

DATED

2016

(1) SVETLANA ESTHER VOLOSSOV

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
53 FITZROY PARK LONDON N6 6JA
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

Andrew Maughan
Head of Legal Services
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 5680
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1781.554

THIS AGREEMENT is made the day of 2016

B E T W E E N:

- i. **SVETLANA ESTHER VOLOSSOV** of Huettenweg 25 14195 Berlin Germany and care of Portner Law Limited 7-10 Chandos Street London W1G 9DQ (hereinafter called “the Owner”) of the first part

- ii. **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

1. WHEREAS

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number NGL387687.

- 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 A Planning Application for the Development of the Property was submitted to the Council and validated on 28 January 2015 and the Council resolved to grant permission conditionally under reference number 2015/0441/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 | "the Certificate of Practical Completion" | the certificate issued by the Owner's contractor architect or project manager certifying that the Development has been completed |
| 2.5 | "Construction Management Plan" | a plan setting out the measures that the Owner will adopt in undertaking the demolition of the existing buildings and 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 First 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):- |

- (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 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 effects on the health and amenity of local residences site construction workers local businesses and adjoining developments undergoing construction;
- (iv) 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);
- (v) the inclusion of a waste management strategy for handling and disposing of construction waste; and
- (vi) 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

- 2.6 "Construction Working Group" a working group to be convened in accordance with the requirements of the Construction Management Plan the objectives of which shall be to address any requirements in relation to working hours and times of delivery to the Property during the Construction Phase and to hold regular meetings to liaise discuss advise and where appropriate make recommendations to the Owner in respect of matters relating to demolition and construction works associated with the Development in relation to the effect on the surrounding residents and occupants so as to minimise disruption and the effect on the local
- 2.7 "the Construction Phase" the whole period between
- (i) the Implementation Date and
 - (ii) the date of issue of the Certificate of Practical Completion
- and for the avoidance of doubt includes the demolition of the existing buildings
- 2.8 "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
- 2.9 "the Development" erection of a three storey single family dwelling including basement level, green roofs at first floor and roof level, solar panels at roof level and associated landscaping following the demolition of the existing part-two, part-three storey dwelling

(Class C3). as shown on drawing numbers Drawing Nos: 1317-EX-101; 1317-EX-102; 0932-0100-AP-004 Rev PL02; 0932-0100-AP-005 Rev PL02; 0932-0100-AP-006 Rev PL02; 1317-EX-121; 1317-EX-122; 1317-EX-123;1317-EX-124; 1317-PL-201; 1317-PL-202; 1317-PL-211 Rev E; 1317-PL-212 Rev F; 1317-PL-213 Rev G; 1317-PL-214 Rev F; 1317-PL-215 Rev F;1317-PL-221 Rev F; 1317-PL-222 Rev F; 1317-PL-231 Rev G; 1317-PL-232 Rev F; Outline Arboricultural Method Statement (WFA/53FZP/AMS/01D), prepared by Landmark Trees, dated 7th May 2015; Arboricultural Impact Assessment Report (WFA/53FZP/AIA/01D), prepared by Landmark Trees, dated 7th May 2015; Construction Traffic Management Plan - Rev 05a, prepared by Knight Build Ltd, dated 24 September 2015 (revised); Design & Access Statement (DOC REF: 1317-PL-DAS-REV-G) dated 21.10.15; Basement Impact Assessment 371263-01(03), prepared by RSK Environment Ltd (RSK), dated January 2015; Letter (13636/DG/BK/7877357v1) prepared by Nathaniel Lichfield & Partners Limited, dated 24 January 2015; Letter (13636/DG/8158846v1) prepared by Nathaniel Lichfield & Partners Limited, dated 27 January 2015; Energy Strategy (6601-01/002a11) prepared by CBG Consultants, dated Jan 2015; Environmental Noise Assessment, prepared by Acoustics Plus, dated 06/11/2014; Geotechnical, Hydrogeological and Geoenvironmental Site Investigation Report, prepared by RSK STATS Geoconsult Ltd (RSK), dated December 2010 S0100 P3; S0110 P3; S0111 P4; S0700 P2; S0800 P2; S0900 P3; S01000 P2; S01100; S01200; S3000 P4; S3001 P4; S3100 P4; S3101 P4; S3102 P4; S3103 P4; S3104 P4; S3105 P4; S3105 P4;

S3200 P1; S4000 P3; S4001 P3; S4002 P3; S4003 P3; S4004 P3; S4005 P3; S4006 P3; S4007 P3; S4008 P3; S4009 P3; S4100 P3; S4101 P3; S4200 P2; Planning and Heritage Statement (13636/DG), dated 25 January 2015; Code For Sustainable Homes Pre-Assessment (6601-01/003/A11), prepared by CBG Consultants Ltd, dated 29th September 2014; Site Waste Management Plan, prepared by Knight Build Ltd, dated 5th January 2015; Statement of Community Involvement, prepared by Hardhat, dated January 2015; Consultation Response - 53 Fitzroy Park, Hampstead (3967/AG/060515/FB), prepared by Clarkson & Woods Ltd, dated 6th May 2015; Basement Impact Assessment Audit Rev: F1 dated October 2015, prepared by Campbell Reith Hill LLP; Basement Impact Assessment Audit Rev: D1 dated August 2015, prepared by Campbell Reith Hill LLP.

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 no 53 Fitzroy Park Energy Strategy (660101/002a11) prepared by CBG Consultants and dated January 2015 to achieve a 20% reduction in CO2 emissions beyond the Part L 2013 baseline;

(a) further details (including detailed drawings, any necessary surveys and system specifications) of how the Owner will reduce the Development’s carbon emissions from renewable energy

technologies located on the Property ensuring the Owner will 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;

- (b) separate metering of all low and zero carbon technologies to enable the monitoring of energy and carbon emissions and savings;
- (c) a building management system being an electronic system to monitor the Development's heating cooling and the hours of use of plant;
- (d) include a pre-Implementation design-stage review by an appropriately qualified and recognised independent professional in respect of the Property including Full Design stage SAP and 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;
- (e) measures to secure a post construction review of the Development by an appropriately qualified and recognised independent professional in respect of the Property (including but not limited to photographs, installation contracts and full As-Built SAP (for residential) and/or NCM (for non-residential) calculations) 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

- (f) 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 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

2.12 "Occupation Date"

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

2.13 "the Parties"

mean the Council and the Owner

2.14 "the Planning Application"

a planning application in respect of the development of the Property submitted to the Council and validated on 28 January 2015 for which a resolution to grant permission has been passed conditionally under reference number 2015/0441/P subject to conclusion of this Agreement

2.15 "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

2.16 "the Planning Permission"

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

2.17 "the Property"

the land known as 53 Fitzroy Park London N6 6JA the same as shown shaded grey on the plan annexed hereto

2.18 "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) achieve the targets set out in the submission document entitled 53 Fitzroy Park Energy Strategy (660101/002a11) prepared by CBG Consultants and dated January 2015 and sustainable design measures and climate change adaptation measures in line with policies contained in the Council's Core Strategy policy CS13 (Tackling climate change through promoting higher environmental standards) and Development Policy DP22 (Sustainable design and construction);

(b) achieve a maximum internal water use of 105 litres/person/day, allowing 5 litres/person/day for external water use

(c) include a pre-Implementation review by an appropriately qualified recognised and independent professional in respect of the Property certifying that the measures incorporated in the Sustainability Plan are achievable in the Development and satisfy the aims and objectives of the Council's strategic policies on sustainability contained

within its Development Plan;

- (d) details of maintenance and management relative to sustainability measures included in the Sustainability Plan;
- (e) measures to secure a post construction review of the Development by an appropriately qualified recognised and independent professional in respect of the Property (including a written report, photographs and installation contracts) 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; and
- (f) 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

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 of 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 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. **CONSTRUCTION MANAGEMENT PLAN**

- 4.1.1 On or prior to the Implementation Date to provide the Council for approval a draft Construction Management Plan, such approval not to be unreasonably withheld or delayed.
- 4.1.2 Not to Implement nor allow Implementation of the Development until such time as the Council 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 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.

4.2 CONSTRUCTION WORKING GROUP

4.2.1 From the date of execution of this Agreement (unless otherwise agreed in writing with the Council) the Owners are to invite the following to become members of the Construction Working Group at their own expense:

- (a) representatives of the local residents, existing residents associations, including the Fitzroy Park Residents Association or any other bodies or groups representing the owners and or occupiers and/or businesses in the immediate locality subject to a maximum of five (5) persons
- (b) the appointed project architect for the Development plus one additional representative as may be nominated by the Owner from time to time
- (d) any other person or persons having a direct interest in the management of the Construction Phase as the case may be reasonably nominated by the Council (subject to a maximum of two (2) persons)

4.2.2 To

- (a) procure that the project manager for the Development (and any other appropriate professional representatives of the Owners that the Parties agree) shall be a member of the Construction Working Group and shall attend all meetings of the Construction Working Group;
- (b) appoint a person ("the Liaison Officer") responsible for liaising with the owners and or occupiers of the residents institutions and businesses other interested parties about the operation of the Construction Working Group such person to organise and attend all meetings of the Construction Working Group; and

- (c) ensure an appropriate venue within easy walking distance of the Property is procured for each meeting of the Construction Working Group.
- 4.2.3 To give a minimum of seven (7) days written notice of the time and place and date of each meeting of the Construction Working Group to all members of such Construction Working Group.
- 4.2.4 To ensure that meetings of the Construction Working Group shall take place prior to submission of the Construction Management Plan and at regular intervals as the Construction Working Group decides during the Construction Phase ALWAYS PROVIDED that any member of the Construction Working Group shall be entitled on reasonable grounds by giving written notice of not less than ten (10) days to the Liaison Officer to convene a meeting of the Construction Working Group and a meeting of the Construction Working Group so convened shall consider matters specified in the notice as requiring discussion.
- 4.2.5 To ensure that accurate written minutes are kept of each meeting of the Construction Working Group recording discussion and any decisions taken by the Construction Working Group (this to be circulated by the Owner or Owner's representative to all members of the group within ten (10) days of each meeting).
- 4.2.6 In the event of the majority of members of the Construction Working Group (having particular regard to the Construction Management Plan) making a recommendation to the Owner in respect of the management of the Construction Phase the Owner agrees to use all reasonable endeavours to give effect to implementing any reasonable recommendation and in the event of any reasonable recommendation which accords with the approved Construction Management Plan not being adopted by the Owner the Owner shall notify the next meeting of the Construction Working Group of this fact together with written reasons as to why this is the case.
- 4.2.7 The Owner shall expeditiously take any action reasonably necessary to deal with any such reasonable complaints (and shall give each meeting of the Construction Working Group written information about any such complaints received and action taken in respect of them).

4.2. ENERGY EFFICIENCY AND RENEWABLE ENERGY PLAN

- 4.2.1. On or prior to the Implementation Date to submit to the Council for approval the Energy Efficiency and Renewable Energy Plan.
- 4.2.2. 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.
- 4.2.3. 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.
- 4.2.4. 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.

4.3. SUSTAINABILITY PLAN

- 4.3.1. On or prior to the Implementation Date to submit to the Council for approval the Sustainability Plan.
- 4.3.2. Not to Implement nor permit Implementation until such time as the Council has approved the Sustainability Plan as demonstrated by written notice to that effect.
- 4.3.3. 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 Sustainability Plan as approved by the Council have been incorporated into the Property.
- 4.3.4. 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 from time to

time and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Sustainability Plan.

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 2015/0441/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

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 2015/0441/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 nor her 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 and upon the written request of the Owner the Council will effect cancellation of all the entries made in the register of the Local Land Charges in respect of this agreement.

7. **RIGHTS OF THIRD PARTIES**

7.1 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 Owner have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY)
SVETLANA ESTHER VOLOSSOV)
in the presence of:)

.....
Witness Signature

Witness Name

Address

Occupation

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

DATED

2016

(2) SVETLANA ESTHER VOLOSSOV

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
53 FITZROY PARK LONDON N6 6JA
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

Andrew Maughan
Head of Legal Services
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