

DATED

2016

(1) NARROWPACK 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

**11 Blackburn Road
London
NW6 1RZ**

**pursuant to
Section 106 of the Town and Country Planning Act 1990 and
Section 278 of the Highways Act 1980 and
section 111 of the Local Government Act 1972**

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CLS/PK/1798.12 (v1)

1.6 As local highway authority the Council considers the Highways Works to be carried out pursuant to this section 278 agreement to be in the public benefit.

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 "Affordable Housing" low-cost housing including social rented housing, affordable rented housing and intermediate housing that meets the needs of people who cannot afford to occupy homes available in the open market in accordance with the National Planning Policy Framework and successor documents

2.3 "Affordable Housing Contribution" the sum of £296,005 (two hundred and ninety-six thousand and five pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt towards the provision of Affordable Housing in the London Borough of Camden

2.4 "this Agreement" this planning obligation made pursuant to Section 106 of the Act

2.5 "the Certificate of Practical Completion" the certificate issued by the Owner's contractor or architect or project manager certifying that the Development has been completed

2.6 “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 annexed 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) proposals to ensure there are no adverse effects on the neighbouring listed building(s);
- (iv) amelioration and monitoring effects on the health and amenity of local

residences site construction workers local businesses and adjoining developments undergoing construction;

- (v) 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);
- (vi) the inclusion of a waste management strategy for handling and disposing of construction waste; and
- (vii) 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

2.7 “the Construction Management Plan Implementation Support Contribution”

the sum of £1,140 (one thousand one hundred and forty pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt for the review and approval of the draft Construction Management Plan and verification of the proper operation of the approved Construction Management Plan during the Construction Phase

- 2.8 "the Construction Phase" the whole period between
- (i) the Implementation Date and
 - (ii) the date of issue of the Certificate of Practical Completion
- 2.9 "the Contributions" together the Construction Management Plan Implementation Support Contribution and the Employment and Training Contribution and the Affordable Housing Contribution
- 2.10 "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
- 2.11 "the Development" demolition of existing single storey office building (Class B1) and replacement with 6 x two-bed houses (Class C3) (part 3/part 4 storey); refurbishment of Victorian warehouse (Class B1) and landscaping and associated works as shown on drawing numbers 1001D, 1002D, 1003D, 1101D, 1102D, 1103D, 1201D, 1301D, 00 2101 H, 01 2102 H, 02 2103 H, 03 2104 H, RF 2105 H, 2201 H, 2202 J, 2203 H, 2204 H, 2301 J
- 2.12 "the Employment and Training Contribution" the sum of £54,212 (fifty-four thousand two hundred and twelve pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement to be applied by the Council in the event of receipt towards employment and training needs in the London Borough of Camden

- 2.13 "the Existing Buildings" the single-storey office building at the Property at the date hereof
- 2.14 "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
- 2.15 "Occupation Date" the first date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.16 "the Parties" the Council and the Owner
- 2.17 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 4th June 2015 for which a resolution to grant permission has been passed conditionally under reference number 2015/3148/P subject to conclusion of this Agreement
- 2.18 "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
- 2.19 "the Planning Permission" a planning permission granted for the Development substantially in the draft form at the Second Schedule annexed hereto

- 2.20 "the Property" the land known as 11 Blackburn Road, London, NW6 1RZ the same as shown [edged red] [shaded grey] on the plan at the Third Schedule annexed hereto
- 2.21 "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
- 2.22 "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

NOW THIS DEED WITNESSETH as follows:-

- 3.1 This Agreement is made in pursuance of Section 106 of the Act, Section 278 of the Highways Act 1980 and Section 111 of the Local Government Act 1972 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 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 4.2 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

4.1 **AFFORDABLE HOUSING**

4.1.1 If at any time after the date of this Agreement:-

- (a) any planning permission is granted for the further development of the Property which gives consent for the development of additional residential units or additional floorspace for residential purposes;
 - (b) any additional floorspace is created on the Property for residential purposes; and/or
 - (c) any additional residential units are created within the Property
- any of which exceeds the Council's minimum requirement for Affordable Housing as set out in the Council's "Camden Development Policies (adopted November 2010)" the Owner shall enter into a legal agreement under section 106 of the Act with the Council to secure that an appropriate percentage of the residential units created under this sub-clause 4.1.1 (a) - (c) inclusive are provided as Affordable Housing (as on-site contribution or off-site contribution or financial contribution) such percentage

to be applied to the aggregate total of the residential units permitted by the Planning Permission and the additional residential floorspace created under sub-clause 4.1.1 (a) - (c) inclusive.

4.1.2 Not to Occupy or allow Occupation of any of the additional residential floorspace created under sub-clause 4.1.1 (a) – (c) inclusive of this Agreement until such time as the additional residential floorspace has been provided as Affordable Housing (as on-site contribution or off-site contribution or financial contribution).

4.2 **CAR FREE**

4.2.1 To ensure that prior to occupying any residential unit (being part of the Development) each new occupier 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:

- (i) be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay; and
- (ii) buy a contract to park within any car park owned, controlled or licensed by the Council.

4.2.2 Not to occupy or use (or permit the occupation or use of) any residential unit (being part of the Development) at any time during which the occupier of the residential unit holds a Residents Parking Permit to park a vehicle in a Residents Parking Bay or is permitted to park a vehicle in any car park owned, controlled or licensed by the Council unless the occupier is the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970).

4.2.3 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1 and 4.2 in this Agreement shall continue to have effect in perpetuity.

4.2.4 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 4.2.1 and 4.2.2 of this Agreement.

4.3 **CONSTRUCTION MANAGEMENT PLAN**

4.3.1 On or prior to the Implementation Date to submit to the Council for approval a draft Construction Management Plan.

4.3.2 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.

4.3.3 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.

4.3.4 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.

4.4 **CONTRIBUTIONS**

4.4.1 On or prior to the Implementation Date to pay to the Council the Contributions in full.

4.4.2 Not to Implement or to permit Implementation until such time as the Council has received the Contributions in full.

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 2015/3148/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.
- 5.5 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its Head of Legal Services a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.
- 5.6 Submission of any plan pursuant to Clause 4 (Obligations of the Owner) to the Council for approval by the Council under the terms of this Agreement shall be made by the Owner to the Council sending the full document and any appendices in

electronic format to the Planning Obligations Monitoring Officer referring to the names dates and Parties to this Agreement and citing the specific clause of this Agreement to which such plan relates quoting the planning reference 2015/3148/P.

5.7 Payment of any financial contribution pursuant to Clause 4 (Obligations of the Owner) of this Agreement shall be made by the Owner to the Council sending the full amount in the form of a banker's draft to the Planning Obligations Monitoring Officer referring to the names dates and Parties to this Agreement and citing the specific clause of this Agreement to which such Contribution relates quoting the planning application reference 2015/3148/P or by electronic transfer directly to the National Westminster Bank of Hampstead Village, Enfield Customer Service Centre, PO Box 145 Baird Road Middlesex EN1 1FN quoting Sort Code 50-30-03 and London Borough of Camden General Account no. 24299480 and to inform the Planning Obligations Monitoring Officer of such payment quoting the above details as if the payment had been made by banker's draft.

5.8 All consideration given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable in respect thereof and all parties other than the Council shall pay and indemnify the Council against any such value added tax properly payable on any sums paid to the Council under this Agreement upon presentation of an appropriate value added tax invoice addressed to the Owner.

5.9 Any sums referred to in this Agreement as payable or to be applied by any party other than the Council under this Agreement shall be paid or applied TOGETHER WITH if such payment or application is made more than three months from the date of this Agreement a further sum ("A") being equal to the original sum payable ("B") multiplied by a figure being a fraction of which the All Items Index of Retail Prices ("the AIIRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AIIRP figure published before the date such payment or application is made ("Y") less the last published AIIRP figure at the date hereof ("X") is the numerator so that

$$A = B \frac{Y-X}{X}$$

5.10 All costs and expenses payable to the Council under this Agreement shall bear interest at the rate of 4% above the Base Rate of the National Westminster Bank plc from time to time being charged from the date such payment is due until payment is made.

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 reference number 2015/3148/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 or is modified (other than by agreement with or at the request of the Owner) this Agreement shall forthwith determine and cease to have effect and the Council will effect cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

7. **RIGHTS OF THIRD PARTIES**

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

8. **JURISDICTION**

This Agreement is governed by and interpreted in accordance with the law of England and the Parties agree that the courts of England shall have jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

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)
NARROWPACK LIMITED)
acting by a Director and its Secretary)
or by two Directors)

Director Name: (CAPITALS))

Director Signature:)

Director/Secretary Name (CAPITALS))

Director/Secretary Signature:)

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

.....

Authorised Signatory

THE FIRST 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

THE SECOND SCHEDULE

DRAFT PLANNING PERMISSION

THE THIRD SCHEDULE

PLAN OF THE PROPERTY