

DATED

8th January

2016
2015

(1) FAMESTORE LIMITED

and

(2) LLOYDS BANK PLC

and

(3) CAMDEN PHYSIO CLINIC LIMITED

and

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

A G R E E M E N T
relating to land known as
10 - 11 Stucley Place London NW1 8NS
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)
Section 278 of the Highways Act 1980

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/ESA/1781.316
S106 FINAL

THIS AGREEMENT is made the

8th day of January 2016
2015

B E T W E E N:

- i. **FAMESTORE LIMITED** (Co. Regn. No. 04910028) whose registered office is at 67 Westow Street Upper Norwood London SE19 3RW (hereinafter called "the Freeholder") of the first part
- ii. **LLOYDS BANK PLC** of (Co. Regn. No. 2065) of Pendeford Securities Centre, Pendeford Business Park, Wobaston Road, Wolverhampton WV9 5HZ (hereinafter called "the Mortgagee") of the second part
- iii. **CAMDEN PHYSIO CLINIC LIMITED** (Co. Regn. No. 06154941) of 10 and 11 Stucley Place, London NW1 8NS (hereinafter called "the Leaseholder") of the third 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 fourth part

1. **WHEREAS**

- 1.1 The Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number LN74824 and Title Number 267477 subject to a charge to the Mortgagee.
- 1.2 The Freeholder is the freehold Owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 The Leaseholder is registered at the Land Registry as the leasehold proprietor with Title absolute of the Property under Title Number NGL846900.
- 1.4 The Leaseholder is the leasehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.5 The Freeholder and the Leaseholder shall hereinafter be jointly referred to as "**the Owner**".

- 1.6 A Planning Application for the development of the Property was submitted to the Council and validated on 12 June 2015 and the Council resolved to grant permission conditionally under reference number 2015/2278/P subject to conclusion of this legal Agreement.
- 1.7 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.
- 1.8 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.
- 1.9 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.10 The Mortgagee as mortgagee under a legal charge registered under Title Number LN74824 and Title Number 267477 and both dated 1 June 2009 (hereinafter called "the Legal Charge") 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"

erection of additional storey at 2nd floor level in association with existing D1 use as shown on drawing numbers Site plan, 1916/D&A/2, 1916.01,1916.02, 1916.03, 1916.10RevC, 1916.11RevD, 1916.12RevD

2.9 "the Highways Contribution"

the sum of £4,649.99 (four thousand six hundred and forty nine pounds and ninety nine pence) 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 carrying out of works to the public highway and associated measures in the vicinity of the Property and as are required due to the Development ("the Highways Works") these to include costs associated with the following:-

(a) repaving of the footway directly adjacent to the site; and

(b) any other works the Council acting reasonably considers necessary as a direct result of the Development

all works will be subject to final measure 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 excludes any statutory undertakers costs

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. "the Level Plans" plans demonstrating the levels at the interface of the Development the boundary of the Property and the Public Highway
- 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 Mortgagee
- 2.7 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 12 June 2015 for which a resolution to grant permission has been passed conditionally under reference number 2015/2278/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 10 - 11 Stucley Place London NW1 8NS the same as shown shaded grey on the plan annexed hereto

2. "the Public Highway" any carriageway footway and/or verge adjoining the Property maintainable at public expense

3. **NOW THIS DEED WITNESSETH** as follows:-

- 3.1 This Agreement is made in pursuance of Section 106 of the Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.
- 3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies corporations and other artificial persons.
- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7, 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.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

4.1 **Highways Contribution**

- 4.1.1 On or prior to the Implementation Date to pay to the Council the Highways Contribution in full.
- 4.1.2 On or prior to the Implementation Date to submit to the Council the Level Plans for approval.
- 4.1.3 Not to Implement or to permit Implementation until such time as the Council has received the Highways Contribution in full.
- 4.1.4 Not to Implement nor permit Implementation until such time as the Council has approved the Level Plans.
- 4.1.5 The Owner acknowledges that the Council has the right reserved to it to construct the Public Highway to levels it considers appropriate.
- 4.1.6 On completion of the Highway Works the Council may provide to the Owner a certificate specifying the sum ("the Certified Sum") expended by the Council in carrying out the Highway Works.
- 4.1.7 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.
- 4.1.8 If the Certified Sum is less than the Highway Contribution then the council shall within twenty one days of the issuing of the said certificate pay to the Owner the amount of the difference between the Certified Sum and the Highway Contribution.

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 2015/2278/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.
- 5.5 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.
- 5.6 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 the Planning Permission reference 2015/2278/P.
- 5.7 Payment of the Highways Contribution pursuant to Clause 4.1 of this Agreement shall be made by the Owner to the Council sending the full amount via electronic transfer

(where practicable). The owner shall notify the Planning Obligations Monitoring Officer that payment has been made referring to names date and Parties to this Agreement and citing the specific clause of this Agreement to which such contribution relates quoting the planning reference 2015/2278/P. Electronic Transfer is to be made directly to the National Westminster Bank of Hampstead Village quoting Sort Code 50-30-03 and London Borough of Camden General Account no. 24299480.

5.8 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.

5.9 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 AllIRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AllIRP figure published before the date such payment or application is made ("Y") less the last published AllIRP figure at the date hereof ("X") is the numerator so that

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

5.10 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.

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 2015/2278/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 or the Mortgagee 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. **MORTGAGEE EXEMPTION**

7.1 The Mortgagee hereby consents to the Owner entering into this Agreement and agrees that the security of its charges over the Property shall take effect subject to this Agreement.

7.2 The Parties agree that the obligations contained in this Agreement shall not be enforceable against any mortgagee or chargee of the whole or any part of the Property unless it takes possession of the Property in which case it will be bound by the obligations as a person deriving title from the Owner.

8. **JOINT AND SEVERAL LIABILITY**

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

9. **RIGHTS OF THIRD PARTIES**

9.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO 10 - 11 STUCLEY PLACE LONDON NW1 8NS

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owner and the Mortgagee have executed this instrument as their Deed the day and year first before written

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


.....

MARCUS HADDITHOMA.

Director

IN THE PRESENCE OF:

.....

MR. C. NEVEFETU, FINANCIAL CONTROLLER
16-B STUCLEY PLACE, LONDON NW1 8NS

Director/Secretary

EXECUTED AS A DEED BY)
CAMDEN PHYSIO CLINIC LIMITED)
acting by a Director and its Secretary)
or by two Directors)


.....

DR MIKE CHUN MING SHIEW

Director



IN THE PRESENCE OF:

.....

MR. C. NEVEFETU, FINANCIAL CONTROLLER
16-B STUCLEY PLACE, LONDON NW1 8NS

Director/Secretary

EXECUTED as a Deed)
By LLOYDS BANK PLC)
by)
in the presence of:-)
.....

THOMAS OLIVER BELFORT

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO 10 - 11 STUCLEY
PLACE LONDON NW1 8NS

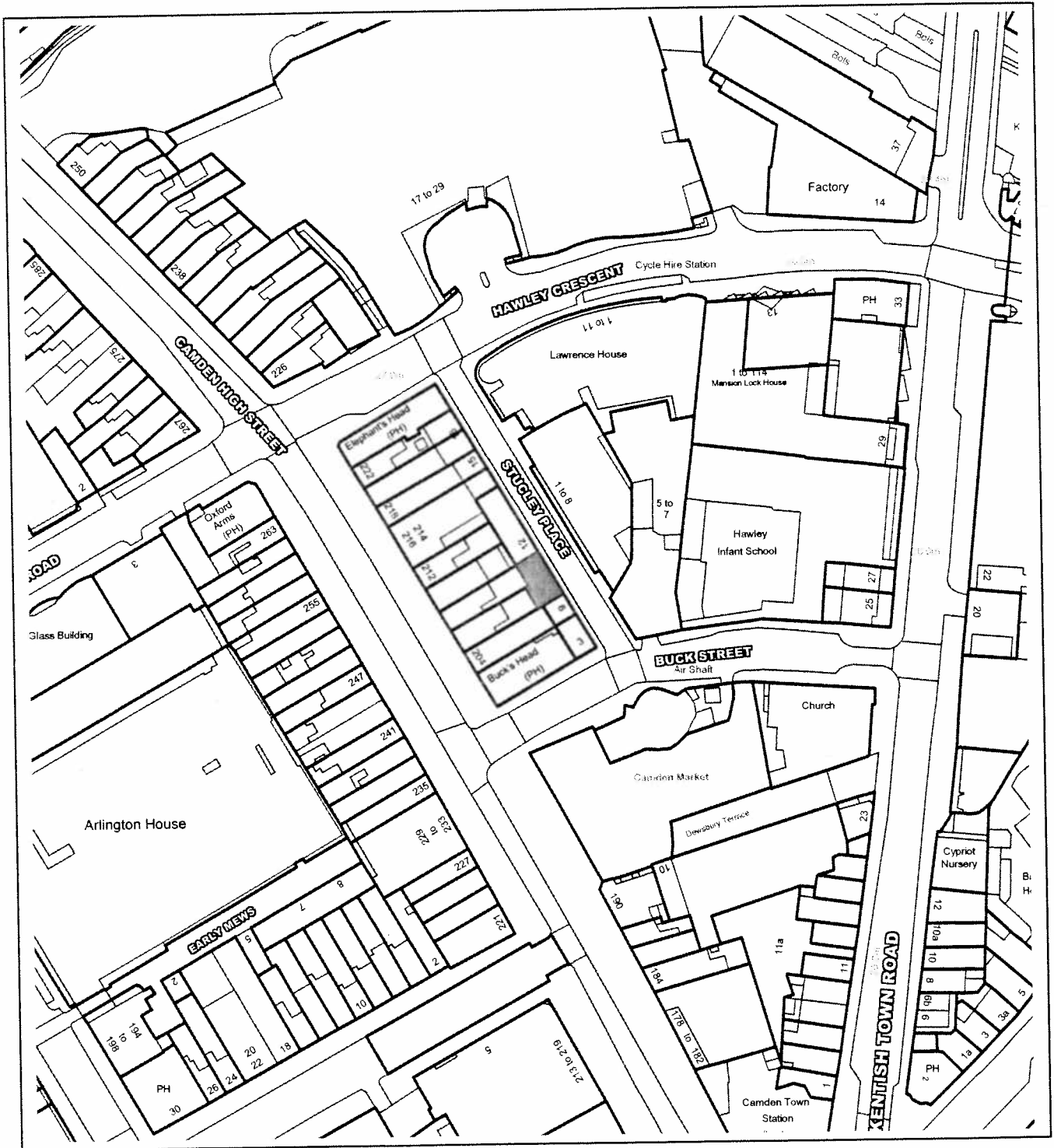
THE COMMON SEAL OF THE MAYOR)
AND BURGESSES OF THE LONDON)
BOROUGH OF CAMDEN was hereunto)
Affixed by Order:-)

L. Alexander
.....

Authorised Signatory



NORTHGATE SE GIS Print Template



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Thomas Oliver Belfort

THOMAS OLIVER BELFORT



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

Application Ref: **2015/2278/P**

28 October 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:
10 - 11 Stucley Place
London
NW1 8NS

Proposal:
Erection of additional storey at 2nd floor level in association with existing D1 use.
Drawing Nos: Site plan, 1916/D&A/2, 1916.01, 1916.02, 1916.03, 1916.10RevC,
1916.11RevD, 1916.12RevD.

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:

Site plan, 1916/D&A/2, 1916.01,1916.02, 1916.03, 1916.10RevC, 1916.11RevD, 1916.12RevD.

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

- 3 A sample panel of the facing wall material of the extension demonstrating the proposed design, colour and texture shall be provided on site and approved in writing by the local planning authority before the relevant parts of the works are commenced and the development shall be carried out in accordance with the approval given. The approved panel shall be retained on site until the work has been completed.

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.

Informative(s):

- 1 Reasons for granting permission.

The extension to create an additional storey at second floor level is considered appropriate in terms of its scale and location in relation to the host building and terrace, and to respect the character and setting of neighbouring buildings.

The extension would also be set back from the front and rear façade of the host building. There are a number of tall buildings within the vicinity of the site and this would not be any higher nor project out further.

The simple modern design is considered appropriate for the area which has a mixture of modern and varied designs, the host property itself is also considered modern. Following revised plans demonstrating that the colour of the facing wall materials of the extension are to match the existing fascia and window framing, the use of metal panel cladding is considered to be acceptable as it would read as a high quality lightweight contemporary addition to the building. A condition is attached to this decision notice requiring the applicant to submit a sample of the proposed cladding. The proposed front fenestration pattern matches the design and alignment of that on the floors below.

Due to the proposed extension's size and location, it would not harm the amenity of any adjoining residential occupiers in terms of the loss of light, outlook, privacy or light spill. The extension would not extend above the height of the rest of the terrace which is predominantly 3 storeys.

DP21 states that the Council will expect works affecting Highways to repair any construction damage to transport infrastructure or landscaping and reinstate all affected transport network links and road and footway surfaces following development. The footway directly adjacent to the site could be damaged as a direct result of the proposed works, as such a section 106 legal agreement is required to secure a financial contribution for highway works.

One neighbour objection was received prior to making this decision. The site's 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 and CS14 of the London Borough of Camden Local Development Framework Core Strategy, and policies DP21, DP24 and DP26 of the London Borough of Camden Local Development Framework Development Policies. The proposed development also accords with policies 7.4 and 7.6 of the London Plan March 2015, consolidated with alterations since 2011; and paragraphs 14, 17, and 56 -66 of the National Planning Policy Framework.

- 2 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 3 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 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.

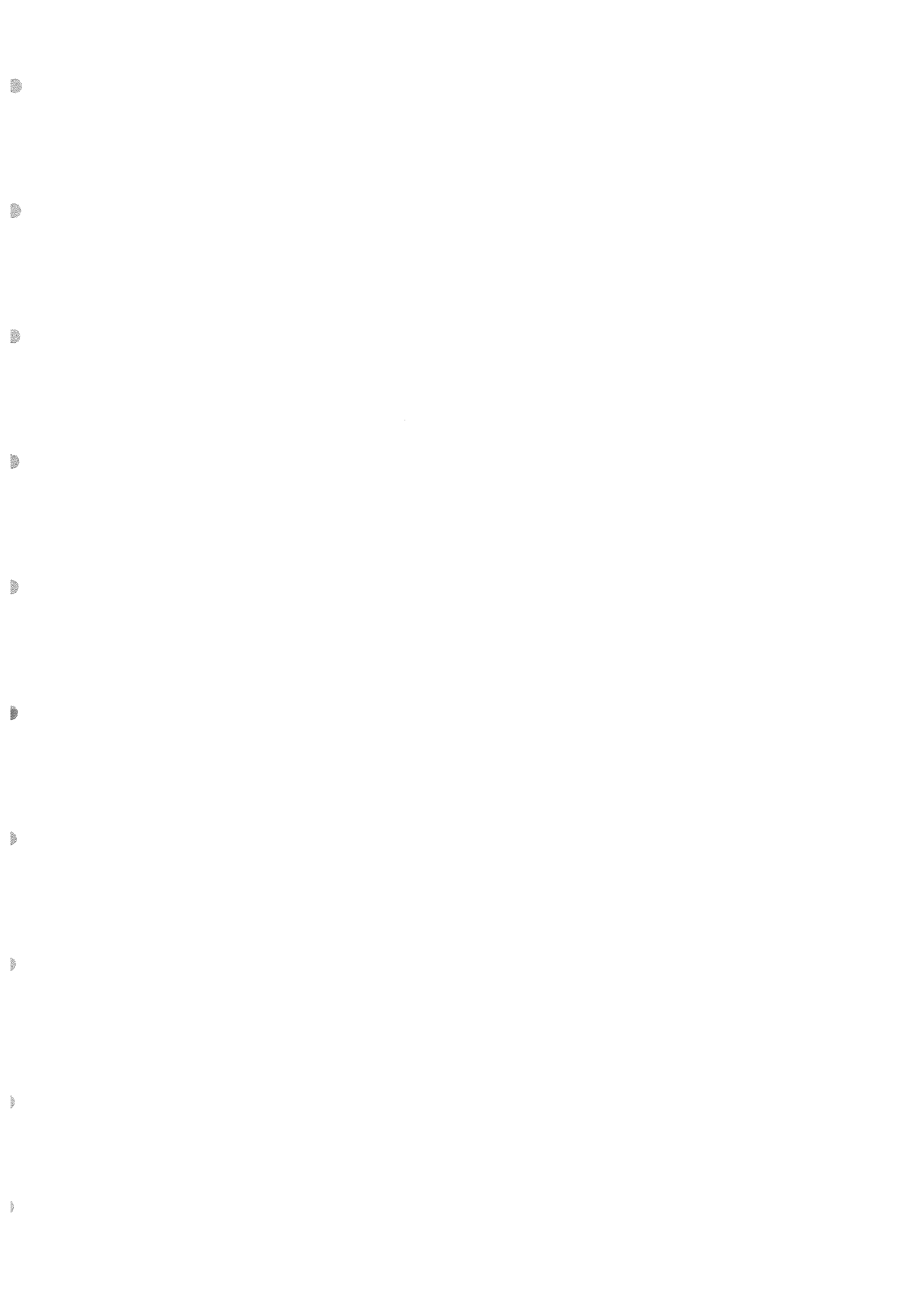
In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Culture and Environment Directorate

DRAFT

DECISION



DATED

8th January 2016
2015

(1) FAMESTORE LIMITED

and

(2) LLOYDS BANK PLC

and

(3) CAMDEN PHYSIO CLINIC LIMITED

and

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

A G R E E M E N T

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