

DATED 11 November

2016

(1) STARLIT PROPERTIES LIMITED

and

(2) MOONLIT PROPERTIES LIMITED and STARLIT PROPERTIES LIMITED

and

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

A G R E E M E N T

relating to land known as
109 King Henry's Road, London NW3 3QX
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 1918
Fax: 020 7974 2962

THIS AGREEMENT is made the 11th day of November 2016

BETWEEN:

- i. **STARLIT PROPERTIES LIMITED** (Co. Regn. No. 02100945) whose registered office is at 35/37 Brent Street, London, NW4 2EF (hereinafter called "the Freeholder") of the first part
- ii. **MOONLIT PROPERTIES LIMITED** (Co. Regn. No. 08957560) whose registered office is at 35/37 Brent Street, London, NW4 2EF and **STARLIT PROPERTIES LIMITED** (Co. Regn. No. 02100945) whose registered office is at 35/37 Brent Street, London, NW4 2EF (hereinafter called "the Leaseholder") of the second part
- iii. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third part

1. WHEREAS

- 1.1 The Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number NGL710626.
- 1.2 The Freeholder is the freehold Owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 The Leaseholder is registered at the Land Registry as the leasehold proprietor with Title absolute of the Property under Title Number NGL710779.
- 1.4 The Leaseholder is the leasehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.5 The Freeholder, and the Leaseholder shall hereinafter be jointly referred to as "the Owner".
- 1.6 A Planning Application for the development of the Property was submitted to the Council and validated on 17 December 2015 and the Council resolved to grant

permission conditionally under reference number 2015/7091/P subject to conclusion of this legal Agreement.

1.7 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.

1.8 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 Certificate of Practical Completion" | the certificate issued by the Owner's contractor architect or project manager certifying that the Development has been completed |
| 2.4 | "Construction Management Plan" | a plan setting out the measures that the Owner will adopt in undertaking 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 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) amelioration and monitoring effects on the health and amenity of local residences site construction workers local businesses and adjoining developments undergoing construction;
- (iv) 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);
- (v) the inclusion of a waste management strategy for handling and disposing of construction waste; and

- (vi) 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

2.5 "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

2.6 "the Construction Phase"

the whole period between

- (i) the Implementation Date and
- (ii) the date of issue of the Certificate of Practical Completion

2.7 "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

2.8 "the Development"

erection of a proposed side and rear extension and excavation of a basement level as shown on drawing numbers 1265_E1000; 1265_E010; 1265_E1100; 1265_E2000; 1265_E2100;

1265_P3000; 1265_P3001; 1265_P4000;
1265_P4001; 1265_P4002; 1265_P4003;
1265_P4004; 1265_P6000; Design and Access
Statement; Arboricultural Report; 3d Visuals;
Structural Design and Construction Statement;
Basement Impact Assessment Part 1 and Part 2
Revision 01 updated September 2015;
Basement Impact Assessment Revision 02
updated August 2016; Structural drawing
8438/009 Rev B; Campbell Reith - Basement
impact Assessment Audit -109 King Henry's
Road

2.9 "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

2.10 "Occupation Date"

the date when any part of the Development is
occupied and the phrases "Occupy", "Occupied"
and "Occupation" shall be construed accordingly

2.11 "the Parties"

mean the Council, the Owner and the Mortgagee

2.12 "the Planning Application"

a planning application in respect of the
development of the Property submitted to the
Council and validated on 17 December 2015 for
which a resolution to grant permission has been
passed conditionally under reference number
2015/7091/P subject to conclusion of this
Agreement

2.13 "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

- 2.14 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.15 "the Property" the land known as 109 King Henry's Road, London NW3 3QX the same as shown shaded grey on the plan annexed hereto

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 and 6 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.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

4.1 **CONSTRUCTION MANAGEMENT PLAN**

- 4.1.1 On or prior to the Implementation Date to:
- (i) pay to the Council the Construction Management Plan Implementation Support Contribution in full; and
 - (ii) submit to the Council for approval a draft Construction Management Plan.
- 4.1.2 Not to Implement nor allow Implementation of the Development until such time as the Council has:
- (i) received the Construction Management Plan Implementation Support Contribution in full; and
 - (ii) approved the Construction Management Plan as demonstrated by written notice to that effect.
- 4.1.3 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.
- 4.1.4 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.

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 2015/7091/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 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 (where practicable) 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 Permission reference 2015/7091/P.
- 5.7 Payment of the Council the Construction Management Plan Implementation Support Contribution pursuant to Clause 4.1 of this Agreement shall be made by the Owner to the Council sending the full amount via electronic transfer (where practicable) The owner shall notify the Planning Obligations Monitoring Officer that payment has been made referring to names date and Parties to this Agreement and citing the specific clause of this Agreement to which such contribution relates quoting the planning reference 2015/7091/P. Electronic Transfer is to be made directly to the National Westminster Bank of Hampstead Village quoting Sort Code 50-30-03 and London Borough of Camden General Account no. 24299480.
- 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 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

$$A = B \times \frac{(Y-X)}{X}$$

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, Placeshaping Service, Urban Design and Development Team, 2nd Floor, 5 Pancras Square, London, N1C 4AJ quoting the Planning Permission reference number 2015/7091/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 the Mortgagee 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. **JOINT AND SEVERAL LIABILITY**

- 7.1 All Covenants made by the Owner in this Agreement are made jointly and severally and shall be enforceable as such.

8. **RIGHTS OF THIRD PARTIES**

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

IN CONTINUATION of THE SECTION 106 AGREEMENT IN RELATION TO 109 KING
HENRY'S ROAD, LONDON NW3 3QX

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and
the Owner and the Mortgagee have executed this instrument as their Deed the day and year
first before written

EXECUTED AS A DEED BY
STARLIT PROPERTIES LIMITED
in the presence of:

)
) *J Em*
) Director

.....
Witness Signature

Witness Name

Address

Occupation

EXECUTED AS A DEED BY
MOONLIT PROPERTIES LIMITED
in the presence of:

)
) *J Em*
) Director

J Em
.....
Witness Signature

Witness Name

Address

Occupation

Miss KATHERINE DEVERRE
13 RENNIEDALE
WORBITON, SURREY KT5 8DH
P/A

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

)
)
)
)

L Alexander
.....

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

R. Alexander

NORTHGATE SE GIS Print Template



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Boyer Planning
24 Southwark Bridge Road
London
SE1 9HF

Application Ref: **2015/7091/P**

03 November 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:

**109 King Henry's Road
London
NW3 3QX**

Proposal:

Erection of a proposed side and rear extension and excavation of a basement level.

Drawing Nos: 1265_E1000; 1265_E010; 1265_E1100; 1265_E2000; 1265_E2100;
1265_P3000; 1265_P3001; 1265_P4000; 1265_P4001; 1265_P4002; 1265_P4003;
1265_P4004; 1265_P6000; Design and Access Statement; Arboricultural Report; 3d
Visuals; Structural Design and Construction Statement; Basement Impact Assessment Part
1 and Part 2 Revision 01 updated September 2015; Basement Impact Assessment
Revision 02 updated August 2016; Structural drawing 8438/009 Rev B; Campbell Reith -
Basement impact Assessment Audit -109 King Henry's Road

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:

1265_E1000; 1265_E010; 1265_E1100; 1265_E2000; 1265_E2100; 1265_P3000; 1265_P3001; 1265_P4000; 1265_P4001; 1265_P4002; 1265_P4003; 1265_P4004; 1265_P6000; Design and Access Statement; Arboricultural Report; 3d Visuals; Structural Design and Construction Statement; Basement Impact Assessment Part 1 and Part 2 Revision 01 updated September 2015; Basement Impact Assessment Revision 02 updated August 2016; Structural drawing 8438/009 Rev B; Campbell Reith - Basement impact Assessment Audit -109 King Henry's Road

Reason:

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

- 4 Detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority before the relevant part of the work is begun:

a) Manufacturer's specification details and sample of the zinc cladding material to be submitted to the Local Planning Authority.

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 policy DP24 and DP25 if in CA of the London Borough of Camden Local Development Framework Development Policies.

- 5 Full details in respect of the green roof on the rear extension shall be submitted to and approved by the local planning authority before the relevant part of the development commences. The buildings shall not be occupied until the approved details have been implemented and these works shall be permanently retained and maintained thereafter.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies CS13, CS15 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

- 6 No development shall take place until detailed landscape scheme to ensure the new tree planting has been submitted to and approved by the local planning authority in writing. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area in accordance with the requirements of policies CS14 and CS15 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 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 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.
- 3 Your attention is drawn to the fact that there is a separate legal agreement in relation to the Construction Management Plan 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 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.

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 11 November 2016

(1) STARLIT PROPERTIES LIMITED

and

(2) MOONLIT PROPERTIES LIMITED and STARLIT PROPERTIES LIMITED

and

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

A G R E E M E N T
relating to land known as
109 King Henry's Road, London NW3 3QX
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

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