

DATED 16TH FEBRUARY 2014⁵

(1) KHALID FAROOQ SHARIF,
TAHIR SHARIF AND SHAHID SHARIF

and

(2) KTS GROUP LIMITED

and

(3) 177 SHAFTESBURY AVENUE LIMITED

and

(4) LLOYDS BANK PLC

and

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

A G R E E M E N T
relating to land known as
LINDSEY HOUSE, 166-177 SHAFTESBURY AVENUE,
LONDON WC2H 8AN
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended) and
Section 278 of the Highways Act 1980

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 6007
Fax: 020 7974 1920

CLS/COM/JL/1685.1577
vFINAL

THIS AGREEMENT is made the 16th day of February 2014⁵

BETWEEN:

1. **KHALID FAROOQ SHARIF, THAHIR SHARIF AND SHAHID SHARIF** as trustees of the KTS Pension Fund ~~care of Flick Fashions Limited, 104 Cavell Street, London E1 2JA and of 133 Commercial Road, London E1 1PX~~ (hereinafter together called "the Freeholder") of the first part
2. **KTS GROUP LIMITED** (Co. Regn. No. 02620486⁴) whose registered office is at 137-139 Commercial Road London E1 1PX (hereinafter called "the First Leaseholder") of the second part
3. **177 SHAFTESBURY AVENUE LIMITED** (Co. Regn. No. 09214230) whose registered office is at 177 Shaftesbury Avenue, London WC2H 8JR (hereinafter called "the Second Leaseholder") of the third part
4. **LLOYDS BANK PLC** of... (Co. Regn. No. 2065) of 25 Gresham Street, London EC2V 7HN (hereinafter called "the Mortgagee") of the fourth part
5. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the fifth part

WHEREAS

- 1.1 The Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number NGL813318 subject to a charge to the Mortgagee. The Freeholders are trustees of the KTS Pension Fund.
- 1.2 The First Leaseholder is registered at the Land Registry as the leasehold proprietor with Title absolute of the Property under Title Number NGL942181.

- 1.3 The Second Leaseholder is registered at the Land Registry as the leasehold proprietor with Title absolute of the Property under Title Number NGL838250.
- 1.4 The Freeholder is the freehold owner of the Property and the First Leaseholder and Second Leaseholder are the leasehold owners of part of the Property and are all interested in the Property for the purposes of Section 106 of the Act and shall hereinafter be referred to together as "the Owner"
- 1.5 A planning application for the Development of the Property was submitted to the Council and validated on 28 May 2012 and the Council resolved to grant permission conditionally under reference number 2012/2774/P subject to conclusion of this legal Agreement.
- 1.6 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.
- 1.7 As local highway authority the Council considers the Highways Works to be carried out pursuant to this section 278 Agreement to be in the public benefit.
- 1.8 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 and Section 106A of the Act.
- 1.9 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL813318 and dated 9 November 2006 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 2004 Agreement" the agreement entered into in respect of the Property pursuant to Section 106 of the Town and Country Planning Act 1990

		(as amended) dated 21 June 2004 and made between the Council, Castledene Investments (No.3) Limited, Dunbar Bank PLC, London Regional Property Fund (No. 1) Limited, Castledene Investments (No. 2) Limited and Trantek Traders Limited
2.2	"the Act"	the Town and Country Planning Act 1990 (as amended)
2.3	"Affordable Housing"	low cost housing including Social Rented Housing and Intermediate Housing that meets the needs of people who cannot afford to occupy homes available in the open market in accordance with the National Planning Policy Framework and successor documents
2.4	"Affordable Housing Deferred Contribution"	the sum of £2,663,250 (two million six hundred and sixty three thousand and two hundred and fifty pounds) being the maximum amount to be paid to the Council in accordance with clause 4.1 of this Agreement to be applied by the Council in the event of receipt towards the provision of Affordable Housing within the London Borough of Camden
2.5	"the Agreement"	this Planning Obligation made pursuant to Section 106 of the Act
2.6	"Deficit"	a negative figure or figure of zero produced from the Post Construction Viability Assessment by taking the

Residual Land Value of the
Development and subtracting the
Existing Use Value

2.7 "the Development"

Change of use at first floor level from offices (Class B1A) to six self-contained residential units (Class C3) comprising of 2 x 2 bedroom and 4 x 1 bedroom flats plus associated internal and external alterations to include a new ground level louvered, bin store door as shown on drawing numbers Site Location Plan; Site Location Plan (EE-00); EE-01 - 04; PP-01; 02A; 03; 04; Design and Access Statement by Tasou Associates (May 2012); Planning Statement, by DP9 (dated May 2012); Sustainability Statement by Arup (dated May 2012); Energy Statement by Arup (dated May 2012); Noise Report by Sandy Brown (dated January 2012); Letter from REM Roberts (dated 11 July 2012); 6 Bike Two Tier Rack Plan and Two Tier Rack Spec 2 (dated 12/12/2012).

2.8 "the Education
Contribution"

the sum of £4,426 (four thousand four hundred and twenty six pounds) to be paid to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt for the provision of education needs arising in the London Borough of Camden

2.9 "the Employment Contribution"

the sum of £13,750 (thirteen thousand seven hundred and fifty pounds) to be

paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt to mitigate the loss of an employment opportunity at the Property

2.10 "the Energy Efficiency and Renewable Energy Plan"

a strategy setting out a package of measures to be adopted by the Owner in the management of the Development with a view to reducing carbon energy emissions through (but not be limited to) the following:-

- (a) The incorporation of the measures set out in the submission document entitled Energy Statement Rev B and dated 17 May 2012 by ARUP;
- (b) details of how the Owner will further reduce the Development's carbon emissions from renewable energy technologies located on the Property ensuring the Owner will use Reasonable Endeavours to target a reduction of at least 20% in carbon emissions in relation to the Property using a combination of complementary low and zero carbon technologies;
- (c) separate metering of all low and zero carbon technologies to enable the monitoring of energy and carbon emissions and savings;

- (d) a building management system being an electronic system to monitor the Development's heating cooling and the hours of use of plant;
- (e) measures to enable future connection to a local energy network at the boundary of the Property;
- (f) include a pre-Implementation review by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Energy Efficiency and Renewable Energy Plan are achievable in the Development and satisfy the aims and objectives of the Council's strategic policies on the reduction of carbon emissions contained within its Development Plan;
- (g) measures to secure a post construction review of the Development by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Energy Efficiency and Renewable Energy Plan have been achieved in the Development and will be maintainable in the Development's future management and occupation; and
- (h) identifying means of ensuring the provision of information to the Council

	and provision of a mechanism for review and update as required from time to time
2.11 "the Existing Use Value"	the sum of £2,400,000 (two million four hundred pounds)
2.12 "the Highways Contribution"	<p>the sum of £11,391 (eleven thousand three hundred and ninety one pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in event of receipt for the carrying out works to the public highway and associated measures in the vicinity of the Property ("the Highways Works") such works being:</p> <ul style="list-style-type: none"> a) repaving the footway adjoining the Property on Shaftesbury Avenue and New Compton Street; and b) making good any other damage caused to the public highway as a direct result of the construction of the Development <p>("the Highways Works") all works will be subject to final measure and any level adjustment required and for the avoidance of doubt the Council in accepting this sum does not undertake any responsibility in connection with any required statutory undertakers works and <u>excludes any statutory undertakers costs</u></p>
2.13 "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 save that for the purposes of this Agreement the following shall be deemed not to be material operations: archaeological works, site or soil investigations, ground investigations, site survey works, works of decontamination, the erection of hoardings and fences and references to "Implementation" and "Implement" shall be construed accordingly

2.14 "Occupation Date"

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

2.15 "Owner's Viability Assessment"

the viability assessment prepared by HEDC entitled Affordable Housing Viability Submission and dated May 2012 submitted by the Owner as part of the Planning Application

2.16 "the Parties"

mean the Council the Owner and the Mortgagee

2.17 "the Planning Application"

a planning application in respect of the Development of the Property submitted to the Council and validated on 28 May 2012 for which a resolution to grant conditional permission has been passed under reference number 2012/2774/P subject to conclusion of this Agreement

2.18 "Planning Obligations"

Monitoring Officer"

a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to Section 106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof

2.19 "the Planning Permission"

a planning permission granted for the Development substantially in the draft form annexed hereto

2.20 "the Post Construction Viability Assessment"

an assessment to be undertaken by the Owner and submitted to the Council in accordance with the terms of this Agreement such assessment to:-

- (a) be presented substantially in the same form as the Owner's Viability Assessment or such other form as agreed by the Council in writing; and
- (b) be based on the same percentage developer's return on market housing value as the Owner's Viability Assessment or such alternative percentages as agreed by the Council in writing

with a view inter alia to evidence to the Council's reasonable satisfaction the residual site value of the Property ("Residual Land Value") such assessment shall include (but not be limited to) the following:-

- (c) a copy of the Owner's Viability Assessment;
- (d) receipted invoices; certified costs; certified copies of sales contracts (if any); and best estimates of costs yet to be incurred and value of any unsold space (to be based on market value) and any other evidence reasonably required by the Council to show any revenue and/or costs incurred in relation to the Development;
- (e) a Statutory Declaration from an appropriate representative of the Owner confirming that any sales of the residential units forming part of the Development (if any) were arm's length third party bona fide transactions and not:-
 - (i) designed to reduce the revenue received from sales of the residential units forming part of the Development;
 - (ii) confined to transactions between the Owner and subsidiary companies of the Owner;
 - (iii) transactions between the Owner and its employees; or
 - (iv) transactions including deferred consideration coverage or loans or finance deals from the Owner;

- (f) payment of £5,000 to cover the Council's costs in verifying the material and information contained within the assessment;
- (g) details of any grant funding received in relation to the Development whether related to Affordable Housing or any other aspect of the Development;
- (h) any further information the Council acting reasonably requires

2.21 "the Property"

those parts (as are shown edged red on the two floor plans annexed hereto) of the ground and first floors of Lindsey House, 166-177 Shaftesbury Avenue, London WC2H 8AN (the same as shown shaded green on the location plan annexed hereto)

2.22 "the Public Highway"

any carriageway footway and/or verge adjoining the Property maintainable at public expense

2.23 "Public Open Space Contribution"

the sum of £5,876 (five thousand eight hundred and seventy six pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt for the improvement maintenance and upkeep of existing public open spaces and/or nature conservation improvements to parks and open space and/or the

- obtaining of land to make public open spaces in the vicinity of the Development
- 2.24 "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
- 2.25 "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
- 2.26 "Surplus" a positive figure produced from the Post Construction Viability Assessment by taking the Residual Land Value of the Development and subtracting the Existing Use Value
- 2.27 "the Sustainability Plan" a plan including a post construction review securing the incorporation of sustainability measures in the carrying out of the Development in its fabric and in its subsequent management and occupation which shall:-
- (a) be based on a Building Research Establishment Environmental Assessment Method EcoHomes assessment with a target of achieving a Very Good Excellent or Outstanding rating and attaining at least 60% of the

credits in each of Energy and Water and 40% of the credits in Materials categories;

- (b) include a pre-Implementation review by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Sustainability Plan are achievable and satisfy the aims and objectives of the Council's strategic policies on sustainability contained within its Development Plan; and
- (c) measures to secure a post construction review of the Development by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Sustainability Plan have been achieved in the Development and will be maintainable in the Development's future management and occupation

2.28 "the Training and
Employment Contribution"

the sum of £13,750 (thirteen thousand seven hundred and fifty pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt towards the promotion of education and opportunities for jobs and employment and training within the London Borough of Camden

NOW THIS DEED WITNESSETH as follows:-

- 3.1 This Agreement is made in pursuance of Section 106 and Section 106A 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, 8 and 9 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 4.2 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

Subject to clause 8.2 and 8.3 below the Owner hereby covenants with the Council as follows:-

4.1 AFFORDABLE HOUSING DEFERRED CONTRIBUTION

4.1.1 The Parties agree that by virtue of this Agreement clause 4.5 of the 2004 Agreement is hereby deemed complied with and shall have no force or effect in relation to the Remaining Floorspace or the Property (both as defined in the 2004 Agreement) and shall be incapable of enforcement by the Council in relation to any past, present or future matters and that no further agreement is required to secure compliance with clause 4.5 of the 2004 Agreement.

4.1.2 To submit the Post Construction Viability Assessment to the Council for approval in writing either:-

- (a) on the date of issue of the Certificate of Practical Completion; or
- (b) at any time after Implementation ALWAYS PROVIDED the Owner has exchanged on the sales for no less than three (3) residential units forming part of the Development and provides sufficient information to the Council to evidence the same.

4.1.3 Not to complete on the sale of more than four (4) residential units forming part of the Development until such time as the Post Construction Viability Assessment has been submitted to the Council for approval in writing, provided such approval is not unreasonably withheld or delayed in accordance with clause 5.3 below.

4.1.4 Upon the issue of the approval of the Post Construction Viability Assessment the Council will provide to the Owner the following:-

- (a) a certificate specifying the sum ("the Assessment Certified Sum") reasonably and properly expended by the Council in assessing the Post Construction Viability Plan;
- (b) a summary of the report received by the Council on the Post Construction Viability Assessment and to which the sum referred to

in (c) below relates with a date for any comments of the Owner to be received by the Council on the summary to which the Council will have due regard; and

(c) a certificate specifying the sum ("the Viability Certified Sum") properly assessed by the Council in accordance with the provisions of Clause 4.1 of this Agreement as being recoverable from the Affordable Housing Deferred Contribution under the terms of this Agreement.

- 4.1.5 If the Assessment Certified Sum exceeds the payment referred to in clause 2.19(f) of this Agreement then the Owner shall within twenty-eight (28) days of the issuing of the said certificate pay to the Council the amount of the excess.
- 4.1.6 In the event the approved Post Construction Viability Assessment shows a Deficit the Viability Certified Sum shall be zero and the Owner shall have no obligation to pay the Affordable Housing Deferred Contribution or any part thereof.
- 4.1.7 In the event the Post Construction Viability Assessment shows a Surplus that is less than two times the Affordable Housing Deferred Contribution the Viability Certified Sum shall be half of the Surplus up to the limit of the Affordable Housing Deferred Contribution.
- 4.1.8 In the event the Post Construction Viability Assessment shows a Surplus that is greater than or equal to two times the Affordable Housing Deferred Contribution the Viability Certified Sum shall be the full amount of the Affordable Housing Deferred Contribution.
- 4.1.9 The Owner shall within 28 days of receipt of the Viability Certified Sum pay to the Council the sum specified within the Viability Certified Sum.
- 4.1.10 Not to Occupy or permit Occupation of any more than four (4) residential units forming part of the Development until such time as the Council has confirmed receipt of the Viability Certified Sum in writing. For the avoidance of doubt the Council is to confirm such receipt promptly and without unreasonable delay.

4.2 CAR FREE

- 4.2.1 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.
- 4.2.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.2.1 above will remain permanently.
- 4.2.3 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 4.2.1 of this Agreement.

4.3 EDUCATION CONTRIBUTION

- 4.3.1 On or prior to the Implementation Date to pay to the Council the Education Contribution.
- 4.3.2 The Owner hereby covenants with the Council not to Implement or to permit Implementation until such time as the Council has received the Education Contribution. The Council shall, upon receipt of the Education Contribution, provide confirmation of this to the Owner as soon as possible.

4.4 ENERGY EFFICIENCY AND RENEWABLE ENERGY PLAN

- 4.4.1 On or prior to the Implementation Date to submit to the Council for approval the Energy Efficiency and Renewable Energy Plan.

- 4.4.2 Not to Implement nor permit Implementation until such time as the Council has approved the Energy Efficiency and Renewable Energy Plan as demonstrated by written notice to that effect, such written notice not to be unreasonably withheld or delayed.
- 4.4.3 Not to Occupy or permit Occupation of the Property until a satisfactory post-completion review has been submitted to and approved by the Council in writing confirming that the measures incorporated in the Energy Efficiency and Renewable Energy Plan as approved by the Council have been incorporated into the Property.
- 4.4.4 Following the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Energy Efficiency and Renewable Energy Plan as approved by the Council from time to time and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Energy Efficiency and Renewable Energy Plan.

4.5 HIGHWAYS WORKS

- 4.5.1 On or prior to the Implementation Date to pay to the Council the Highways Contribution in full.
- 4.5.2 Not to Implement or to allow Implementation until such time as the Council has received the Highways Contribution in full. The Council shall, upon receipt of the Highways Contribution, provide confirmation of safe receipt to the Owner as soon as possible.
- 4.5.3 For the avoidance of doubt the Owner acknowledges that the Council has the right reserved to it to construct the Public Highway to levels it considers appropriate and does not undertake any responsibility in connection with any required statutory undertakers works and that the Highways Contribution excludes any statutory undertaker's costs.
- 4.5.4 On completion of the Highway Works the Council will provide to the Owner a certificate specifying the sum ("the Certified Sum") reasonably and properly

expended by the Council in carrying out the Highway Works.

4.5.5 If the Certified Sum exceeds the Highway Contribution then the Owner shall within fourteen days of the issuing of the said certificate pay to the Council the amount of the excess.

4.5.6 If the Certified Sum is less than the Highway Contribution then the Council shall within fourteen days of the issuing of the said certificate pay to the Owner the amount of the unspent element of the Highway Contribution.

4.6 PUBLIC OPEN SPACE CONTRIBUTION

4.6.1 On or prior to the Implementation Date to pay to the Council the Public Open Space Contribution. The Council shall, upon receipt of the Public Open Space Contribution provide confirmation of receipt to the Owner.

4.6.2 The Owner hereby covenants with the Council not to Implement or to permit Implementation until such time as the Council has received the Public Open Space Contribution.

4.7 SUSTAINABILITY PLAN

4.7.1 On or prior to the Implementation Date to submit to the Council for approval the Sustainability Plan.

4.7.2 Not to Implement nor permit Implementation until the Sustainability Plan has been approved by the Council as demonstrated by written notice to that effect, such approval not to be unreasonably withheld or delayed.

4.7.3 Not to Occupy or permit Occupation of the Property until a satisfactory post-completion review has been submitted to and approved by the Council in writing confirming that the measures incorporated in the Sustainability Plan as approved by the Council have been incorporated into the Property.

4.7.4 Following the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Sustainability Plan as approved by the Council and shall not Occupy or permit

Occupation of the Development otherwise than in strict accordance with the requirements of the Sustainability Plan.

4.6 **TRAINING AND EMPLOYMENT CONTRIBUTION**

- 4.6.1 On or prior to the Implementation Date to pay to the Council the Training and Employment Contribution.
- 4.6.3 The Owner hereby covenants with the Council not to Implement or to permit Implementation until such time as the Council has received the Training and Employment Contribution.

5 **OBLIGATIONS OF THE COUNCIL**

- 5.1 The Council covenants with the Owner to use all sums received from the Owner under the terms of this Agreement for the purposes specified in this Agreement for which they are to be paid.
- 5.2 The Council will repay any sums payable by the Council to the Owner.
- 5.3 Where the agreement, approval, consent or expression of satisfaction and/or any other similar action is required from and/or by the Council (or for any officer or employee of the Council), under the terms of this Agreement, such agreement, approval, or consent or expression of satisfaction and/or any other similar action shall not be unreasonably withheld or delayed.

6. **NOTICE TO THE COUNCIL/OTHER MATTERS**

- 6.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken or is about to take place.
- 6.2 Within seven days following completion of the Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting planning reference 2012/2774/P the date upon which the Development is ready for Occupation.

- 6.3 The Owner and the Council shall both act in good faith and shall co-operate with each other to facilitate the discharge and performance of all obligations contained herein and the Owner shall following receipt of written notice where possible comply with any reasonable requests of the Council to have access to any part of the Property or any reasonable requests to provide documentation within the Owner's possession within a reasonable length of time (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.
- 6.4 The Owner and the Council agrees declares and covenants with each other to observe and perform the conditions restrictions and other matters mentioned herein and the Owner shall not make any claim against the Council for compensation in respect of any condition restriction or provision imposed by this Agreement and subject to clause 8.2 below each covenants to 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.
- 6.5 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its Head of Legal Services a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.
- 6.6 Submission of any plan for approval by the Council under the terms of this Agreement shall be made by the Owner to the Council sending the full document and any appendices in electronic format (where practicable) to the Planning Obligations Monitoring Officer referring to the names dates and Parties to this Agreement and citing the specific clause of this Agreement to which such plan relates quoting planning reference 2012/2774/P.
- 6.7 Payment of the contribution pursuant to Clause 4 of this Agreement shall be made by the Owner to the Council sending the full amount in the form of a Banker's Draft 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 Contribution relates quoting the Income Code ZN941 ZL065 or by Electronic Transfer directly to the Co-Operative Bank plc of 1 Islington High Street London N1 9TR quoting Sort Code 08-90-33 and London Borough of Camden General Account No. 61030019 and to inform the Planning Obligations Monitoring Officer of such payment quoting the above details as if the payment had been made by Banker's Draft.

- 6.8 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.
- 6.9 Any sums referred to in this Agreement as payable or to be applied by any party other than the Council under this Agreement shall be paid or applied TOGETHER WITH if such payment or application is made more than three months from the date of this Agreement a further sum ("A") being equal to the original sum payable ("B") multiplied by a figure being a fraction of which the All Items of Retail Prices ("the AllRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AllRP figure published before the date such payment or application is made ("Y") less the last published AllRP figure at the date hereof ("X") is the numerator so that

$$A = B \times \frac{(Y-X)}{X}$$

- 6.10 All costs and expenses payable to the Council under this Agreement shall bear interest at the rate of 4% above the Base Rate of the National Westminster Bank plc from time to time being charged from the date such payment is due until payment is made.

7. **IT IS HEREBY AGREED AND DECLARED** by the Parties hereto that:-

- 7.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in

writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 2012/2774/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.

- 7.2 This Agreement shall be registered as a Local Land Charge.
- 7.3 The Second Leaseholder agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement together with the Council's monitoring fees on or prior to the date of completion of the Agreement.
- 7.4 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.
- 7.5 No person 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.
- 7.6 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.
- 7.7 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of 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 in respect of this Agreement.

8. **MORTGAGEE AND FREEHOLDER EXEMPTION**

8.1 The Mortgagee hereby consents to the completion of this Agreement and agrees to the Property being bound by it Provided That it shall be bound by the said obligations only in the event that it shall have become a mortgagee in possession of the Property.

8.2 The Freeholder consents to completion of this Agreement Provided That it shall be bound by the obligations on the part of the Owner only in the event that the First Leaseholder's and Second Leaseholder's leasehold interest in the Property is determined forfeited surrendered rescinded or cancelled for whatever reason.

8.3 The First Leaseholder consents to completion of this Agreement Provided That it shall be bound by the obligations on the part of the Owner only in the event that the Second Leaseholder's leasehold interest in the Property is determined forfeited surrendered rescinded or cancelled for whatever reason.

9. **INDEMNITY**

9.1 The Second Leaseholder hereby covenants with the Freeholder and the First Leaseholder to observe and perform the obligations on the part of the Owner herein contained and to indemnify the Freeholder and the First Leaseholder and their respective successors in title and estates from and against all costs claims charges expenses demands and liabilities whatsoever incurred by the Owner arising out of this Agreement or breach non-observance or non-performance of the provisions thereof.

10. **LIMITATION OF LIABILITY**

10.1 For the avoidance of doubt the liability of the Trustees of "The KTS Pension Scheme" in respect of their obligations pursuant to this Agreement shall be limited in amount to the value of the assets of "The KTS Pension Scheme"

(and any successor or replacement scheme) and nothing contained or referred to in this Agreement shall entitle the Council to pursue exercise or enforce any right or remedy in respect of any breach of the terms of this Agreement against the personal estate property effects or assets of any of the Trustees past present or future of "The KTS Pension Scheme" (and any successor or replacement scheme) or against any assets for the time being vested in the said Trustees which are not assets of "The KTS Pension Scheme" (and any successor or replacement scheme)

11. **RIGHTS OF THIRD PARTIES**


11.1 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 Second Leaseholder, First Leaseholder, Freeholder and the Mortgagee has each executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY
KHALID FAROOQ SHARIF
in the presence of:

)
)
)

K. Sharif


.....
Witness Signature

Witness Name MUHAMMAD Z ISLAM

Address 135 MAPLESTEAD ROAD DAGENHAM RM9 4XU

Occupation ACCOUNTS MANAGER

EXECUTED AS A DEED BY
TAHIR SHARIF
in the presence of:

)
)
)



.....
Witness Signature

Witness Name MUHAMMAD Z ISLAM

Address 135 MAPLESTEAD ROAD DAGENHAM RM9 4XU

Occupation ACCOUNTS MANAGER

EXECUTED AS A DEED BY
SHAHID SHARIF
in the presence of:

)
)
)



.....
Witness Signature

Witness Name MUHAMMAD Z ISLAM

Address 135 MAPLESTEAD ROAD, DAGENHAM, RM9 4XU

Occupation ACCOUNTS MANAGER

EXECUTED AS A DEED BY
KTS GROUP LIMITED
acting by a Director and its Secretary
or by two Directors

)
)
)
)

.....
Director



.....
Director/Secretary

K. Shazif

EXECUTED AS A DEED BY
177 SHAFTESBURY AVENUE LIMITED
acting by a Director ~~and its Secretary~~
~~or by two Directors~~

.....
Director

.....
~~Director/Secretary~~

witnessed by :

AMIT LAKHANZ BA FCCA
ACCOUNTANT
177 SHAFTESBURY AVENUE
LONDON
WC2H 8JR

EXECUTED AS A DEED BY
LLOYDS BANK PLC
by
in the presence of:-

SIGNED AS A DEED

BY IAN PAUL REDGATE
as authorised signatory for
Lloyds Bank
in the presence of (signature of witness)

Per Pro
Lloyds Bank

Wobaston Rd, Wolverhampton WV9 5HZ

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

.....
Authorised Signatory



THE SCHEDULE

Construction Management Plan Highway Measures

A Construction Management Plan outlines how construction work will be carried out and how this work will be serviced (e.g. delivery of materials, set down and collection of skips), with the objective of minimising traffic disruption and avoiding dangerous situations and minimising the impact on local amenity. A Construction Management Plan should cover both demolition and construction phases of development. Details of the Construction Management Plan will relate to the scale and kind and location of the development and they should assess the impact on transport and on local amenity including road user amenity. Should any one of these criteria be considered not to be relevant, then specific justification, as to why that particular criterion is not relevant, will need to be provided. The Construction Management Plan should demonstrate that the following has been considered and where necessary the impacts mitigated:

(Note the term 'vehicles' used here refers to all vehicles associated with the implementation of the development, e.g. demolition, site clearing, delivering of plant, material and construction, staff parking etc)

- a) A brief description of the site, surrounding area and development proposals for which the Construction Management Plan applies.
- b) Proposed start and end dates for each phase of construction.
- c) The proposed working hours within which vehicles will arrive and depart.
- d) The access arrangements for vehicles.
- e) Proposed routes for vehicles between the site and the Transport for London Road Network (TLRN). Consideration should also be given to weight restrictions, low bridges and cumulative affects of construction on the highway. A map of the TLRN can be downloaded from the following site:-
http://www.tfl.gov.uk/assets/downloads/TFL_Base_Map_Master.pdf
- f) Typical sizes of all vehicles and the approximate frequency and times of day when they will need access to the site, for each phase of construction.
- g) Swept path drawings for any tight manoeuvres on vehicle routes to the site.
- h) Details (including accurate scaled drawings) of any highway works necessary to enable construction to take place.

- i) Parking and loading arrangement of vehicles and delivery of materials and plant to the site.
- j) Details of proposed parking bays suspensions and temporary traffic management orders.
- k) Proposed overhang (if any) of the public highway (scaffolding, cranes etc.).
- l) Details of hoarding required or any other occupation of the public highway.
- m) Details of how pedestrian and cyclist safety will be maintained, including any proposed alternative routes (if necessary), and any Banksman arrangements.
- n) Details of how traffic associated with the Development will be managed in order to reduce congestion.
- o) Details of any other measures designed to reduce the impact of associated traffic (such as the use of construction material consolidation centres).
- p) Details of how any significant amounts of dirt or dust that may be spread onto the public highway will be cleaned or prevented.
- q) Details of consultation on a draft Construction Management Plan with local residents, business, local groups (e.g. residents/tenants and business associations) and Ward Councillors. Details should include who was consulted, how the consultation was conducted and the comments received in response to the consultation. In response to the comments received, the Construction Management Plan should then be amended where appropriate and where not appropriate a reason should be given why not. The revised Construction Management Plan should also include a list of all the comments received. You are advised to check your proposed approach to consultation with the Council before carrying it out.
- r) Details of any Construction Working Group that will be set up, addressing the concerns of surrounding residents, as well as contact details for the person responsible for community liaison on behalf of the developer, and how these contact details will be advertised to the community.
- s) Details of any schemes such as the "Considerate Contractors Scheme" that the project will be signed up to should form part of the consultation and be notified to the Council. Contractors will also be required to follow the "Guide for Contractors Working in Camden" also referred to as "Camden's Considerate Contractor's Manual"
- t) Details of other construction sites in the local area and how your Construction Management Plan takes into consideration the cumulative effects of construction local to your site.

- u) All contractors and sub-contractors operating large vehicles over 3.5 tonnes must meet all of the following conditions:-
 - 1) Operators must be a member of TfL's Fleet Operator Recognition Scheme (www.tfl.gov.uk/fors) or similar at the Bronze level.
 - 2) All drivers must have undertake cycle awareness training such as the Safe Urban Driver module through FORS or similar.
 - 3) All vehicles associated with the construction of the Development must:
 - i. Have Side Guards fitted, unless it can be demonstrated to the reasonable satisfaction of the Employer, that the Lorry will not perform the function, for which it was built, if Side Guards are fitted.
 - ii. Have a close proximity warning system fitted comprising of a front mounted, rear facing CCTV camera (or Fresnel Lens where this provides reliable alternative), a Close Proximity Sensor, an in-cab warning device (visual or audible) and an external warning device to make the road user in close proximity aware of the driver's planned manoeuvre.
 - iii. Have a Class VI Mirror
 - iv. Bear prominent signage on the rear of the vehicle to warn cyclists of the dangers of passing the vehicle on the inside.
- v) Any other relevant information with regard to traffic and transport.
- w) The Construction Management Plan should also include the following statement:

"The agreed contents of the Construction Management Plan must be complied with unless otherwise agreed with the Council. The project manager shall work with the Council to review this Construction Management Plan if problems arise in relation to the construction of the Development. Any future revised plan must be approved by the Council and complied with thereafter."

It should be noted that any agreed Construction Management Plan does not prejudice further agreement that may be required for things such as road closures or hoarding licences

Mr James Penfold
DP9
Pall Mall
London
SW1Y 5Q

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

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

Application Ref: **2012/2774/P**

17 November 2014

Dear Sir/Madam

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:
167-177 Shaftesbury Avenue
London
WC2H 8JB

Proposal:

Change of use at first floor level from offices (Class B1a) to six self-contained residential units (Class C3) comprising of 2 x 2 bedroom and 4 x 1 bedroom flats plus associated internal and external alterations to include a new ground level louvred, bin store door.

Drawing Nos: Site Location Plan (EE-00); EE-01 - 04; PP-01; 02A; 03; 04; Design and Access Statement by Tasou Associates (May 2012); Planning Statement, by DP9 (dated May 2012); Sustainability Statement by Arup (dated May 2012); Energy Statement by Arup (dated May 2012); Noise Report by Sandy Brown (dated January 2012); Letter from REM Roberts (dated 11 July 2012); 6 Bike Two Tier Rack Plan and Two Tier Rack Spec 2 (dated 12/12/2012).

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 the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (EE-00); EE-01 - 04; PP-01; 02A; 03; 04; Design and Access Statement by Tasou Associates (May 2012); Planning Statement, by DP9 (dated May 2012); Sustainability Statement by Arup (dated May 2012); Energy Statement by Arup (dated May 2012); Noise Report by Sandy Brown (dated January 2012); Letter from REM Roberts (dated 11 July 2012); 6 Bike Two Tier Rack Plan and Two Tier Rack Spec 2 (dated 12/12/2012).

Reason:

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

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

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.

- 5 No part of the development hereby approved shall be commenced until a Construction Management Statement setting out measures for ensuring highway safety and managing transport, deliveries and waste (including recycling of materials) throughout the demolition and construction period, has been submitted to and approved by the local planning authority. The measures contained in the Construction Management Statement shall at all times remain implemented during construction.

Reason: In order to protect the pedestrian environment and the amenities of the area generally and to ensure the continued free flow of traffic in the area in accordance

with policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP21, DP22, DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 6 The cycle parking facility shown on the approved drawings shall 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.

- 7 Details of mechanical and passive ventilation systems, double glazed windows and secondary glazing shall be submitted to, and approved in writing, by the local planning authority. All such measures shall be provided in their entirety prior to the first occupation of any of the new units and thereafter be retained and maintained in accordance with the manufacturers' recommendations.

Reason: To safeguard the amenities of the occupiers of the premises in accordance with the requirements of policy CS5 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 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 Reasons for granting permission.

The proposed development is in general accordance with the London Borough of

Camden Local Development Framework Core Strategy, with particular regard to policies CS1 (Distribution of growth), CS3 (Other highly accessible areas), CS5 (Managing the impact of growth and development), CS6 (Providing quality homes), CS11 (Promoting sustainable and efficient travel), CS13 (Tackling climate change through promoting higher environmental standards), CS14 (Promoting high quality places and conserving our heritage), CS15 (Protecting and improving our parks and open spaces and encouraging biodiversity), CS18 (Dealing with our waste and encouraging recycling) and the London Borough of Camden Local Development Framework Development Policies, with particular regard to policies DP2 (Making full use of Camden's capacity for housing), DP3 (Contributions to the supply of affordable housing), DP4 (Minimising the loss of affordable housing), DP5 (Homes of different sizes), DP6 (Lifetime homes and wheelchair homes), DP13 (Employment premises and sites), DP16 (The transport implications of development), DP17 (Walking, cycling and public transport), DP18 (Parking standards and limiting the availability of car parking), DP19 (Managing the impact of parking), DP21 (Development connecting to the highway network), DP22 (Promoting sustainable design and construction), DP24 (Securing high quality design), DP26 (Managing the impact of development on occupiers and neighbours), DP28 (Noise and vibration), DP29 (Improving access), DP31 (Provisions of, and improvement to, open space and outdoor sport and recreation facilities).

- 4 The applicant is considered to have sufficiently justified the conversion of existing Class B1a office floorspace into 2 x 2 bedroom and 4 x 1 bedroom Class C3 residential units. Furthermore, having regard to the relevant viability considerations, the time that has elapsed since the original section 106 Agreement and changing circumstances of the site, and the need to approach decision-taking in a positive way to foster the delivery of sustainable development in line with para. 186 of the NPPF the development is considered provide much needed residential accommodation within the area which would not be to the detriment of the living conditions of the occupiers of the host building or the existing transport network.
- 5 With regard to condition no. 4 you are advised to look at Camden Planning Guidance for further information and if necessary consult the Access Officer, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 5124) to ensure that the internal layout of the building is acceptable with regards to accessibility by future occupiers and their changing needs over time.
- 6 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.
- 7 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.

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

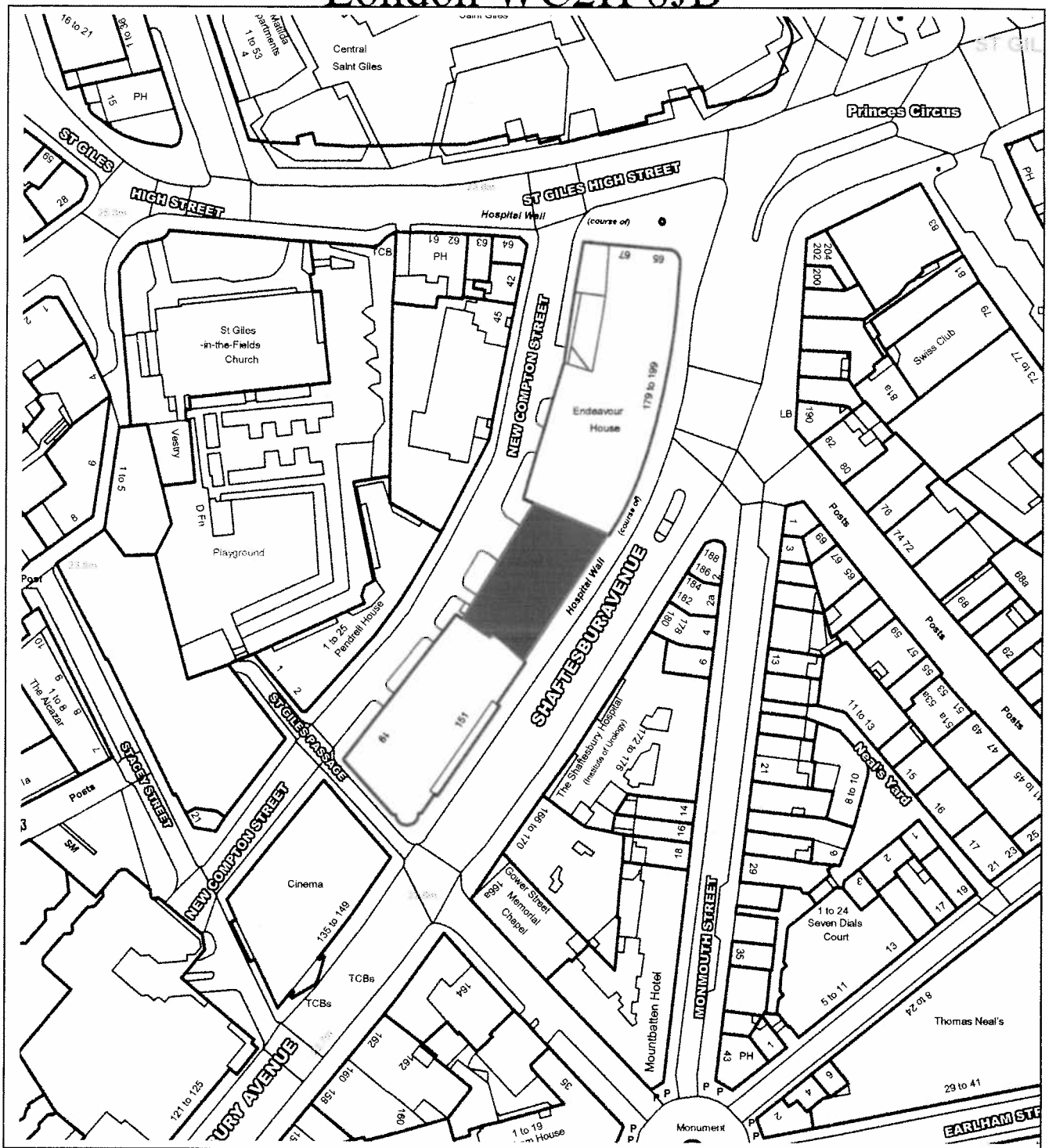
Yours faithfully

Culture and Environment Directorate

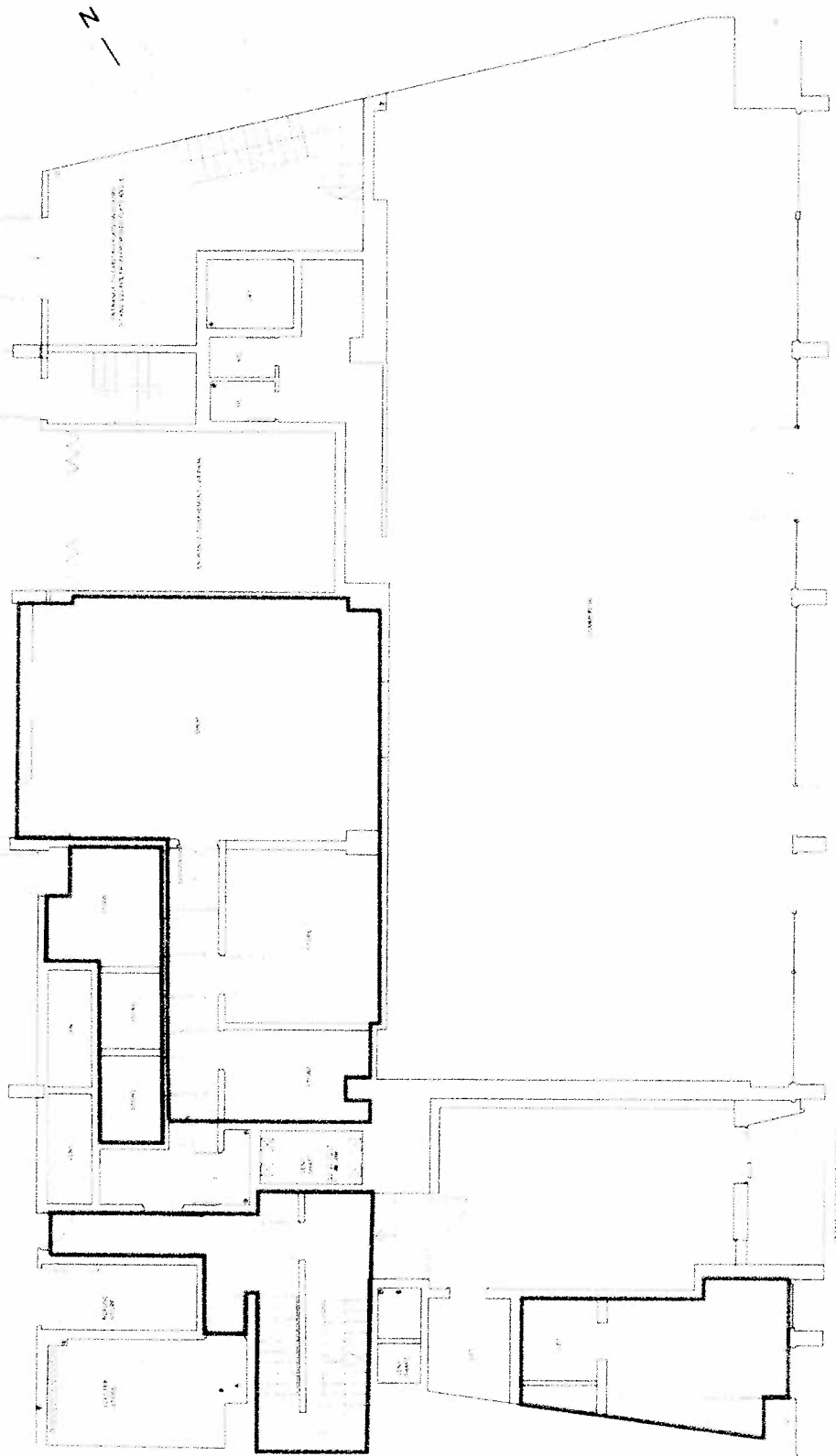
DRAFT

DECISION

167-177 Shaftesbury Avenue London WC2H 8JB



This material has been reproduced from Ordnance Survey digital map data with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright.



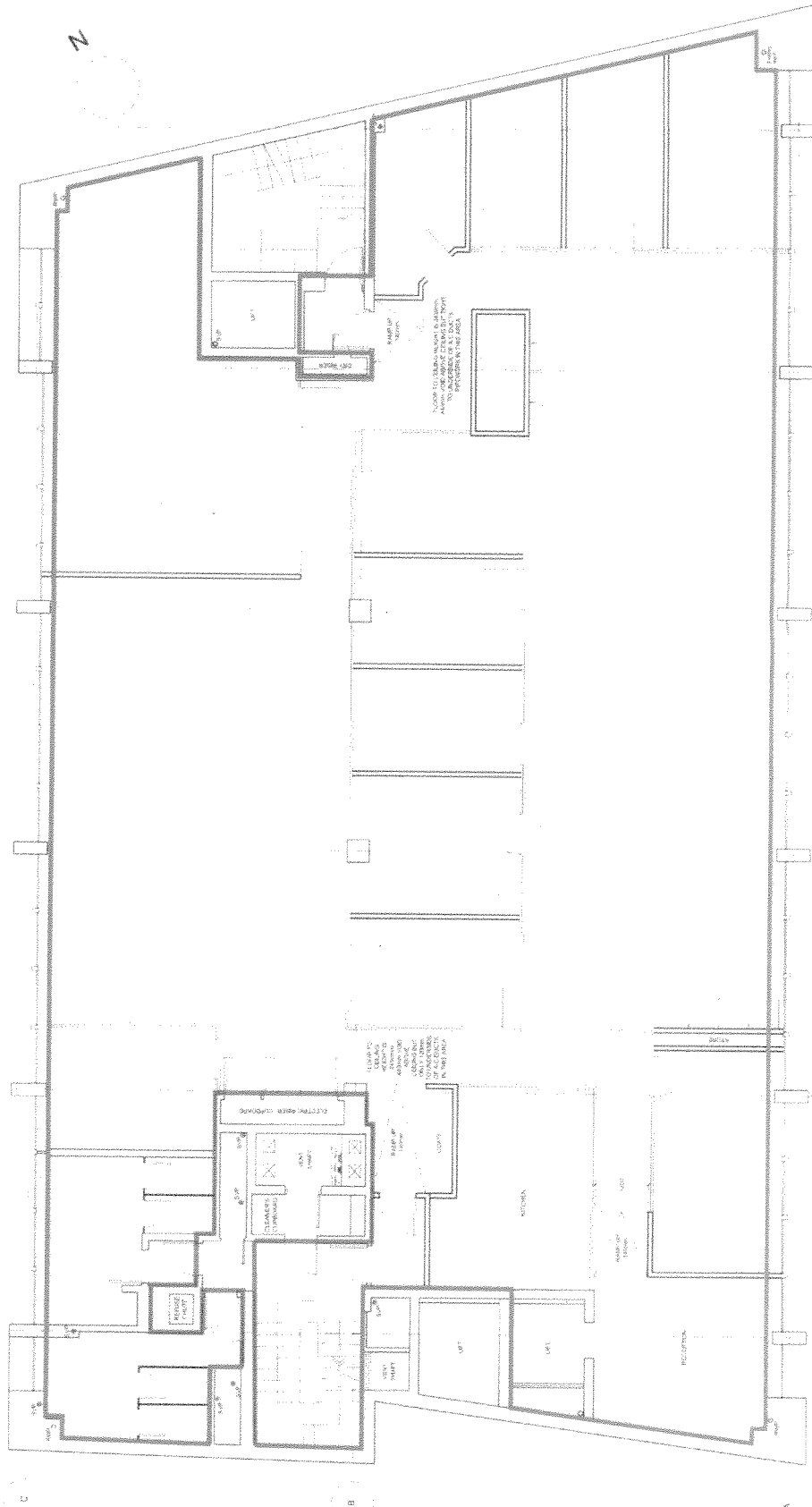
SHAFTESBURY AVENUE

tasou
associates

177 Shaftesbury Avenue
London

Existing First Floor Plan

March 2012
4.85 1:50
12/11
6



DATED

16TH FEBRUARY

2014⁵

(1) KHALID FAROOQ SHARIF,
TAHIR SHARIF AND SHAHID SHARIF

and

(2) KTS GROUP LIMITED

and

(3) 177 SHAFTESBURY AVENUE LIMITED

and

(4) LLOYDS BANK PLC

and

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

A G R E E M E N T

relating to land known as

**LINDSEY HOUSE, 166-177 SHAFTESBURY AVENUE,
LONDON WC2H 8AN**

pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended) and
Section 278 of the Highways Act 1980

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 6007
Fax: 020 7974 1920

CLS/COM/JL/1685.1577
vFINAL