

DATED

26 August

2016

(1) VICTORIA SQUARE PROPERTY COMPANY LIMITED

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 30 November 2015
Between the Mayor and the Burgesses of the
London Borough of Camden and
Victoria Square Property Company Ltd
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at land known as
44 – 44a Gloucester Avenue, London NW1 8JD

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

Tel: 020 7974 6007
Fax: 020 7974 2962

Legal Services/JL/1781.515
DoV vFINAL

THIS DEED is made on the 26th day of August 2016

BETWEEN

1. **VICTORIA SQUARE PROPERTY COMPANY** (Co. Regn. No. 00639154) whose registered office is at Ground Floor, 30 City Road, London EC1Y 2AB (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 and the Owner entered into an Agreement dated 30 November 2015 pursuant to Section 106 of the Act.
- 1.2 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number NGL169800 and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 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.
- 1.4 A new planning application in respect of the Property was submitted to the Council by the Owner to amend condition 19 of the Original Permission for which the Council resolved to grant permission conditionally under reference number 2016/2201/P subject to the conclusion of this Deed. A further application for non material amendments to the Original Permission was submitted to the Council by the Owner to include relocation of 4 affordable housing units for which the Council resolved to grant conditionally under reference number 2016/1564/P subject to the conclusion of this Deed.
- 1.5 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.

1.6 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 References in this Deed to the Owner shall include their successors in title.

2.7 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 agreement entered into pursuant to Section 106 of the Act dated 30 November 2015 made between the Council and the Owner.

2.8.3 "the Original Planning Permission"

means the planning permission granted by the Council on 30 November 2015 under reference 2015/1243/P allowing the demolition of existing buildings identified as Number 2 at the northwest corner of the site and Number 4 at the eastern corner of the site to provide a new ground plus 5 upper storey building along the north west part of the site and a ground plus 2 storey building at the eastern corner and refurbishment of existing building on site to create 40 residential units, employment floor area (Class B1a), car parking and landscaping within courtyard with ancillary works

3. VARIATION TO THE EXISTING AGREEMENT

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

3.1.1 "Affordable Housing Units" means the 4 Residential Units within the Development (3 x 2-bedroom and 1 x 3-bedroom – Units B04, B05, B06 and G01) as shown edged blue on the plans attached to this Agreement at Appendix 1 to be provided as Affordable Housing to meet the needs of residents of the London Borough of Camden on the housing waiting list.

3.1.2 "Construction Phase" the whole period between

- (1) the Implementation Date; and
- (2) the date of issue of the Certificate of Practical Completion.

but not including demolition of Blocks B and D of the Development down to ground floor slab level.

3.1.3 "Development"

the demolition of existing buildings identified as Number 2 at the northwest corner of the site and Number 4 at the eastern corner of the site to provide a new ground plus 5 upper storey building along the north west part of the site and a ground plus 2 storey building at the eastern corner and refurbishment of existing building on site to create 40 residential units, employment floor area (Class B1a), car parking and landscaping within courtyard with ancillary works as permitted by the Planning Permission.

3.1.4 "Planning Application"

either:

i) a planning application for the Development of the Property submitted to the Council under either reference:

- a) 2015/1243/P; or
- b) 2016/2201/P; or

ii) the application for non material amendments to planning application reference 2015/1243/P submitted to the Council under reference 2016/1564/P

as appropriate.

3.1.5 "Planning Permission"

planning permission granted for the Development pursuant to a Planning Application.

3.1.6 At paragraph (3)(c)(vi) of the definition of "Basement Construction Plan" after the words "prior to Implementation" insert the words "of the Construction Phase".

3.1.7 Before the words "Construction Phase" in the definitions of Construction Management Plan and Local Employment Skills and Local Supply Plan to insert the words "Demolition Phase and the"

3.2 The following definition shall be added to the Existing Agreement:-

3.2.1 ""Demolition Phase" the whole period between

- (1) the Implementation Date; and
- (2) completion of demolition of Blocks B and D of the Development down to ground floor slab level.

and for the avoidance of doubt does not include any other works comprised in the building out of the Development.

3.3 The following clauses contained in the Existing Agreement shall be varied as follows:-

3.3.1 At paragraph 1 of Schedule 1 after the words "prior to Implementation" insert the words "of the Demolition Phase and the Construction Phase".

3.3.2 Paragraph 1 of Schedule 3 shall be deleted and replaced with the following:

"1. Construction Management Plan

1.1 On or prior to the Implementation Date of the Demolition Phase to provide the Council a draft Construction Management Plan in respect of the Demolition Phase for approval.

1.2 Not to Implement nor allow Implementation of the Demolition Phase until the Council has approved the Construction Management Plan for the Demolition Phase as demonstrated by written notice to that effect.

1.3 On or prior to the Implementation Date of the Construction Phase to provide the Council a draft Construction Management Plan in respect of the Construction Phase for approval.

- 1.4 Not to Implement nor allow Implementation of the Construction Phase until the Council has approved the Construction Management Plan for the Construction Phase as demonstrated by written notice to that effect.
- 1.5 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 Demolition Phase and the Construction Phase of the Development (as relevant) can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network.
- 1.6 The Owner shall ensure that throughout the Demolition Phase and the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the relevant Construction Management Plan and shall not permit the carrying out of any works comprised in demolition or building out the Development at any time when the requirements of the relevant Construction Management Plan are not being complied with and in the event of non-compliance with this paragraph the Owner shall upon notice from the Council forthwith take any steps required to remedy such non-compliance."

3.3.3 Paragraphs 2.1 and 2.2 of Schedule 3 shall be deleted and replaced with the following:

"2.1 Prior to the Implementation of the Construction Phase to provide the Council for approval a draft Basement Construction Plan.

2.2 Not to Implement or allow Implementation of the Construction Phase until such time as the Council has approved the Basement Construction Plan as demonstrated by written notice to that effect."

- 3.3.4 The words "demolition or" shall be deleted from paragraph 2.4 of Schedule 3.
- 3.3.5 In paragraphs 1.1, 1.2, 1.3, 1.5, 2.1, 2.3 and 3.3 of Schedule 7 the words "the Construction Phase" shall be deleted and replaced with the words "both the Demolition Phase and Construction Phase".
- 3.3.6 Any reference to the construction phase in Appendix 4 and Appendix 5 shall be construed as including the Demolition Phase.

- 3.3.7 All references in the the Existing Agreement to "Planning Permission reference 2015/1243/P" shall be deleted and replaced with "Planning Permission reference 2015/1243/P, or 2016/2201/P (as appropriate)".
- 3.3.8 The plans attached to the Existing Agreement at Appendix 1 shall be removed and replaced with the plans attached to this Agreement at Appendix 1.
- 3.3.9 The draft planning permission reference 2016/2201/P and non material amendments decision reference 2016/1564/P annexed to this Agreement at Appendix 2 shall be treated as being annexed to the Existing Agreement at Appendix 2.

5 PAYMENT OF THE COUNCIL'S LEGAL COSTS

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

This Deed shall be registered as a Local Land Charge

7. RIGHTS OF THIRD PARTIES

It is hereby agreed between the parties that the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed.

IN WITNESS WHEREOF the Council and the Owner 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)
VICTORIA SQUARE PROPERTY)
COMPANY)
acting by a director and its secretary)

Signature

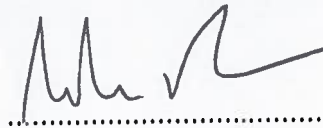
Director x 

Signature



~~Secretary~~ signed by 
on behalf of WPG Registrars Ltd, a director of the company

THE COMMON SEAL of THE)
MAYOR AND BURGESSES OF)
THE LONDON BOROUGH OF)
CAMDEN was hereunto affixed in
the presence of:

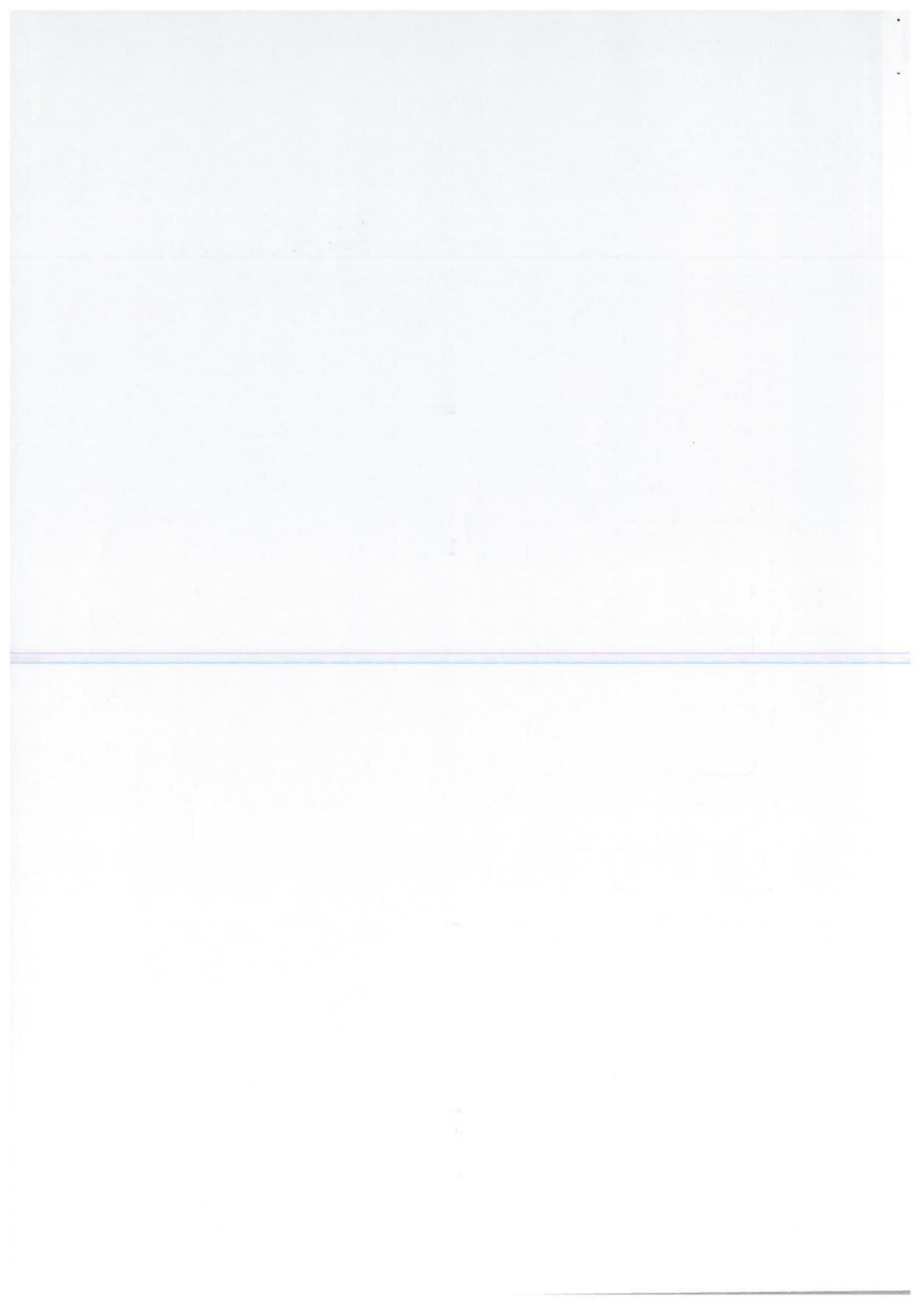

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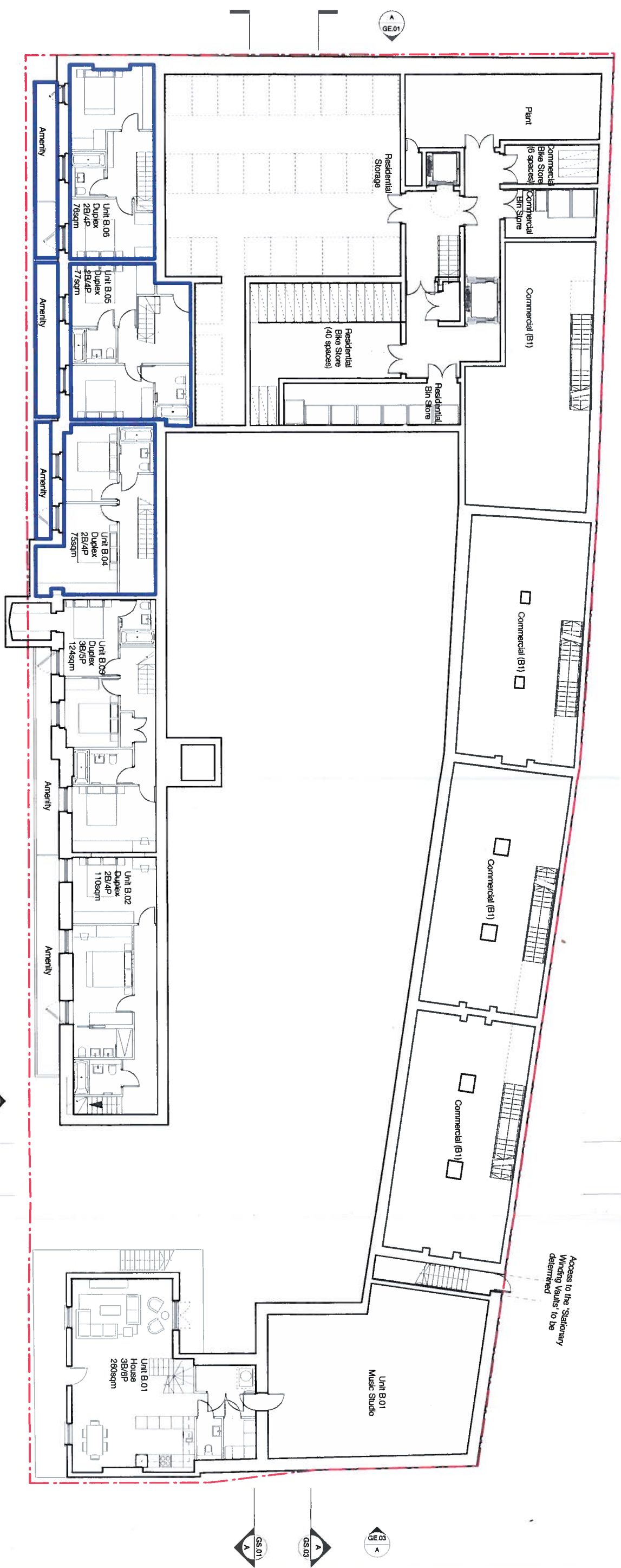
Authorized Signatory

APPENDIX 1

Plans

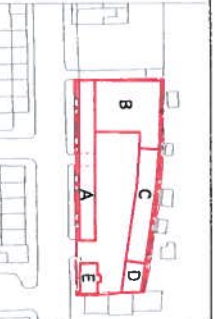


* Mr. [Signature]
 signed by [Signature]
 on behalf of WPG Registrars Ltd, a director of the company



Proposed Basement Floor General Arrangement
 GA 01
 1:100 @ A1 1:200 @ A3

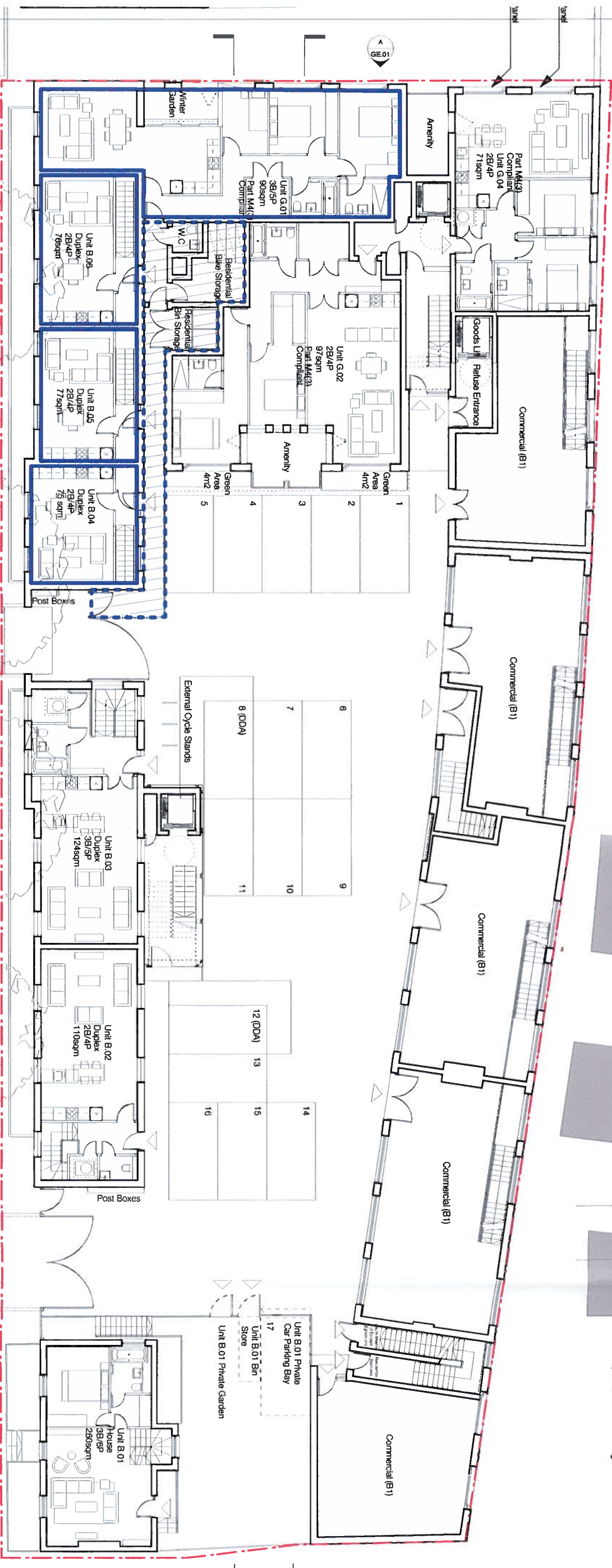
Revision	Description
A	Initial Layout Diagram, Building Shape amended to add Survey information
B	Drawings Amended Generally
C	Drawings Amended Generally
D	Drawings Amended Generally
E	Drawings Amended Generally
F	Drawings Amended Generally
G	Drawings Amended Generally
H	Drawings Amended Generally
I	Drawings Amended Generally
J	Drawings Amended Generally
K	Drawings Amended Generally
L	Drawings Amended Generally



Victoria Square Property Company Limited
 44 Gloucester Avenue
 London NW1 6LD

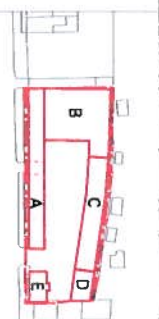
Project: Proposed Basement Floor Plan
 Drawing No: 173_GA-01

Date: 1:100 @ A1, 1:200 @ A3
 Date: 173_GA-01
 Date: 173_GA-01



Proposed Ground Floor General Arrangement
 GA.00 1:100 @ A1, 1:200 @ A3

A	05/12/14	Internal U. Unit Scheme, Building Stages amended to suit site information
B	06/01/15	Final U. Unit Scheme, Building Stages amended to suit site information
C	14/01/15	Owner Building and Existing Houses Reconfigured
D	22/01/15	Planning Application Submitted
E	27/01/15	Submitted for Full Planning Application
F	04/05/15	Plan View and Submitted for Full Planning Application
G	25/01/16	Approved / Refused / Amended / Withdrawn / Revoked / Resubmitted
H	09/03/16	Approved / Refused / Amended / Withdrawn / Revoked / Resubmitted
J	09/03/16	Approved / Refused / Amended / Withdrawn / Revoked / Resubmitted



Victoria Square Property Company Limited
 44 Gloucester Avenue
 London NW1 8JD

173 GA_00

1:100 @ A1, 1:200 @ A3

173 GA_00

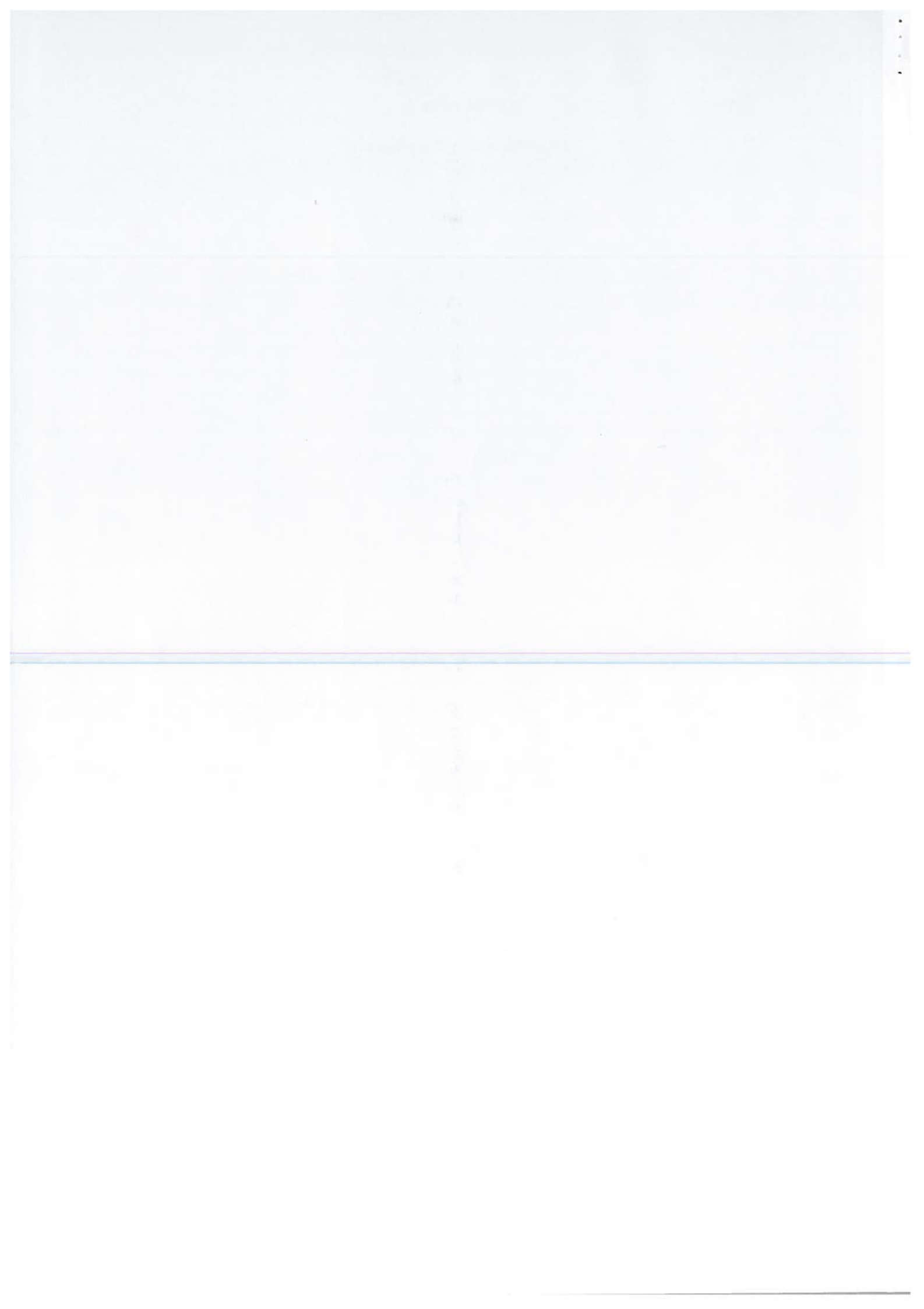
Nov 2014

M. R.

M. R. D. X

signed by *M. R. D. X*
 on behalf of WFG Registrars Ltd, a director of the company

APPENDIX 2
Draft Planning Permissions



Montagu Evans
5 Bolton Street
London
W1J 8BA

Application Ref: **2016/2201/P**

12 September 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:

**44-44A Gloucester Avenue
London
NW1 8JD**

DECISION
Proposal: Variation to the wording of Condition 19 (temporary/permanent works, method statement and risk assessment) of planning permission 2015/1243/P (redevelopment of site to create 40 residential units and employment floor area (Class B1a), car parking and landscaping within the courtyard) dated 30/11/2015 to allow part discharge and for development to commence.

Drawing Nos: Letter from Montagu Evans dated 19 April 2016

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.

Conditions and Reasons:

- 1 Condition 19 of planning permission granted on 30/11/15 under reference number 2015/1243/P shall be replaced by the following condition:

REPLACEMENT CONDITION 19:

a) Prior to the commencement of any demolition works on site, details of temporary and permanent works in relation to the demolition works (down to ground floor slab level) on site and a method statement and risk assessment in consultation with Network Rail shall be submitted to the local planning authority; and

b) Prior to the commencement of construction works of the relevant part of the development, details of temporary and permanent works on site and a method statement and risk assessment in consultation with Network Rail shall be submitted to the local planning authority.

Reason: To ensure that the construction and subsequent maintenance of the proposal can be carried out without adversely affecting the safety, operational needs and integrity of the neighbouring railway and in accordance with the requirements of policy CS5 and CS13 of the London Borough of Camden Local Development Framework Core Strategy.

Informatives:

- 1 This application seeks to vary Condition 19 attached to permission reference 2015/1243/P, which states: "Prior to the commencement of work on site, details of temporary and permanent works on site and a method statement and risk assessment in consultation with Network Rail shall be submitted to the local planning authority".

The condition as currently drafted assumes that the demolition and construction works would be undertaken in one contract, and, as such, the detailed design would have been completed for both the temporary and permanent works prior to any works being undertaken. The applicant has confirmed that this is not going to be the case and the demolition works are to be carried out as a separate contract to the construction works, with a two month separation between the completion of the demolition and the commencement of construction. The reasons for this, as set out in the accompanying Montagu Evans letter dated 19/04/2016, are in part to facilitate a better programming sequence, to improve the purchasing of these contracts, to allow time in the programme for the Network Rail negotiations, to provide sufficient level of detail to enable the discharge of the conditions related to Network Rail and to allow the design team more time to design the temporary and permanent basement design. The letter provides a breakdown of the works setting out the intended Demolition and Construction Phases of the development.

The amendment does not alter the development significantly from what was described within planning permission 2015/1243/P and does not conflict with any conditions of the permission. Furthermore, the amendment does not change the use nor does it introduce a new use within the development. There is no increase in overall floorspace within the proposed development.

The proposed amendment would not result in any increase to the overall bulk and massing that would raise amenity or townscape impacts. The amendment proposed would not increase the impact of the development on neighbouring occupiers by way of overlooking, loss of light, sense of enclosure or noise.

No objections have been received prior to making this decision and the Council's Environmental Health Section is satisfied with the proposed rewording of Condition 19. The sites planning history has been taken into account when coming to this decision. The details submitted have been assessed in relation to the approved scheme, the site and its surroundings. The full impact of the proposed development has already been assessed by virtue of the previous approval granted on 30/11/2015 under reference 2015/1243/P. In the context of the permitted scheme, it is considered that the proposed amendments are minor and constitute a minor material amendment to the development. The amendments raise no land use issues, significant townscape, amenity, transport or environmental impacts.

- 2 You are advised that this decision relates only to the changes set out in the description and on the application form and shall only be read in the context of the substantive permission granted on 30/11/15 under reference 2015/1243/P and is bound by all the conditions and obligations (as amended by the Deed of Variation accompanying this application) attached to that permission.

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

Montagu Evans LLP
5 Bolton Street
London
W1J 8BA

Application Ref: **2016/1564/P**
Please ask for: **Michael Cassidy**
Telephone: 020 7974 5666

12 September 2016

DRAFT

Dear Sir/Madam

Town and Country Planning Act 1990 (as amended)

**Grant of Non Material Amendments to planning permission subject to Section 106
Legal Agreement**

Address:
44 - 44a Gloucester Avenue
London
NW1 8JD

DECISION

Proposal: Amendments to Conditions 2 (approved drawings) and 18 (Building Regulations Part M4(3)) to include the relocation of the 4 affordable units and relocation of 2 of the 4 units designated as Building Regulations Part M4 (3) units as stipulated in Condition 18 of planning permission 2015/1243/P (redevelopment of site to create 40 residential units and employment floor area (Class B1a), car parking and landscaping within the courtyard) dated 30/11/2015.

Drawing Nos:

Superseded Plans:

173_GA_-01 Rev H - Proposed Basement Floor Plan and 173_GA_00 Rev F - Proposed Ground Floor Plan.

Proposed Plans:

173_GA_-01 Rev L - Proposed Basement Floor Plan and 173_GA_00 Rev J - Proposed Ground Floor Plan.

The Council has considered your application and confirms that the proposals are acceptable as non-material amendments to the planning permission set out above **subject to the conclusion of a Section 106 Legal Agreement.**

Informatives:

- 1 This application seeks to vary Conditions 2 and 18 to allow for the relocation of the 4 affordable units and the relocation of 2 of the 4 units designated as Building Regulations Part M4 (3) units.

As set out within the S106 legal agreement accompanying the original permission (ref. 2015/1243/P), Units B04, B05, 1.1 and 1.11 (3 x 2 bedroom units and 1 x 3 bedroom unit) are allocated for affordable housing. Following subsequent discussions with Registered Providers, concerns have been raised with regards to the location of the units, and associated management implications of the units not being located together.

The revised layout now proposed relocates the 4 social rented affordable units to the south west of the site to address these concerns. The proposed changes incorporate the following benefits to the approved scheme:

- The proposed unit layout creates 1 additional bedspace. The permitted scheme created 16 bed spaces and the proposed scheme creates 17 bed spaces;
- The proposed revised location creates 1 x 3 bed 5 person unit and 3 x 2 bed 4 person units;
- The proposed family unit (3 bed unit) has private amenity space. The permitted scheme did not provide any private amenity space for the affordable units;
- The proposed location is more preferable as the units have been located away from the railway;
- The proposed location of the units will decrease the level of management required;
- The proposed location of the units will decrease the level of service charge in comparison to the approved location; and
- All of the proposed units are now accessed from street level.

The changes to the proposed scheme will encompass alterations to the internal layout. It is considered that these changes are non-material in conjunction with a Deed of Variation to the legal agreement to reflect the relocation of the 4 affordable housing units. The proposed amendments seek to include the following four units for affordable housing: G.01, B.04, B.05 and B.06.

As the scheme has been developed it has become apparent that to comply with Part M4 (3) of the Building Regulations, the internal layout of units 208 and 304 would be severely compromised. It is also noted that units 208 and 304 are not located on the lower floors and it is considered beneficial from an access/escape prospective that the allocated wheelchair accessible units are located on the lower floors. The proposed amendments seek to include the following four units as M4 (3) units: G.01, G.02, G.04 and 108.

The amendments do not alter the development significantly from what was

described within planning permission 2015/1243/P and do not conflict with any conditions of the permission. Furthermore, the amendments do not change the use nor do they introduce a new use within the development. There is no increase in overall floorspace within the proposed development.

The proposed amendments would not result in any increase to the overall bulk and massing that would raise amenity or townscape impacts. The alterations proposed would not increase the impact of the development on neighbouring occupiers by way of overlooking, loss of light, sense of enclosure or noise.

An objection has been received and taken into consideration. No objections have been raised by the Council's Housing Section to the proposed changes. The sites planning history has been taken into account when coming to this decision. The details submitted have been assessed in relation to the approved scheme, the site and its surroundings. The full impact of the proposed development has already been assessed by virtue of the previous approval granted on 30/11/2015 under reference 2015/1243/P. In the context of the permitted scheme, it is considered that the proposed amendments are minor and constitute a non-material amendment to the development. The amendments raise no land use issues, significant townscape, amenity, transport or environmental impacts.

- 2 You are advised that this decision relates only to the changes set out in the description and on the application form and shall only be read in the context of the substantive permission granted on 30/11/15 under reference 2015/1243/P and is bound by all the conditions and obligations (as amended and the Deed of Variation accompanying this application) attached to that permission.

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

Executive Director Supporting Communities

