

DATED

11 October

2016

(1) COOPER GROUP DEVELOPMENTS (ST EDMUNDS) LIMITED

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 13 December 2010 between: The Guinness Trust (London Fund) Founded 1890, Registered 1902 and the Mayor and the Burgesses of the London Borough of Camden under Section 106 of the Town and Country Planning Act 1990 (as amended) and Section 278 of the Highways Act 1980 and as varied by Deeds of Variation dated 2 August 2011, 27 February 2014 and 30 April 2014

Relating to development at premises known as
GUINNESS COURT, ST EDMUND'S TERRACE, LONDON NW8 7QE

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

1781.889



THIS DEED is made on the 11th day of October 2016

BETWEEN

1. **COOPER GROUP DEVELOPMENTS (ST EDMUNDS) LIMITED** (incorporated in Guernsey) of 16 Finchley Road, London, NW8 6EB (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 Guinness Trust (London Fund) Founded 1890, Registered 1902 ("the Original Applicant") entered into an agreement dated 13 December 2010 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) and Section 278 of the Highways Act 1980 and the Council and Original Applicant entered into a deed of variation to vary the terms of the agreement on 2 August 2011 and the Council and the Original Applicant entered into a deed of variation to further vary the terms of the agreement on 27 February 2014, 30 April 2014 and 8 August 2014.
- 1.2 Since entering into the Existing Agreement the London Fund has transferred the assets of the Trust. On 31 March 2011 the Charity Commission made a scheme under Section 16 and 61 of the Charities Act 1993 that was effective on 1 April 2011 and that appointed GTL as the sole corporate trustees of the Trust and dissolved the London Fund. Pursuant to Section 61(3) to (6) of the Charities Act 1993 the dissolution of the London Fund means all the property investments rights and liabilities and any chose of action held by the London Fund vested in GLT by operation of the law. By an Order of the Charity Commission dated 3 June 2012 all of the assets of the Trust were vested in GLT as its corporate assets free from the trusts which they were at that time held. On 27 July 2012 GTL amalgamated with certain other members of the Guinness group to form The Guinness Partnership Limited.

- 1.3 On 18 December 2015, the land was transferred to the Owner. The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number 280140.
- 1.4 A new Planning Application in respect of the Property and to amend the Original Planning Permission was submitted to the Council by the Owner and validated on 9 June 2016 to relocate refuse areas for which the Council resolved to grant permission conditionally under reference 2016/2974/P subject to the conclusion of this Deed. A further application for non material amendments to the Original Planning Permission was submitted to the Council by the Owner and validated on 15 June 2016 to relocate 12 cycle spaces from Block A to proposed cycle store to (south east corner) entrance of the site for which Council resolved to grant conditionally under reference 2016/3276/P subject to the conclusion of this Deed.
- 1.5 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.
- 1.6 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.
- 1.7 Without prejudice to the terms of the other covenants contained in the Existing Agreement as varied by First Deed of Variation and the Second Deed of Variation and the Third Deed of Variation the parties hereto have agreed to vary the terms of the Existing Agreement as varied by First Deed of Variation and the Second Deed of Variation and the Third Deed of Variation and the Fourth Deed of Variation as hereinafter provided.

2. **INTERPRETATION**

- 2.1 All words and phrases defined in the Existing Agreement shall have the same meaning in this Agreement 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 the First Deed of Variation the Second Deed of Variation the Third Deed of Variation the Fourth Deed of Variation and this Agreement.

2.2 All reference in this Agreement to clauses in the Existing Agreement are to clauses within the Existing Agreement.

2.3 In this Agreement the following expression shall unless the context otherwise states have the following meaning now allocated to it.

2.3.1 "Agreement" this Deed of Variation

2.3.2 "Existing Agreement" the agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) and Section 278 of the Highways Act 1980 dated 13 December 2010 made between the London Fund and the Council

2.3.3 "First Deed of Variation" the agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) and Section 278 of the Highways Act 1980 dated 2 August 2011 made between GLT and the Council which amended the Property plan

2.3.4 "Fourth Deed of Variation" the agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) and Section 278 of the Highways Act 1980 dated 8 August 2014 made between GLT and the Council which amended the Development definition and approved drawings

2.3.5 "the Original Planning Permission" means the planning permission granted by the Council on 13 December 2010 referenced 2010/4850/P allowing the erection of two buildings (4-storeys and 6-storeys) with basement to provide 64 (28 private and 36 affordable) residential units (2 x 4-bedroom, 15 x 3-bedroom, 19 x 2-bedroom, and 28 x 1-bedroom) with 29 car parking spaces (19 underground and 10 surface level), 71 cycle

parking spaces, and associated landscaping (following demolition of all existing buildings on site)

2.3.6 "Second Deed of Variation" the agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) and Section 278 of the Highways Act 1980 dated 27 February 2014 made between the Owner and the Council which varied the definition of Affordable Housing Units to allow for the provision of affordable rent

2.3.7 "Third Deed of Variation" the agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) and Section 278 of the Highways Act 1980 dated 30 April 2014 made between the Owner and the Council which varied condition 2 of application 2010/4850/P

- 2.4 Where in this Agreement 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.
- 2.5 Headings are for ease of reference only and are not intended to be construed as part of this Agreement and shall not be construed as part of this Agreement and shall not effect the construction of this Agreement.
- 2.6 Unless the context otherwise requires references to the singular shall include the plural and vice versa.
- 2.7 References in this Agreement to the Owner and Mortgagee shall include their successors in title.

3. VARIATION TO THE EXISTING AGREEMENT

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

3.1.1 "Development"

the development permitted by planning permission dated 13 December 2010 (Ref: 2010/4850/P) for erection of two buildings (4-storeys and 6-storeys) with basement to provide 64 (28 private and 36 affordable) residential units (2 x 4-bedroom, 15 x 3-bedroom, 19 x 2-bedroom, and 28 x 1-bedroom) with 29 car parking spaces (19 underground and 10 surface level), 71 cycle parking spaces, and associated landscaping (following demolition of all existing buildings on site), with variation of conditions 2 and 22 permitted by planning permission ref 2013/0505/P, with variation of condition 2 permitted by planning permission ref 2014/1116/P namely changes to the design and treatment of elevation to Block B and further variation of conditions 2, 3 and 4 permitted by the Planning Permission shown on drawing numbers:-

12308_02_40-D0; 41-D0; 50-D0; 051-D0; 052-D0; 100-D0; 910; 102-D0; 103-D0; 104-D0; 105-D0; 106-D1; 107-D0; 114-910; 200-D0; 201-D0; 202-D0; 203-D0; 204-D0; 300-D0; 301-D0; 302-D0; 303-D0; 304-D0; 305-D0; 306-D0; 600-D0; 601-D0; 602-D0; 603-D0; 604-D0; 605-D0; 606-D1; 607-D0; 608-D0; 609-D0; 610-D0; 611-D0; 612-D0; 613-D0; 614-D0; 615-D0; 616-D1; 617-D1; 618-D0; 619-D1; 620-D1; 621-D1; 622-D1; 623-D0; 624-D0; 625-D0; 626-D0; 627-D0; 628-D1; 629-D0; 630-D0; 631-D1; 632-D0; 900-D0; 901-D0; 902-D0; 903-D0; 904-D0; J38.29/01;

J38.29/05; 001_RevB; 002_RevC; 900_RevA;
905; 906_RevC; 907_RevB

- 3.1.2 "Planning Application" a planning application for the Development of the Property submitted to the Council under either reference:
a) 2016/2974/P; or
b) 2016/3276/P
as appropriate
- 3.1.3 "Planning Permission" planning permission granted for the Development pursuant to a Planning Application
- 3.2 All references in the Existing Agreement to "Planning Permission reference 2010/4850/P" shall be replaced with "Planning Permission reference 2016/2974/P", or 2016/3276/P (as appropriate)".
- 3.3 In all other respects the Existing Agreement (as varied by this Deed) shall continue in full force and effect.

4 PAYMENT OF THE COUNCIL'S LEGAL COSTS

- 4.1 The Owner agrees to pay the Council (on or prior to completion of this Deed) its reasonable legal costs incurred in preparing this Deed

5. REGISTRATION AS LOCAL LAND CHARGE

- 5.1 This Deed shall be registered as a Local Land Charge

IN WITNESS WHEREOF the Council has caused its Common Seal to be affixed and the Owner has caused this Agreement to be executed the day and year first above written

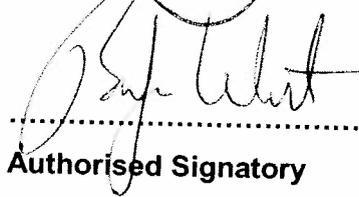
EXECUTED as a Agreement on behalf of)
COOPER GROUP DEVELOPMENTS)
(ST EDMUNDS) LIMITED)
a company incorporated in)
the Guernsey by)

and)

being persons who in accordance)
with the laws of that territory are)
acting under the authority of)
the company)

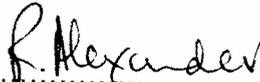


.....
Authorised Signatory



.....
Authorised Signatory

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



.....
Duly Authorised Officer





JAA
Studio Six
38-50 Pritchards Road
London
E2 9AP

Application Ref: **2016/2974/P**

23 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:
Guinness Court
St Edmund's Terrace
London
NW8 7QE

DECISION
Proposal:
Variation of Condition 2 (approved plans) and variation of Condition 3 (refuse) and Condition 4 (recycling) of planning permission 2010/4850/P granted 13/12/2010 (Erection of two buildings (4-storeys and 6-storeys) with basement to provide 64 (28 private and 36 affordable) residential units (2 x 4-bedroom, 15 x 3-bedroom, 19 x 2-bedroom, and 28 x 1-bedroom) with 29 car parking spaces (19 underground and 10 surface level), 71 cycle parking spaces, and associated landscaping (following demolition of all existing buildings on site)

Drawing Nos: Superceded Documents: 12308_02_101 D0

Revised Plans: 901_RevB

Additional Plans: 001_RevB; 002_RevC; 900_RevA; Planning Statement dated 16 March 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.

Condition(s) and Reason(s):

- 1 For the purpose of this decision, condition 2 of planning permission 2010/4850/P shall be replaced with the following condition:

REPLACEMENT CONDITION 2:

The development hereby shall be carried out in accordance with the following approved plans:

12308_02_40-D0; 41-D0; 50-D0; 051-D0; 052-D0; 100-D0; 901_RevB; 102-D0; 103-D0; 104-D0; 105-D0; 106-D1; 107-D0; 200-D0; 201-D0; 202-D0; 203-D0; 204-D0; 300-D0; 301-D0; 302-D0; 303-D0; 304-D0; 305-D0; 306-D0; 600-D0; 601-D0; 602-D0; 603-D0; 604-D0; 605-D0; 606-D1; 607-D0; 608-D0; 609-D0; 610-D0; 611-D0; 612-D0; 613-D0; 614-D0; 615-D0; 616-D1; 617-D1; 618-D0; 619-D1; 620-D1; 621-D1; 622-D1; 623-D0; 624-D0; 625-D0; 626-D0; 627-D0; 628-D1; 629-D0; 630-D0; 631-D1; 632-D0; 900-D0; 901-D0; 902-D0; 903-D0; 904-D0; J38.29/01; J38.29/05; 001_RevB; 002_RevC; 900_RevA; Planning Statement dated 16 March 2016

Informative(s):

- 1 Reasons for granting variation of condition:

The proposed amendments are considered to be acceptable, and do not detract from the approved scheme. The amendments involve the creation of a separate refuse and recycling store in the centre of the residential development and a smaller store at the south-eastern end. This results in easier refuse and recycling collection by the Council while mitigating current sanitation concerns.

In the originally approved scheme (2010/4850/P), the refuse store is located at the south-western end of the development where it is currently. In addition, makeshift refuse areas have been created. These concerns from local residents have been highlighted previously via enquiries and planning enforcement complaints.

The new stores will be constructed of brick posts with slatted timber and aluminium frames which are considered appropriate for the location and will conceal the contents from public view. The amendments will still retain an adequate amount of landscaping within the development. It is also considered the new refuse storage will not cause an adverse impact upon the highway, transport and parking or the manoeuvring of refuse collection vehicles.

Notwithstanding, the full impact of the proposed development has already been assessed by virtue of the previous approval granted 13/12/2010 under reference

number 2010/4850/P. In the context of the scheme, it is considered that the amendments would have a minor material effect on the approved development.

Two objections and one comment has been received prior to making this decision which was duly noted. The planning history of the applicant site and relevant appeal decisions were taken into account when coming to this decision.

- 2 This approval under Section 73 of the 1990 Act effectively varying the relevant conditions of the previous planning permission is subject otherwise to the same terms, drawings conditions (and obligations where applicable) as attached to the previous planning permission This includes condition 1 for providing for a 3 year time period for implementations which for the avoidance of doubt commences with the date of the original decision (and not this variation).
- 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.

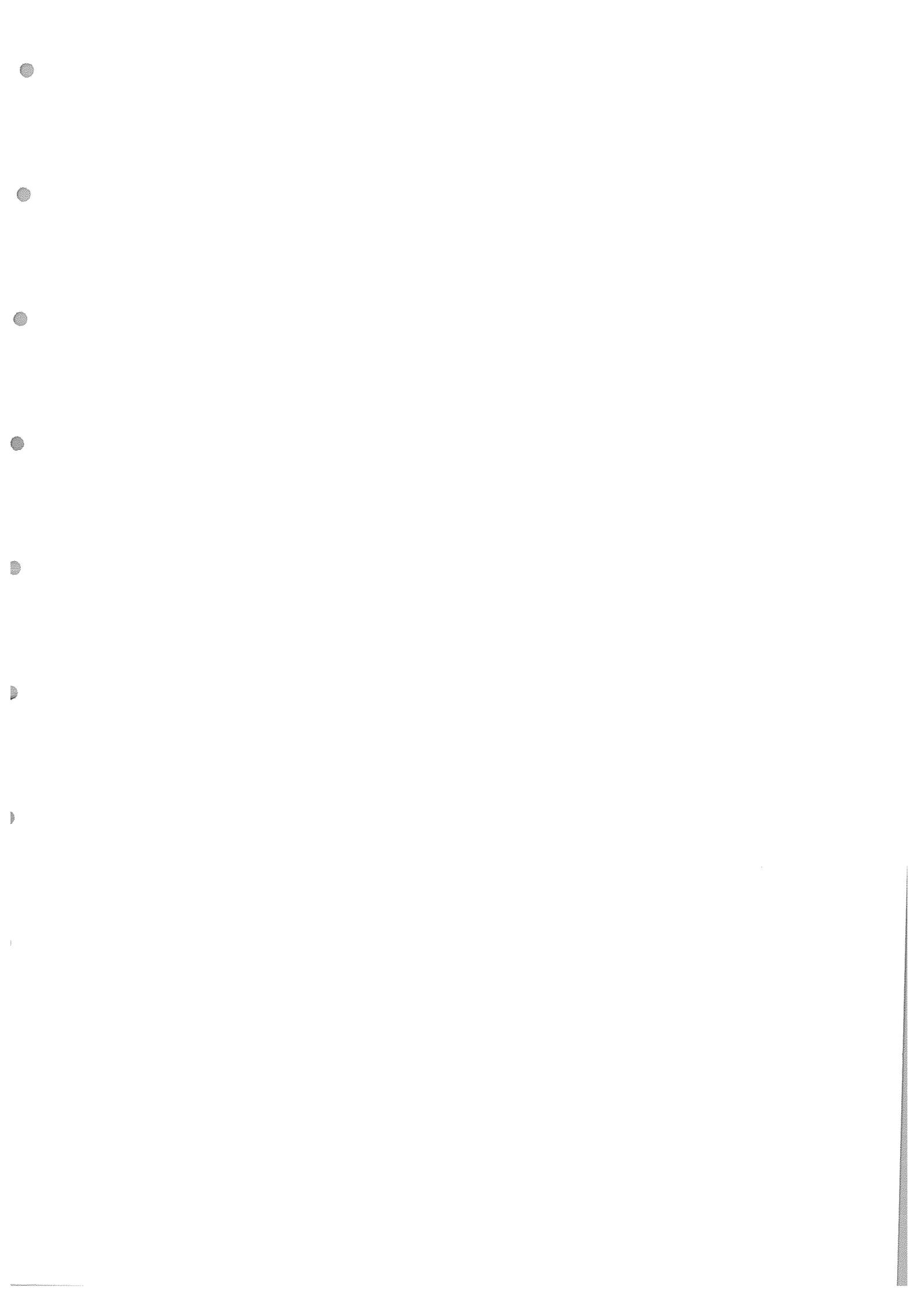
In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Supporting Communities Directorate

DECISION





DATED

11 October

2016

(1) COOPER GROUP DEVELOPMENTS (ST EDMUNDS) LIMITED

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 13 December 2010 between: The Guinness Trust (London Fund) Founded 1890, Registered 1902 and the Mayor and the Burgesses of the London Borough of Camden under Section 106 of the Town and Country Planning Act 1990 (as amended) and Section 278 of the Highways Act 1980 and as varied by Deeds of Variation dated 2 August 2011, 27 February 2014 and 30 April 2014

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