

DATED

22 June

2016

(1) OFF-HIGHWAY RESEARCH LIMITED

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
35 GREAT JAMES STREET LONDON WC1N 3HB
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
Fax: 020 7974 1920

1781.808

THIS AGREEMENT is made the 22 day of June 2016

B E T W E E N:

- i. **OFF-HIGHWAY RESEARCH LIMITED** (Co. Regn. No. 2989429) whose registered office is at 1 Seagrave Road, London SW6 1RP (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 319591.
- 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 3 December 2015 and the Council resolved to grant permission conditionally under reference number 2015/6812/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 Development" | change of use from office (Class B1a) to residential dwelling (Class C3). reconstruction of single storey rear extension with roof terrace, extend the height of the rear closet wing, reinstatement of the original pitched roof, creation of a roof terrace, installation of a passenger lift and alterations to the rear and front window fenestration. as shown on drawing numbers: Design & Access Statement Rev A, Heritage Statement, Loss of employment Report, sustainability statement, Noise Survey, Structural Method Statement, Daylight & Sunlight Report, D_07 Rev D, D_08 Rev D, D_10 Rev E, D_11 Rev E, P_00, P_01, P_02 Rev D, P_03, P_04, P_05 Rev D, P_06 Rev D, P_07 Rev D, P_08 Rev D, P_09 Rev E, P_10 Rev E, P_11 Rev E, P_18 & P_21 |
| 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 |

- 2.5 "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 and the Owner
- 2.7 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 3 December 2012 for which a resolution to grant permission has been passed conditionally under reference number 2015/6812/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 35 Great James Street London WC1N 3HB the same as shown shaded grey on the plan annexed hereto
- 2.11 "Residents Parking Bay" a parking place designated by the Council by an order under the Road Traffic Regulation Act 1984 or other relevant legislation for use by residents of the locality in which the Development is situated

- 2.12 "Residents Parking Permit" a parking permit issued by the Council under section 45(2) of the Road Traffic Regulation Act 1984 allowing a vehicle to park in Residents Parking Bays

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 and 7 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.

- 3.8 The Parties acknowledge that the Development shall be treated as being permanently designated as "car free" housing in accordance with Clause 4.1 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

- 4.1 The Owner hereby covenants with the Council to ensure that prior to occupying any residential unit forming part of the Development each new resident of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.
- 4.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1 above will remain permanently.
- 4.3 On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the residential units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those residential units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.1 of this Agreement.

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 2015/6812/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 2015/6812/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 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. **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)
OFF-HIGHWAY RESEARCH LIMITED)
was hereunto affixed)
in the presence of:)
acting by a Director and its Secretary)
or by two Directors)


.....
Director

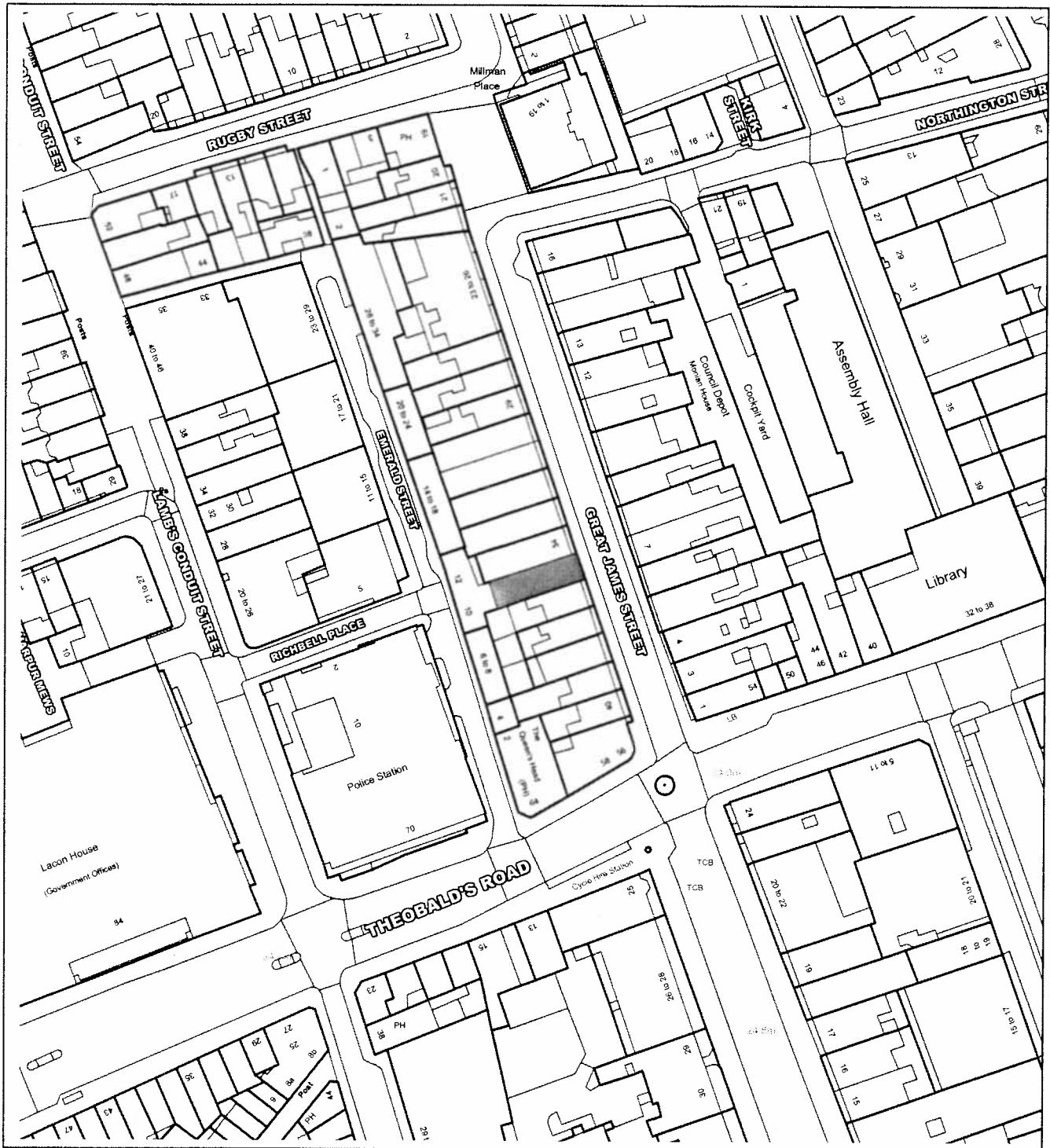

.....
Director/Secretary

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


.....
Authorised Signatory



35 Great James Street London WC1N 3HB



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Marek Wojciechowski Architects
Limited
66-68 Margaret Street
London
W1W 8SR

Application Ref: **2015/6812/P**

06 June 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:
35 Great James Street
London
WC1N 3HB

Proposal:

DECISION

Change of use from office (Class B1a) to residential dwelling (Class C3), reconstruction of single storey rear extension with roof terrace, extend the height of the rear closet wing, reinstatement of the original pitched roof, creation of a roof terrace, installation of a passenger lift and alterations to the rear and front window fenestration.

Drawing Nos: Design & Access Statement Rev A, Heritage Statement, Loss of employment Report, sustainability statement, Noise Survey, Structural Method Statement, Daylight & Sunlight Report, D_07 Rev D, D_08 Rev D, D_10 Rev E, D_11 Rev E, P_00, P_01, P_02 Rev D, P_03, P_04, P_05 Rev D, P_06 Rev D, P_07 Rev D, P_08 Rev D, P_09 Rev E, P_10 Rev E, P_11 Rev E, P_18 & P_21

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 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

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 policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans Design & Access Statement Rev A, Heritage Statement, Loss of employment Report, sustainability statement, Noise Survey, Structural Method Statement, Daylight & Sunlight Report, D_07 Rev D, D_08 Rev D, D_10 Rev E, D_11 Rev E, P_00, P_01, P_02 Rev D, P_03, P_04, P_05 Rev D, P_06 Rev D, P_07 Rev D, P_08 Rev D, P_09 Rev E, P_10 Rev E, P_11 Rev E, P_18 & P_21

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

- 4 The development hereby approved shall achieve a maximum internal water use of 110litres/person/day. The dwelling/s shall not be occupied until the Building Regulation optional requirement has been complied with.

Reason: To ensure the development contributes to minimising the need for further water infrastructure in an area of water stress in accordance with policy CS13 (Tackling climate change through promoting higher environmental standards) of the London Borough of Camden Local Development Framework Core Strategy and policies DP22 (Promoting sustainable design and construction) and DP23 (Water) of the London Borough of Camden Local Development Framework Development Policies.

- 5 The hereby approved new dwelling shall be designed and constructed in accordance with Building Regulations Part M4 (2), evidence demonstrating compliance should be submitted to and approved by the Local Planning Authority prior to occupation.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance

with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

1 Reasons for granting permission

The proposed change of use from office (Class B1) to a dwelling house (Class C3) use is considered to be acceptable in principle. The site meets the criteria set out in Policy DP13 and is in line with the accompanying Para 13.3, which stipulates suitable conditions where the loss of an employment use and conversion to residential use would be permitted. The age, layout, investment, demand, vacant status and Grade II* listing are all considered sufficient conditions to demonstrate the change to a residential use would be acceptable. The applicant has submitted a loss of employment and marketing report providing sufficient market research evidence to permit the loss of the Class B1 use in this location. Four Grade II* buildings in the street have been converted from employment uses to dwelling houses within the last 3 years (Refs 2014/4168/P, 2014/2956/P, 2013/4419/P and 2014/1571/P) providing grounds for further conversions.

The provision of additional residential floorspace within the Borough is also strongly supported by Policies CS6 and DP2, which identify housing as the priority land use for the Borough and highlight the need to maximise the supply of housing.

The alterations and demolition works to the listed building are considered to retain the historic fabric and the special interest of the building and are in accordance with policies DP24 and DP25. The demolition of the existing modern ground floor rear extension and replacement with a modern design of similar size is not considered to detrimentally impact the setting of the listed building. The reinstatement of the pitch roof on the front portion of the dwelling would be welcomed and would create a coherent form with the other roofs on Great James Street. The rear portion of the roof would be converted to a roof terrace. The extension to the closet wing would convert the pitch roof to a flat roof in line with the eaves of the host property. The increase in height proposed forms asymmetry with the neighbouring property and matches the prevailing character of closet wings on the rear elevations of Great James Street.

The smaller post 1970's closet wing on the rear elevation would be converted from toilets to an internal lift and the external windows blocked. The closet wing would not be increased in mass or scale and only the exterior windows blocked up which are of limited heritage significance. The grills covering the lower ground floor front windows would be removed, a new entrance exit at lower ground floor level would be installed and the access doors to the lower ground floor stores would be replaced.

The impact on neighbouring amenity is considered to be within acceptable levels

complying with policy DP26. The roof and first floor terraces are positioned and angled to an extent that privacy of neighbouring properties would not be unduly harmed. The properties to the rear of site are commercial, carrying less amenity weight than a residential property. The site is built to a high grain density resulting in existing close amenity conditions. A noise assessment has been submitted in the support of the proposed development and meets with criteria in policy DP28.

The quality of residential accommodation is considered to be of good standard, meeting the minimum national space standards. The Daylight & sunlight assessment submitted with the application demonstrates that acceptable standards of the light in all the habitable rooms, including the lower ground floor habitable rooms that passed Average Daylight Factor (ADF) ratings test, would be provided.

- DRAFT**
- 2 The site has the highest Public Transport Accessibility level of 6b (PTAL). Policy DP18 expects development to be 'car free' in the Central London Area, Town centres, and other areas within Controlled Parking Zones that are easily accessible by Public transport (PTAL of 4 or above). The development of a five bedroom dwelling meets the policy criteria for 'car free' development and therefore the applicant has agreed to enter into a legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended) to permanently remove the entitlement to a parking permit for the dwelling. The development provides space for two cycles on the first floor terrace meeting policy DP18 and London Plan standards. The modest alterations are not considered to require a Construction Management Plan.

DECISION

The increase in the height of the closet wing roof would provide an additional 6sqm of habitable space. The development of a new dwelling and the increase of 6sqm of habitable floorspace would trigger a contribution of £3000 to the Camden CIL and £300 to the Mayoral CIL in relation to Crossrail.

Neighbouring properties have been consulted, one objection has been received. The site's planning history and relevant appeal decisions were taken into account when coming to this decision. Special regard has been attached to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, under s.66 of the Listed Buildings and s.72 of the Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013. Historic England has been consulted and has no objections to the proposal.

As such, the proposed development is in general accordance with policies CS5 and CS6 of the London Borough of Camden Local Development Framework Core Strategy and policies DP2, DP13, DP18, DP24, DP25 and DP26 of the London Borough of Camden Local Development Framework Development Policies. The proposed development also accords with policies 3.3, 3.5, 7.4, 7.6 and 7.8 of the London Plan 2016; and paragraphs 14, 17, 56-66 and 125-141 of the National Planning Policy Framework.

- 3 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).

- 4 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.
- 5 You are advised that this proposal will be liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL as the additional floorspace exceeds 100sqm GIA or one unit of residential accommodation. Based on the information given on the plans, the Mayor's CIL Charging Schedule and the Camden Charging Schedule, the charge is likely to be £600 (6sqm x £50) for the Mayor's CIL and £3000 (6sqm x £500 for the Camden CIL.

This amount is an estimate based on the information submitted in your planning application. The liable amount may be revised on the receipt of the CIL Additional Information Requirement Form or other changes in circumstances. Both CIL's will be collected by Camden after the scheme has started and could be subject to surcharges for failure to assume liability or submit a commencement notice PRIOR to commencement and/or for late payment. We will issue a formal liability notice once the liable party has been established. CIL payments will also be subject to indexation in line with the construction costs index.
- 6 You are advised that any works of alterations or upgrading not included on the approved drawings which are required to satisfy Building Regulations or Fire Certification may require a further application for listed building consent.
- 7 Your proposals may be subject to control under the Party Wall etc Act 1996 which covers party wall matters, boundary walls and excavations near neighbouring buildings. You are advised to consult a suitably qualified and experienced Building Engineer.
- 8 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

Supporting Communities Directorate

DRAFT

DECISION

DATED 22 June 2016

(1) OFF-HIGHWAY RESEARCH LIMITED

and

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

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