

DATED

9th May

2016

(1) MONSURU OLAOYE OLAOLUWA ABIOLA

and

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

A G R E E M E N T
relating to land known as
8 Pilgrims Lane, London NW3 1SL
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

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

Tel: 020 7974 5680
Fax: 020 7974 2962

2015/4053/P
V1 310316

THIS AGREEMENT is made the *9th* day of *May* 2016

B E T W E E N:

1. **MONSURU OLAOYE OLAOLUWA ABIOLA LIMITED** of 8 Pilgrims Lane, London NW3 1SL and of Flat 4L, Block 4 Portman Mansions, Chiltern Street, London W1U 6NS (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 Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number 424038.
- 1.2 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 The Application for Prior Approval in relation to the Development of the Property pursuant to the Town and Country Planning (General Permitted Development) Order 2015 was submitted to the Council and validated on 27th July 2015 and the Council resolved to grant approval under reference number 2015/4053/P subject to conclusion of this legal Agreement.
- 1.4 The Council is the local planning authority for the purposes of the Act for the area in which the Property is situated and considers it expedient in the interests of the proper planning of its area that the Development of the Property should be restricted or regulated in accordance with this Agreement.
- 1.5 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

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 Certificate of Practical Completion" | the certificate issued by the Owner's contractor architect or project manager certifying that the Development has been completed |
| 2.4 | "Construction Management Plan" | <p>a plan setting out the measures that the Owner will adopt in undertaking the construction of the Development using good site practices in accordance with the Council's Considerate Contractor Manual and in the form of the Council's Pro Forma Construction Management Plan as set out in the Schedule hereto to ensure the Construction Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network including (but not limited to):-</p> <p>(i) a statement to be submitted to Council giving details of the environmental protection highways safety and community liaison measures proposed to be adopted by the Owner in order to mitigate and offset potential or likely effects and impacts arising from the demolition of the Existing Buildings or structures on the</p> |

Property and the building out of the Development;

(ii) proposals to ensure there are no adverse effects on the Conservation Area features

(iii) amelioration and monitoring measures over construction traffic including procedures for notifying the owners and or occupiers of the residences and businesses in the locality in advance of major operations delivery schedules and amendments to normal traffic arrangements (if any);

(iv) the inclusion of a waste management strategy for handling and disposing of construction waste; and

(v) identifying means of ensuring the provision of information to the Council and provision of a mechanism for monitoring and reviewing as required from time to time

2.5 "the Construction Phase"

the whole period between

(i) the Implementation Date and

(ii) the date of issue of the Certificate of Practical Completion

2.6 "the Council's Considerate Contractor Manual"

the document produced by the Council from time to time entitled "Guide for Contractors Working in Camden" relating to the good practice for developers engaged in building activities in the London Borough of Camden

2.7 "the Development"

Lowering floor level of existing basement to front of property and associated internal layout changes, but with no external alterations. Formation of a new basement to the rear of the property entirely within footprint of existing building and with no external alterations as shown on drawing numbers:- 999/S01; 999/S02; 999/S03; 999/S04; 999/S05; 999/S06; 999/S07A; 999/S08; 999/S09; 999-AP3-02CC; 999-AP3-03CC; 999-AP3-11CC.

2.8 "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

2.9 "Occupation Date"

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

2.10 "the Parties"

the Council and the Owner

2.11 "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

2.12 "the Prior Approval"

a prior approval granted for the Development substantially in the draft form annexed hereto

2.13 "the Prior Approval Application" application for prior approval in relation to the Development of the Property submitted to the Council and validated on 27th July 2015 for which a resolution to grant approval has been passed under reference number 2015/4053/P subject to conclusion of this Agreement

2.14 "the Property" the land known as 8 Pilgrim's Lane London NW3 1SL the same as shown shaded grey on the plan annexed hereto

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 and 8 hereof all of which shall come into effect on the date hereof the

covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Implementation Date.

- 3.6 The Council hereby agrees to grant the Prior Approval on the date hereof.
- 3.7 The Parties save where the context states otherwise shall include their successors in title.
- 3.8 Where an approval consent or expression of satisfaction issue is required by the Owner from the Council under the terms of this Deed such approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and it being agreed that if the Council shall not approve or determine any document required to be submitted under this Deed within a period of four (4) weeks from the date of its submission to the Council the Owner will be entitled to refer the issue to the Professional in accordance with Clause 9 hereof.
- 3.9 The Council shall act reasonably and proportionately when seeking to enforce any of the terms of this Agreement including notifying the Owner of any obligation to which the Council considers has been breached and stating what steps the Council considers to be required in order to bring about compliance with such obligation or obligations and allowing a reasonable period of time to rectify such breaches before taking enforcement action.
- 3.10 It is expressly acknowledged by the Owner that notwithstanding the terms of clause 3.7, it shall Occupy the Development in accordance with the terms of the obligations in this Agreement.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

4.1 **CONSTRUCTION MANAGEMENT PLAN**

- 4.1.1 Prior to the Implementation Date to provide the Council (to the Planning Obligations Officer in accordance with Clause 6.1) for approval a draft Construction Management Plan.
- 4.1.2 Not to Implement nor allow Implementation of the Development until such time as the Council (subject to Clause 9 of this Deed) has approved the Construction Management Plan as demonstrated by written notice to that effect.
- 4.1.3 The Owner acknowledges and agrees that the Council will not approve the Construction Management Plan (subject to Clause 9 of this Deed) unless it demonstrates to the Council's reasonable satisfaction that the Construction Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network.
- 4.1.4 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the Construction Management Plan and not to permit the carrying out of any works comprised in demolition or building out the Development at any time when the requirements of the Construction Management Plan are not being complied with and in the event of non compliance with this sub-clause the Owner shall forthwith take any steps required to remedy such non-compliance.

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 Development 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 planning reference 2015/4053/P the date upon which the Development is ready for Occupation.
- 5.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.
- 5.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.
6. **IT IS HEREBY AGREED AND DECLARED** by the Parties hereto that:-
- 6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed by email to the London Borough of Camden, Planning Obligations Officer PlanningObligations@camden.gov.uk quoting the planning reference number 2015/4053/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 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.
- 6.5 The Owner 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.
- 6.6 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. **RIGHTS OF THIRD PARTIES**

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

8. **DISPUTE RESOLUTION**

- 8.1 Wherever there is a dispute between the Parties arising from the terms of this Deed or the approval of any document required to be approved as part of this Deed which shall not be resolved within two weeks of any of the Parties having notified the others that any such dispute exists then any of the Parties may require the dispute to be determined by a professional person having at least ten years professional standing in a relevant professional discipline ("the Professional") which Professional shall be agreed between the Parties or in default of agreement by the Parties appointed by the President for the time being of the Royal Institution of Chartered Surveyors and:

- 8.1.1 the Professional shall act as an expert;
 - 8.1.2 the Professional shall afford the Parties to the dispute an opportunity promptly to make representations in writing and if they so direct to make submissions on one another's representations;
 - 8.1.3 the Professional shall be able to stipulate periods of time for the making of such submissions and representations;
 - 8.1.4 the Professional shall be bound to have regard to the said submissions and representations;
 - 8.1.5 the Professional shall have the power to award the costs of the determination should any of the Parties have acted unreasonably and failing such determination the costs shall be borne by the parties in equal shares.
 - 8.1.6 the Professional shall be limited in his findings to the determination of the dispute in relation to the discharge of the obligations in this Agreement ;
 - 8.1.7 the findings of the Professional shall save in the case of manifest material error be final and binding on the Parties save that the Parties retain the right to refer to the Courts on a matter of law; and
 - 8.1.8 the Professional shall be required to use reasonable endeavours to issue his decision within 4 weeks of the date of appointment and in any event as soon as reasonably practicable.
- 8.2 If for any reason the Professional shall fail to make a decision and give notice thereof within two months of the deadline for submissions and representations given by the Professional in clause 9.1.3 above any of the Parties may apply to the President or the Vice President for the time being of the Royal Institution of Chartered Surveyors for a substitute to be appointed in his place which procedure may be repeated as many times as necessary;

8.3 Nothing in this clause 9 shall be taken to fetter the ability of the Council to carry out its statutory functions as local planning authority with powers to enforce breaches of planning control arising from any breach of any of the obligations entered into by the Owner in this Deed or any other planning breach in respect of the Site.

8.5 The Parties shall comply in full with any award decision or direction made by the Professional including any as to costs.

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

EXECUTED AS A DEED BY
MONSURU OLAOYE OLAOLUWA ABIOLA)

in the presence of:)

.....
Witness Signature

Witness Name: MICHAEL DOYLE

Address: 86-90 PAUL STREET

Occupation: ECZA AINE

CHARTERED TOWN PLANNER

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

.....
Authorised Signatory



THE SCHEDULE

Pro Forma Construction Management Plan

The Council has produced a pro-forma Construction Management Plan that can be used to prepare and submit a Construction Management Plan to meet technical highway and environmental health requirements. This document should be prepared, submitted and receive approval from the Council well in advance of works starting.

The pro-forma Construction Management Plan can be found on the Council's website at:-
<https://www.camden.gov.uk/ccm/content/environment/planning-and-built-environment/two/planning-applications/making-an-application/supporting-documentation/planning-obligations-section-106/>

Please use the Minimum Requirements (also available at the link above) as guidance for what is required in the CMP and then download the Construction Management Plan

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

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Doyle Town Planning & Urban Design
86-90 Paul Street
London
EC2A 4NE

Application Ref: **2015/4053/P**

Please ask for: **Ian Gracie**

Telephone: 020 7974 2507

DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990

Certificate of Lawfulness (Proposed) Granted

The Council hereby certifies that the development described in the First Schedule below, on the land specified in the Second Schedule below, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 as amended.

First Schedule:

Lowering floor level of existing basement to front of property and associated internal layout changes, but with no external alterations. Formation of a new basement to the rear of the property entirely within footprint of existing building and with no external alterations.

Drawing Nos: 999/S01; 999/S02; 999/S03; 999/S04; 999/S05; 999/S06; 999/S07A; 999/S08; 999/S09; 999-AP3-02CC; 999-AP3-03CC; 999-AP3-11CC.

Second Schedule:

**8 Pilgrim's Lane
London
NW3 1SL**

Reason for the Decision:

- 1 The single storey basement excavation is permitted under Class A of Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Director of Culture & Environment



Informative(s):

1

You can find advice about your rights of appeal at:

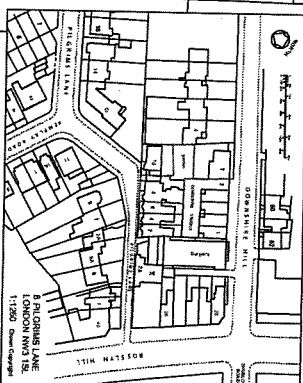
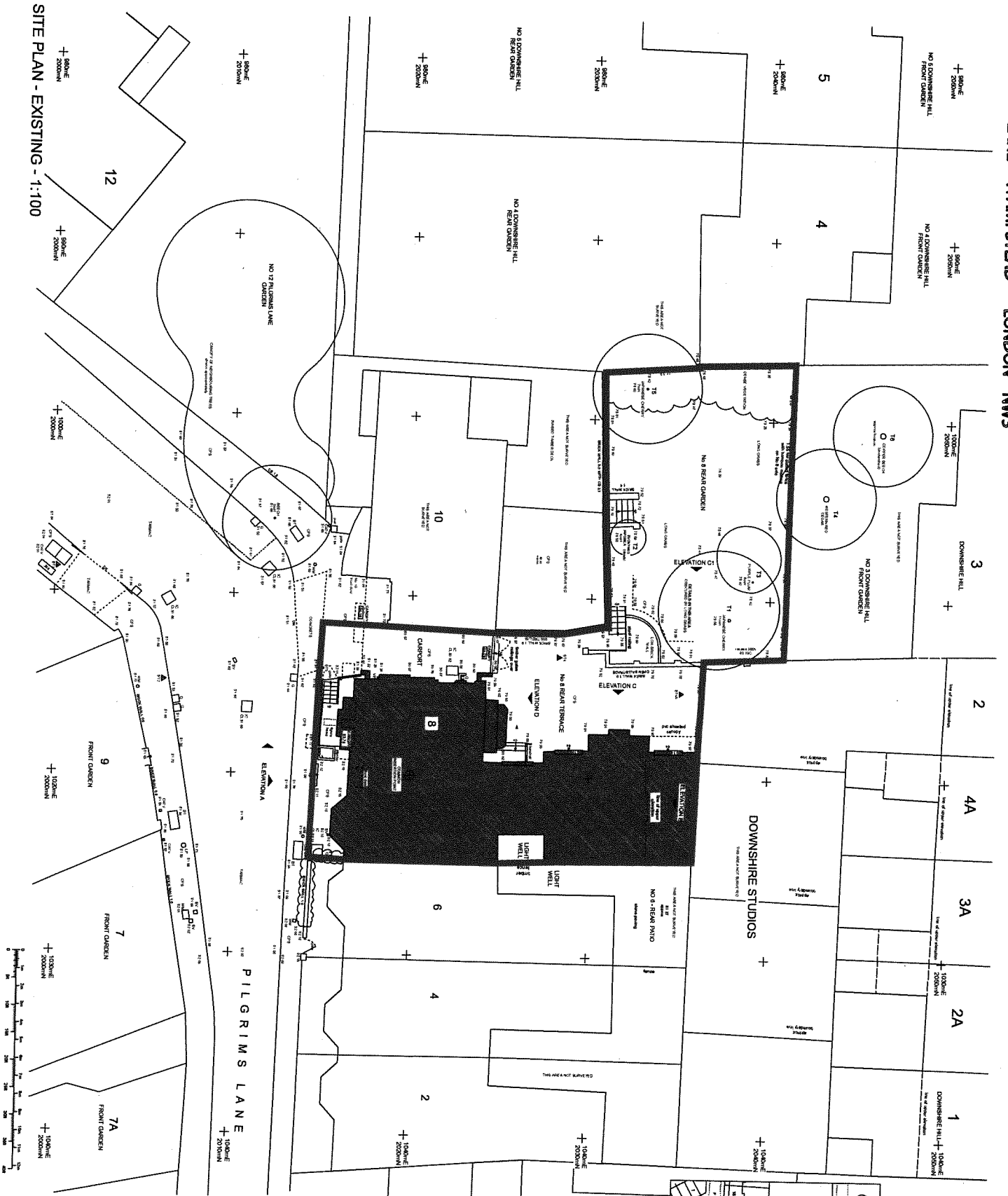
<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

Director of Culture & Environment

Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use*/operations*/matter* specified in the First Schedule taking place on the land described in the Second Schedule was*/would have been* lawful on the specified date and thus, was not*/would not have been* liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the use*/operations*/matter* described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use*/operations*/matter* which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the Certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.



NOTES

1. The drawings and plan of the site are to be read in conjunction with the accompanying schedule of areas and the accompanying notes.
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12. The drawings and plan of the site are to be read in conjunction with the accompanying schedule of areas and the accompanying notes.

SURGERY

SCHEDULE OF AREAS

Area	Description	Area (sq m)
1	Downshire Hill	108.4 sq m
2	Downshire Hill	108.4 sq m
3	Downshire Hill	108.4 sq m
4	Downshire Hill	108.4 sq m
5	Downshire Hill	108.4 sq m
6	Downshire Hill	108.4 sq m
7	Downshire Hill	108.4 sq m
8	Downshire Hill	108.4 sq m
9	Downshire Hill	108.4 sq m
10	Downshire Hill	108.4 sq m
11	Downshire Hill	108.4 sq m
12	Downshire Hill	108.4 sq m

A1-size drawing
1:100

EDI SURVEYS LTD.

8 PILGRIMS LANE
LONDON NW3 1SE

DATE: 10/10/10
DRAWN BY: [Name]
CHECKED BY: [Name]
APPROVED BY: [Name]

SITE PLAN EXISTING

DATED

9th May

2016

(1) MONSURU OLAOYE OLAOLUWA ABIOLA

and

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

AGREEMENT
relating to land known as
8 Pilgrims Lane, London NW3 1SL
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)