 3RU
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

1781.306

THIS AGREEMENT is made the 16 day of September 2015

B E T W E E N:

- i. **WESTBERE PROPERTY DEVELOPMENTS LTD** (Co. Regn. No. 09284579) whose registered office is at 64 New Cavendish Street, London W1G 8TB (hereinafter called "the Owner") of the first part
- iii **PETER CLEMENTS** of 2 Woodland Terrace, Twyford Avenue, London N2 9NF (hereinafter called "the Chargee") of the second 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 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 LN92611 subject to a charge to the Chargee.
- 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 29 May 2015 and the Council resolved to grant permission conditionally under reference number 2015/3077/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.

1.6 The Chargee as chargee under a legal charge registered under Title Number LN92611 and dated 13 November 2015 is willing to enter into this Agreement to give its consent to the same.

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" conversion of 6 bed single family dwellinghouse into 4 flats (1 x studio, 1 x 1 bed, 1 x 2 bed and 1 x 3 bed) and alterations to fenestration on front, side and rear elevations as shown on drawing numbers 1967-A01, 1967-A02, 1967-A10, 1967-A11, 1967-A15, 1967-A16, 1967-A100-A, 1967-A110-A, 1967-A150, 1967-A160, 1967-A1602, Design & Access Statement by dMFK dated May 2015, Planning Statement by Rolfe Judd Planning dated 29/05/15, and Sustainability Statement by Cundall dated 03/06/15.
- 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, the Owner and the Chargee
- 2.7 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 29 May 2015 for which a resolution to grant permission has been passed conditionally under reference number 2015/3077/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 44 Westbere Road London NW2 3RU 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 of 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.

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**

The Owner hereby covenants with the Council as follows:-

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 2015/3077/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 2015/3077/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, the or the Chargee 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. **CHARGEEXEMPTION**

- 7.1 The Chargee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 hereof and for the avoidance of doubt agrees to be bound by the said obligations only in the event that it becomes in possession of the Property.

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 and the Chargee have executed this instrument as their Deed the day and year first before written

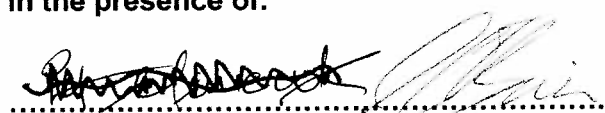
EXECUTED AS A DEED BY)
WESTBERE PROPERTY DEVELOPMENTS LTD)
in the presence of:-/)
acting by a Director and its Secretary)
or by two Directors)



.....
Director

.....
Director/Secretary

EXECUTED AS A DEED BY)
PETER CLEMENTS)
in the presence of:)



.....
Witness Signature

Witness Name *CARINA O'BRIEN*

Address *21 FRENCHMAN CLOSE, SOUTH WOODHAM FERRERS,*

Occupation *OFFICE MANAGER*

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

.....
Authorised Signatory *JOANNE KEWES*



44 Westbere Road London NW2 3RU

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NW6 1AA

Tel 020 7974 4444
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planning@camden.gov.uk
www.camden.gov.uk/planning

Application Ref: **2015/3077/P**

07 September 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:
44 Westbere Road
London
NW2 3RU

Proposal:

DECISION
Conversion of 6 bed single family dwellinghouse into 4 flats (1 x studio, 1 x 1 bed, 1 x 2 bed and 1 x 3 bed) and alterations to fenestration on front, side and rear elevations
Drawing Nos: 1967-A01, 1967-A02, 1967-A10, 1967-A11, 1967-A15, 1967-A16, 1967-A100-A, 1967-A110-A, 1967-A150, 1967-A160, 1967-A1602, Design & Access Statement by dMFK dated May 2015, Planning Statement by Rolfe Judd Planning dated 29/05/15, and Sustainability Statement by Cundall dated 03/06/15.

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 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: 1967-A01, 1967-A02, 1967-A10, 1967-A11, 1967-A15, 1967-A16, 1967-A100-A, 1967-A110-A, 1967-A150, 1967-A160, 1967-A1602, Design & Access Statement by dMFK dated May 2015, Planning Statement by Rolfe Judd Planning dated 29/05/15, and Sustainability Statement by Cundall dated 03/06/15.

Reason:

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

- 4 Before the development commences, details of secure and covered cycle storage area for 7 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.

- 5 Before the development commences, details of the location, design and method of waste storage and removal including recycled materials, shall be submitted to and approved by the local planning authority in writing. The facility as approved shall be provided prior to the first occupation of any of the new units and permanently retained thereafter.

Reason: To ensure that sufficient provision for the storage and collection of waste has been made in accordance with the requirements of policy CS18 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

1 Reasons for granting permission.

Council LDF Policies CS6 and DP2 aim to make full use of Camden's capacity for housing. The proposal would result in a net increase of 3 dwellings on the site, helping Council optimise housing delivery and meet relevant targets. Policy DP5 sets out dwelling type priorities. With regard to market housing two bed units are in high demand, followed by 3 bed units and then 1 bed units. The proposal would maintain a family sized unit on the site and introduce a new 2 bed unit and as such is considered to provide an appropriate mix of dwellings.

All of the proposed units pass the London Plan and Camden Planning Guidance minimum size requirements. The ground floor family unit would maintain private access to the rear garden. Each unit would have uninterrupted outlook and solar access. The units have been designed to maximise compliance with Lifetime Homes standards. The flat which would be incorporated in the existed dormer would have the required 2.3m floor to ceiling height. As the proposal relates to conversion of a historic building it is not considered appropriate to require that all criteria be satisfied. Overall the proposal is considered to provide sufficient habitable space according with CS6, CPG2 and the London Plan.

The proposal includes dormers windows which would be fixed and obscure glazed up to 1.8m from finished floor level with clear glazing at the top. Obscure glazing is considered necessary up to that level as there were potential overlooking concerns to a neighbouring property. The glazing has helped to address this concern.

Based on the number and size of units proposed the London Plan requires that a total of 6 cycle parking spaces be provided. While 3 have been provided in the private rear garden and 3 in the front garden, the spaces in the private garden will not be accessible to the upper floor flats. As such an additional cycle parking space is required in the front garden. Details of the cycle store have not been provided. As such a condition is included requiring details of the cycle stores and an extra space in the front garden. Policy DP18 expects development to be car free in areas within Controlled Parking Zones that are easily accessible by public transport (PTAL of 4 or above). The site has a Public Transport Accessibility level (PTAL) of 4. Any additional parking permits would put further pressure on the area, and result in congestion as vehicles search for spaces. As such all of the proposed units have been secured as car-free.

The proposal includes a communal waste store in the front garden which complies with Camden Planning Guidance on size and location. However, detailed elevations have not been provided and as such are required by condition.

LDF Policy DP22 requires developments to incorporate sustainable design and construction measures. The proposal would be built to modern insulation and energy use requirements, including low water use fittings. Given the proposal relates to a fit-out only, in which there is limited scope to increase the efficiency of the building, the proposal is considered to adequately respond to the issue of sustainability.

Objections have been received and duly taken into account prior to making this decision. The sites planning history and relevant appeal decisions were taken into account when coming to this decision.

As such, the proposed development is in general accordance with policies CS5, CS6, CS11 and CS14 of the London Borough of Camden Local Development Framework Core Strategy, and policies DP2, DP5, DP6, DP17, DP18, DP24 and DP26 of the London Borough of Camden Local Development Framework Development Policies. The proposed development also accords with policies 3.4, 3.5, 3.8, 6.9, 6.13, 7.4 and 7.6 of the London Plan March 2015, consolidated with alterations since 2011 and paragraphs 14, 17, 47-55 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 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.
- 4 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.
- 5 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.
- 6 The London Borough of Camden introduced the Community Infrastructure Levy (CIL) on the 1st of April 2015 to help pay for local infrastructure. This is in addition to the Mayoral CIL which helps fund the Crossrail introduced 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 the CIL charge.

The proposed CIL charge will be calculated in accordance with the regulations set out in Part 5 of the Community Infrastructure Levy Regulations 2010 (as amended). For further information on the Camden CIL or Mayoral CIL charge please refer to the information on the Camden website which may be accessed via the following link: http://www.camden.gov.uk/ccm/cms-service/stream/asset/?asset_id=3298006

You are required to assume liability and notify the CIL team on commencement using the forms that can be downloaded from the planning portal; <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

We will issue an assumption of liability setting out the calculation and CIL demand notice setting out the method of payment accordingly. 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 queries to CIL@Camden.gov.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

Culture and Environment Directorate

DECISION



DATED 16 September 2015

(1) WESTBERE PROPERTY DEVELOPMENTS LTD

and

(2) PETER CLEMENTS

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

AGREEMENT
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