

DATED

19 SEPTEMBER

2016

(1) DAVID MACKOVER

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  
246 Belsize Road, London NW6 4BT  
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 1918  
Fax: 020 7974 2962

1798.24



THIS AGREEMENT is made the

19<sup>TH</sup>

day of

SEPTEMBER 2016

**B E T W E E N:**

1. **DAVID MACKOVER** of 64a Canfield Gardens, London NW6 3EB (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

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 NGL399533.

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 25 July 2016 and the Council resolved to grant permission conditionally under reference number 2016/3995/P subject to the 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 of basement floor from storage (B8) to studio flat (C3) as shown on drawing numbers:-  
Site Plan; Cover Letter from Grosvenor Square Estates dated 12 July 2016; 246 Belsize Road NW6 4BT Existing & Proposed Basement Plan; 246 Belsize Road NW6 4BT Proposed Basement Plan with cycle storage; VOA Property Valuation 2005; VOA Property Valuation 2010; VOA Property Valuation 2014; Asbestos Survey Report dated 10/05/2016 (prepared by Nova); Phase 1 Environmental Desk Study 246 Belsize Road dated May 2016 (prepared by Earth Environmental & Geotechnical); Groundsure Enviro Insight dated 16 May 2016 ref GS-2981685 (prepared by Groundsure); Groundsure Enviro Insight dated 16 May 2016 ref GS-2981686 (prepared by Groundsure)
- 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 "the Nominated Unit" the basement studio shown the plan annexed hereto
- 2.6 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.7 "the Parties" mean the Council and the Owner
- 2.8 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 25 July 2016 for which a resolution to grant permission has been passed conditionally under reference number 2016/3995/P subject to conclusion of this Agreement
- 2.9 "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
- 2.10 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.11 "the Property" the land known as the basement floor of 246 Belsize Road, London NW6 4BT the same as shown shaded grey on the plan annexed hereto

- 2.12 "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
- 2.13 "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, 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 and 7 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 capped" housing in accordance with Clause 4.1 and 4.2 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

- 4.1 To ensure that prior to Occupying the Nominated Unit (being part of the Development) each new occupier of the Nominated Unit 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 Not to occupy or use (or permit the occupation or use of, subject to the best endeavours and reasonable knowledge of the owner) the Nominated Unit (being part of the Development) at any time during which the occupier of the Nominated Unit holds a Residents Parking Permit for the Property to park a vehicle in a Residents Parking Bay or <sup>granted a Residents Parking Permit</sup> ~~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). JR
- 4.3 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1 and 4.2 above will remain permanently.
- 4.4 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 4.1 and 4.2 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 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 2016/3995/P the date upon which the Development will be 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 jointly and severally 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 reference number 2016/3995/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 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  
DAVID MACKOVER  
in the presence of:**

)  
) *[Handwritten Signature]*  
)

*[Handwritten Signature]*  
.....  
**Witness Signature**

**Witness Name:** *Mr D. Williams*

**Address:** *13 CLEVE ROAD, LONDON NW6 3RP*

**Occupation:** *Property Developer*

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

*[Handwritten Signature]*  
.....  
**Authorised Signatory**



*P. Alexander*

# 246 Belsize Road, London NW6 4BT



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GSE  
64A Canfield Gardens  
London  
NW6 3EBApplication Ref: **2016/3995/P**  
Please ask for: **Kristina Smith**  
Telephone: **020 7974 4986**

14 September 2016

**DRAFT**

Dear Sir/Madam

**DECISION**

Town and Country Planning Act 1990 (as amended)

**GPDO Prior Approval Class P Change of use of B8 to C3 Granted Prior approval  
subject to Section 106 Legal agreement**Address:  
**246 Belsize Road  
London  
NW6 4BT****DECISION**

## Proposal:

Change of use of basement floor from storage (B8) to studio flat (C3)  
Drawing Nos: Site Plan; Cover Letter from Grosvenor Square Estates dated 12 July 2016;  
246 Belsize Road NW6 4BT Existing & Proposed Basement Plan; 246 Belsize Road NW6  
4BT Proposed Basement Plan with cycle storage; VOA Property Valuation 2005; VOA  
Property Valuation 2010; VOA Property Valuation 2014; Asbestos Survey Report dated  
10/05/2016 (prepared by Nova); Phase 1 Environmental Desk Study 246 Belsize Road  
dated May 2016 (prepared by Earth Environmental & Geotechnical); Groundsure Enviro  
Insight dated 16 May 2016 ref GS-2981685 (prepared by Groundsure); Groundsure Enviro  
Insight dated 16 May 2016 ref GS-2981686 (prepared by Groundsure)

The Council has considered your application and decided to grant permission subject to the  
following condition(s):

## Condition(s) and Reason(s):

- 1 The noise level in rooms at the development hereby approved shall meet the noise

Executive Director Supporting Communities



standard specified in BS8233:2014 for internal rooms and external amenity areas.

Reason: To ensure that the amenity of occupiers of the development site and surrounding premises is not adversely affected by noise and vibration.

- 2 The change of use from storage (Class B8) to studio flat (Class C3) is permitted under Schedule 2, Part 3, Class P of the Town and Country Planning (General Permitted Development) Order 2015, subject to the following conditions:

Conditions and reasons:

- 3 At least 28 days before development commences:

(a) a written programme of ground investigation for the presence of soil and groundwater contamination and landfill gas shall be submitted to and approved by the local planning authority; and

(b) following the approval detailed in paragraph (a), an investigation shall be carried out in accordance with the approved programme and the results and a written scheme of remediation measures [if necessary] shall be submitted to and approved by the local planning authority.

The remediation measures shall be implemented strictly in accordance with the approved scheme and a written report detailing the remediation shall be submitted to and approved by the local planning authority prior to occupation.

Reason: To protect future occupiers of the development from the possible presence of ground contamination arising in connection with the previous industrial/storage use of the site in accordance with policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

- 1 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).
- 2 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 Noise and Licensing Enforcement Team, 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.

- 3 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.
- 4 You are reminded of the need to provide adequate space for internal and external storage for waste and recyclables. For further information contact Council's Environment Services (Waste) on 020 7974 6914/5 or see the website <http://www.camden.gov.uk/ccm/content/environment/waste-and-recycling/twocolumn/new-recycling-rubbish-and-reuse-guide.en>.
- 5 You are reminded that this decision only grants permission for permanent residential accommodation (Class C3). Any alternative use of the residential units for temporary accommodation, i.e. for periods of less than 90 days for tourist or short term lets etc, would constitute a material change of use and would require a further grant of planning 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.

You can find advice about your rights of appeal at:

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

Yours faithfully

Executive Director Supporting Communities







DATED

19 SEPTEMBER

2016

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and

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

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pursuant to Section 106 of the Town and Country Planning  
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