

DATED

2 March

2016

**(1) AJIT NEDUNGADI and ALIYA KANJI NEDUNGADI**

-and-

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

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**DEED OF VARIATION**

Relating to the Agreement dated 16 January 2014  
Between the Mayor and the Burgesses of the  
London Borough of Camden,  
Ajit Nedungadi and Aliya Kanji Nedungadi  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
**9 Fitzjohns Avenue, London NW3 5JY**

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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/1781.583  
FINAL



THIS DEED is made on the 2nd day of March 2016

**BETWEEN**

1. **AJIT NEDUNGADI and ALIYA KANJI NEDUNGADI** of 48 Lambolle Road, London NW3 4HR (hereinafter called "the Owner") of the first part
2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second part

**WHEREAS:**

- 1.1 The Council, Ajit Nedungadi and Aliya Kanji Nedungadi entered into an Agreement dated 16 January 2014 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 LN84598.
- 1.3 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.4 The Council is the local planning authority for the purposes of the Act and considers it expedient in the interests of the proper planning of its area that the Development of the Property should be restricted or regulated in accordance with this Deed.
- 1.5 A New Planning Application in respect of the Property and to amend the Original Planning Permission and was submitted to the Council by the Owner and validated on 6 October 2015 for which the Council resolved to grant permission conditionally under reference 2015/5506/P subject to the conclusion of this Deed. The Original Planning Permission
- 1.6 This Deed of Variation is made by virtue of the Town and Country Planning Act 1990 Section 106A (as amended) and is a planning obligation for the purposes of that section.

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

## 2. INTERPRETATION

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

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

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

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

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

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

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

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

- 2.8.1 "Deed" this Deed of Variation made pursuant to Section 106A of the Act
- 2.8.2 "Existing Agreement" the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 16 January 2016 made between the Council and Ajit Nedungadi and Aliya Kanji Nedungadi
- 2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 16 January 2014 referenced 2013/2547/P allowing the change of use from hostel for temporary accommodation of homeless families (Class C1) to single family dwelling house (Class C3) involving erection five-storey rear extension (including basement and attic level); excavation of new basement, part two / part single-storey rear extension with ground floor level terrace; alterations to front lightwell; alterations to rear, front and both flank elevations including erection of chimney to south flank; installation of 4 x rooflights on main roof; alterations to front boundary wall; relocation of existing crossover; and associated landscaping (following demolition of existing rear fire escape stair structure and single storey and five storey rear extensions) as shown on drawing numbers:- 9FIT-001 P2 (Site Location Plan); 9FIT-002 P2; 9FIT-003 P2; 9FIT-004 P2; 9FIT-005 P1; 9FIT-020 P2; 9FIT-030 P2; 9FIT-031 P2; 9FIT-032 P2; 9FIT-033 P2; 9FIT-050 P1; 9FIT-051 P1; 9FIT-052 P1; 9FIT-053 P1; 9FIT-054 P1; 9FIT-060 P1; 9FIT-070 P1; 9FIT-071 P1; 9FIT-072 P1; 9FIT-073 P1; 9FIT-100 P5; 9FIT-101 P7; 9FIT-102 P5; 9FIT-103 P6; 9FIT-104 P2; 9FIT-200 P4; 9FIT-300 P7; 9FIT-

301 P2; 9FIT-302 P3; 9FIT-303 P3; 9FIT-304 P1; 9FIT-305 P1; and 9FIT-SK07 P1.

Supporting Information: Tree Survey dated April 2013 by TRETEC; Daylight and Sunlight Study dated 17th April by Right of Light Consulting; Addendum to Basement Impact Assessment dated 30/07/2013 by Engenuiti Partnership Addendum to Basement Impact Assessment by Engenuiti Partnership; Site Investigation and Basement Impact Assessment Report dated April 2013 by GEA; Energy Statement dated 19/06/2013 by Ian Waters Design Ltd; BREEAM Refurbishment Report dated 19/04/2013 by Ian Waters; Affordable Housing Statement dated 31/07/2013 by AZ Urban Studio

2.8.4 "Non-Material Amendments" the planning permission granted by the Council dated 14 August 2014 referenced 2014/3445/P allowing alterations to French doors, windows, roof lights and glazed extension approved under planning permission 2013/2547/P dated 16/01/2014 as shown on drawing numbers:- 9FIT-100 P6, 9FIT-101 P8, 9FIT-102 P6, 9FIT-103 P7, 9FIT-104 P3, 9FIT-200 P5, 9FIT-300 P8, 9FIT-302 P4, 9FIT-303 P4

### **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" the development as authorised by the Original Planning Permission, the Non-Material Amendments and as amended by the following: variation of condition 3 (approved plans) of

planning permission 2013/2547/P dated 16/01/14 as varied by planning permission 2014/3445/P dated 14/08/2014 namely to amend the location of refuse storage, soft and hard landscaping, glass canopy, doors, staircase, fenestration, access hatch, and reduction in size of basement

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2015/5506/P granted by the Council in the form of the draft annexed hereto

3.1.3 "Planning Application" the application for Planning Permission in respect of the Property submitted on 6 October 2015 by the Owner and given reference number 2015/5506/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2013/2547/P" shall be replaced with "Planning Permission reference 2013/2547/P as varied by application 2014/3445 and further varied by application 2015/5506/P".

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

#### 4. **COMMENCEMENT**

4.1 Without prejudice to the effect of Clause 3.5 in the Existing Agreement the provisions in this Deed shall take effect on the Implementation of the Planning Permission referenced 2015/3200/P.

#### 5. **PAYMENT OF THE COUNCIL'S LEGAL COSTS**

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

6. REGISTRATION AS LOCAL LAND CHARGE

6.1 This Deed shall be registered as a Local Land Charge

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

EXECUTED AS A DEED BY  
AJIT NEDUNGADI  
in the presence of:

)  
)  
)  


.....  
Witness Signature



Witness Name

ANNICKA TERRY

Address

2 DANLISH RD NW2 4HP

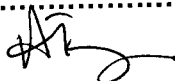
Occupation

ADVERTISING DIRECTOR

EXECUTED AS A DEED BY  
ALIYA KANJI NEDUNGADI  
in the presence of:

)  
)  
)  


.....  
Witness Signature



Witness Name

ANNICKA TERRY

Address

2 DANLISH RD NW2 4HP

Occupation

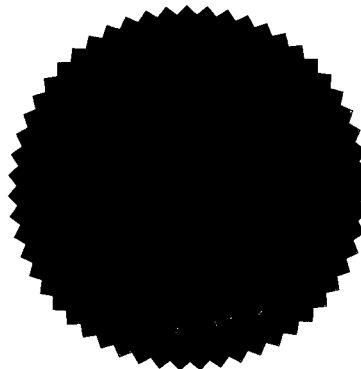
Advertising Director

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

)  
)  
)  
)



.....  
Duly Authorised Officer





Finkernagel Ross Architects  
Unicorn House  
221-222 Shoreditch High Street  
London  
E1 6PJ

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

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

Application Ref: **2015/5506/P**

09 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:  
**9 Fitzjohn's Avenue**  
London  
**NW3 5JY**

Proposal:

**DECISION**  
Variation of condition 3 (approved plans) of planning permission 2013/2547/P dated 16/01/14 as varied by planning permission 2014/3445/P dated 14/08/2014 namely to amend the location of refuse storage, soft and hard landscaping, glass canopy, doors, staircase, fenestration, access hatch, and reduction in size of basement.

Drawing Nos: Superseded: 9FIT-100-P6, 9FIT-101 P8, 9FIT-102 P6, 9FIT-103 P7, 9FIT-104 P3, 9FIT-200 P5, 9FIT300 P8, 9FIT-302 P4, 9FIT-303 P4.

Proposed drawings: 9FIT-100-P12, 9FIT-101 P13, 9FIT-102 P9, 9FIT-103 P11, 9FIT-104 P6, 9FIT-200 P10, 9FIT300 P11, 9FIT-301-P5; 9FIT-302 P8, 9FIT-303 P7.

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 purpose of this decision, condition no.3 of planning permission 2013/2547/P dated 16/01/2014 as varied by 2014/3445/P dated 14/08/2014 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: 9FIT-001 P2 (Site Location Plan); 9FIT-002 P2; 9FIT-003 P2; 9FIT-004 P2; 9FIT-005 P1; 9FIT-020 P2; 9FIT-030 P2; 9FIT-031 P2; 9FIT032P2; 9FIT-033 P2; 9FIT-050 P1; 9FIT-051 P1; 9FIT-052 P1; 9FIT-053 P1; 9FIT054P1; 9FIT-060 P1; 9FIT-070 P1; 9FIT-071 P1; 9FIT-072 P1; 9FIT-073 P1; 9FIT-100-P12, 9FIT-101 P13, 9FIT-102 P9, 9FIT-103 P11, 9FIT-104 P6, 9FIT-200 P10, 9FIT300 P11, 9FIT-301-P5; 9FIT-302 P8, 9FIT-303 P7, 9FIT-304 P1; 9FIT-305 P1; and 9FIT-SK07 P1.

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

Informative(s):

- 1 Collectively, it is considered that the proposed amendments to the front garden, glass canopy to the side entrance, fenestration pattern and size, and the reduction in the size of the basement will not adversely affect the setting of the Conservation Area or the host building. The amendments would not alter the impact of the proposal on the character or appearance of the host building, wider area, or on the amenity of adjoining occupiers.

The full impact of the proposed development has already been assessed by virtue of the previous approval granted on 16/01/2014 under reference number 2013/2547/P as varied by 2014/3445/P dated 14/08/2014. In the context of the permitted scheme, it is considered that the amendments would have only a minor material effect on the approved development.

- 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, conditions (and obligations where applicable) 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).

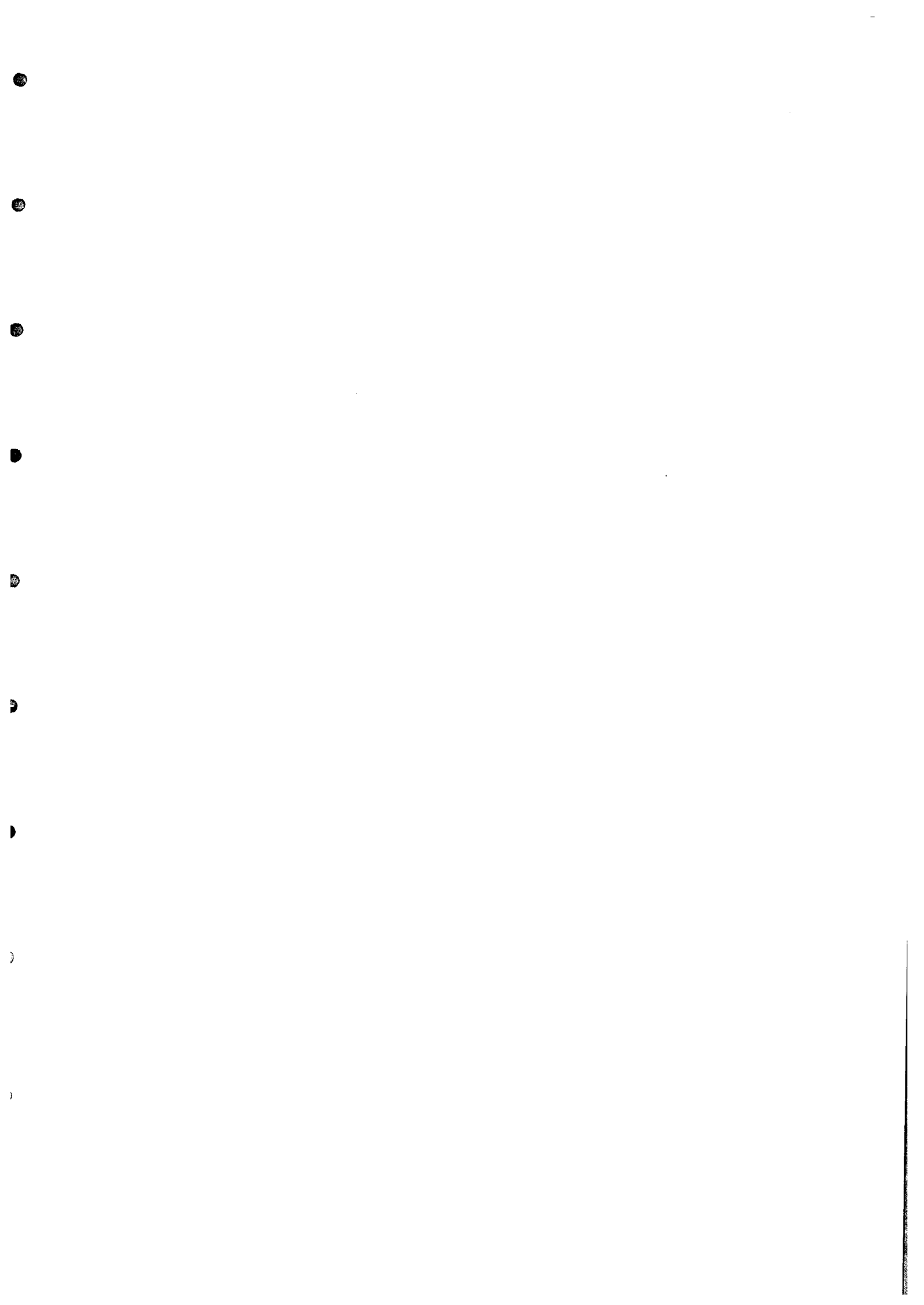
In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

**DRAFT**

**DECISION**





DATED

2 March

2016

**(1) AJIT NEDUNGADI and ALIYA KANJI NEDUNGADI**

-and-

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

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**DEED OF VARIATION**

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