

DATED

9 March

2016

(1) STEVEN DANIEL GORDON and NAOMI GORDON

-and-

(2) BANK OF SCOTLAND PLC

-and-

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

FIRST DEED OF VARIATION

Relating to the Agreement dated 25 November 2009
Between the Mayor and the Burgesses of the
London Borough of Camden and
STEVEN DANIEL GORDON and NAOMI GORDON
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
21 KIDDERPORE GARDENS, LONDON NW3 7SS

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

Tel: 020 7974 5680
Fax: 020 7974 1920

1685.3044



THIS AGREEMENT is made on the 9 day of March 2016

BETWEEN

1. **STEVEN DANIEL GORDON and NAOMI GORDON** of 21 Kidderpore Gardens, London NW3 7SS (hereinafter both called "the Owner") of the first part
2. **BANK OF SCOTLAND PLC** (Scot. Co. Regn. No. SC327000) whose registered office is at The Mound, Edinburgh EH1 1YZ and of Halifax Division, 1 Lovell Park Road, Leeds LS1 1NS (hereinafter called "the Mortgagee") of the second part
3. **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

WHEREAS:

- 1.1 The Council, Steven Daniel Gordon and Naomi Gordon and the Bank of Scotland PLC entered into an Agreement dated 21 June 2013 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number NGL935791 subject to a charge to the Mortgagee.
- 1.3 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.4 The Council is the local planning authority for the purposes of the Act and considers it expedient in the interests of the proper planning of its area that the Development of the Property should be restricted or regulated in accordance with this Agreement.
- 1.5 A new Planning Application in respect of the Property and to amend the Original Planning Permission was submitted to the Council by the Owner and validated on 14 May 2015 for which the Council resolved to grant permission conditionally under reference 2015/1622/P subject to the conclusion of this Agreement.

1.6 This Agreement is made by virtue of the Town and Country Planning Act 1990 Section 106 (as amended) and is a planning obligation for the purposes of that section.

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

1.8 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL935791 and dated 17 March 2006 is willing to enter into this Agreement to give its consent to the same.

2. INTERPRETATION

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

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

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

2.3.1 "Agreement" this First Deed of Variation

2.3.2 "Existing Agreement" the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 21 June 2013 made between the Council, Steven Daniel Gordon and Naomi Gordon and Bank of Scotland PLC

2.3.3 "the Original Planning Permission" means the planning permission granted by the Council on 21 June 2013 referenced 2013/0149/P allowing the excavation of

basement with two lightwells to the front elevation and two to the side elevation (as approved under Ref: 2012/0218/P with amendments to design of front lightwells) and erection of single-storey glazed rear ground floor level extension all in connection with existing residential dwelling (Class C3) as shown on drawing numbers:- Site location plan; Basement Impact Assessment, prepared by Vincent & Rymill Consulting Engineers on 7th January 2013; 12A11 01 rev A; 960/S 01; 960/S 02; 960/S 03; 06.918.01; 06.918.04; 06.918.05; 06.918.06; 06.918.07

- 2.4 Where in this Agreement reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Agreement.
- 2.5 Headings are for ease of reference only and are not intended to be construed as part of this Agreement and shall not be construed as part of this Agreement and shall not effect the construction of this Agreement.
- 2.6 Unless the context otherwise requires references to the singular shall include the plural and vice versa.
- 2.7 References in this Agreement to the Owner and Mortgagee shall include their successors in title.

3. VARIATION TO THE EXISTING AGREEMENT

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

3.1.1 "Development" variation of condition 3 (approved plans) of planning permission (ref: 2013/0149/P) dated 21/06/2013 (for the excavation of basement with two light wells to the front elevation and two to

the side elevations and erection of single-storey glazed rear ground floor level extension), namely to allow extension to basement at rear, excavation of rear lightwell and omission of single storey rear ground floor extension as shown on drawing numbers: **Revised Plans:** 06.918.05 (Rev A), 06.918.06 (Rev A) & 06.918.07 (Rev A) **Superseded Plan** 06.918.05, 06.918.06 & 06.918.07

- 3.1.2 "Planning Permission" the planning permission under reference number 2015/1622/P to be issued by the Council in the form of the draft annexed hereto
- 3.1.3 "Planning Application" the application for Planning Permission in respect of the Property submitted on 15 March 2015 by the Owner and given reference number 2015/1622/P.
- 3.2 After the words "2013/0149/P" in clause 5.2 of the Original Agreement the words "or "2015/1622/P" (as the case may be)" shall be inserted.
- 3.3 After the words "2013/0149/P" in clause 5.6 of the Original Agreement the words "or "2015/1622/P" (as
- 3.4 After the words "2013/0149/P" in clause 6.1 of the Original Agreement the words "or "2015/1622/P" (as the case may be)" shall be inserted.
- 3.5 In all other respects the Existing Agreement (as varied by this Agreement) shall continue in full force and effect.

4. **PAYMENT OF THE COUNCIL'S LEGAL COSTS**

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

5. **REGISTRATION AS LOCAL LAND CHARGE**

5.1 This Agreement shall be registered as a Local Land Charge

6. **JOINT AND SEVERAL LIABILITY**

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

7. **MORTGAGEE EXEMPTION**

7.1 The Mortgagee 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 and for the avoidance of doubt agrees to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.

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

STEVEN DANIEL GORDON

in the presence of:

Witness Signature:

Witness Name: (CAPITALS)

Address:

Occupation:

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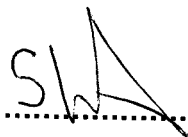
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..... VICKY SHERWOOD

..... 8 NEW ROAD

..... AMERSHAM HP6 6LD

..... HUMAN RESOURCES

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO 21 KIDDERPORE GARDENS, LONDON NW3 7SS

EXECUTED AS A DEED BY)
NAOMI GORDON)
in the presence of:)
Witness Signature:)
Witness Name: (CAPITALS))
Address:)
Occupation:)

[Signature]
.....
[Signature]
.....
VICKY SHERWOOD.....
8 NEW ROAD.....
AMERSHAM HP6 6LD.....
.....
HUMAN RESOURCES.....

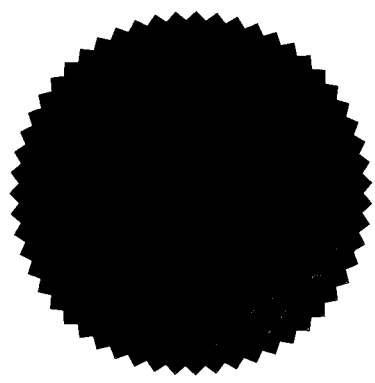
EXECUTED AS A DEED BY)
BANK OF SCOTLAND PLC)
by)
in the presence of:-)

[Signature]
.....

EXECUTED AS A DEED BY: *K. Bridge*
AS AN ATTORNEY FOR AND ON BEHALF OF
BANK OF SCOTLAND PLC
IN THE PRESENCE OF *B. McNeill*
HALIFAX PLC
TRINITY ROAD
HALIFAX
HX1 2RG

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

R. Alexander
.....
Duly Authorised Officer



R. Alexander

21 Kidderpore Garden, London NW3 7SS



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

Application Ref: **2015/1622/P**

22 February 2016

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:

21 Kidderpore Gardens London NW3 7SS

Proposal:

Variation of condition 3 (approved plans) of planning permission (ref: 2013/0149/P) dated 21/06/2013 (for the excavation of basement with two light wells to the front elevation and two to the side elevations and erection of single storey glazed rear ground floor level extension), namely to allow extension to basement at rear, excavation of rear lightwell and omission of single storey rear ground floor extension .

Drawing Nos: Revised Plans: 06.918.05 (Rev A), 06.918.06 (Rev A) & 06.918.07 (Rev A)

Superseded Plan 06.918.05, 06.918.06 & 06.918.07

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 For the purposes of this decision, condition no.3 of planning permission 2013/0149/P shall be replaced with the following condition:

REPLACEMENT CONDITION 3

The development hereby permitted shall be carried out in accordance with the following approved plans; Site location plan; Basement Impact Assessment, prepared by Vincent & Rymill Consulting Engineers (updated May 2015, active since January 2013), 12A11.01.Rev B, 960/S 01; 06.918.01, 06.918.04, 06.918.05 (Rev A), 06.918.06 (Rev A) & 06.918.07 (Rev A).

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

Informative(s):

- 1 Reason for granting permission

The proposed changes to the approved drawings include the removal of a rear single storey glazed extension located above a proposed lower ground floor basement extension. The site of the approved rear extension would be replaced with a light well that extends 3.8m beyond the rear elevation of the host property, covering approximately 15sqm.

The proposed rear light well would be largely hidden from neighbouring views and the removal of the single storey rear extension would reduce the mass of the property. The proposed light well would increase the basement floor area by approximately 21sqm, requiring greater excavation than initially approved under planning application 2013/0149/P. An updated Basement Impact Assessment (BIA) has been submitted with the application as evidence of compliance with Development policy DP27. The updated BIA has not been independently assessed on behalf of Camden Council as it is considered that there would be no significant difference to the modelled impact on the neighbouring structures or drainage details or conditions that have not already been considered as part of the BIA in support of the approved planning application in 2013/0149/P to which this application seeks to vary.

The increase in the floor area of the basement to create the proposed light well is not considered to result in any additional harm to the ground stability of neighbouring properties. The BIA is still in accordance with Development policy DP27 and the principle of the basement is not in dispute.

No objections have been received prior to making this decision. The site's planning history and relevant appeal decisions were taken into account when coming to this decision. Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 of the listed buildings and Conservation Area Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

As such, the proposed development would not harm the character and design of the site within its location and is considered to accord with policies CS5 and CS14 of the London Borough of Camden Local development Framework Core Strategy,

and policies DP24, DP25 and DP26 of the London Borough of Camden Local Development Framework Development Policies. The proposed development also accords with policies 7.4 7.6 and 7.8 of the London Plan 2015; and paragraphs 14, 17, 56-66 of the National Planning Policy Framework.

- 2 This approval under Section 73 of the 1990 Act effectively varying the relevant condition of the previous planning permission is subject otherwise to the same terms, drawings and conditions as attached to the previous planning permission. This includes condition 1 providing for a 3 year time period for implementation which for the avoidance of doubt commences with the date of the original decision (and not this variation).
- 3 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.

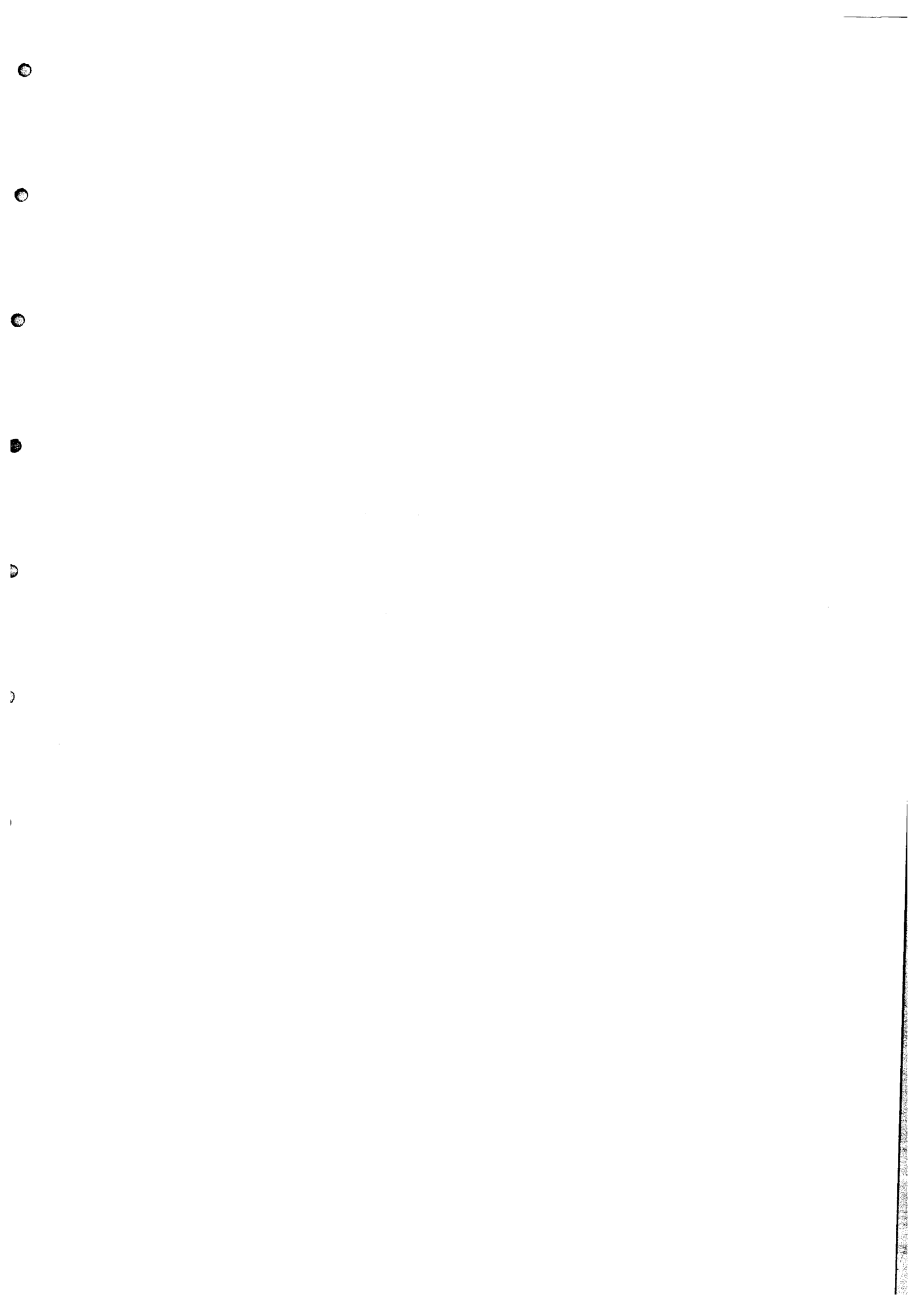
In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Culture and Environment Directorate

DECISION





DATED

9 March

2016

(1) STEVEN DANIEL GORDON and NAOMI GORDON

-and-

(2) BANK OF SCOTLAND PLC

-and-

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

FIRST DEED OF VARIATION

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