

DATED 12 SEPTEMBER 2016

(1) WOODHAM PROPERTIES LIMITED

and

(2) COMMERCIAL ACCEPTANCES 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

The Admiral Mann Public House, 9 and 9A Hargrave Place, London N7 0BP
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended) and
Section 278 of the Highways Act 1980

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



THIS AGREEMENT is made the 12th day of SEPTEMBER 2016

B E T W E E N:

- i. **WOODHAM PROPERTIES LIMITED** (Co. Regn. No. 09137227) whose registered office is at Foframe House, 35-37 Brent Street, London NW4 2EF (hereinafter called "the Owner") of the first part
- ii. **COMMERCIAL ACCEPTANCES LIMITED** (Co. Regn. No. 1715185) of 100 George Street, London W1U 8NU (hereinafter called "the Mortgagee") 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 Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number NGL697839, subject to a charge to the Mortgagee.
- 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 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL697839 and dated 24 September 2014 is willing to enter into this Agreement to give its consent to the same.
- 1.4 A Planning Application for the development of the Property was submitted to the Council and validated on 10 August 2015 under reference number 2015/4456/P.
- 1.5 An appeal under section 78 of the Town and Country Planning Act 1990 (as amended) in respect of Council's refusal of the application was submitted by the Owner to the Planning Inspectorate and was given reference number APP/X5210/W/16/3147248.

- 1.6 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.
- 1.7 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.
- 1.8 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.9 If the Planning Inspector, concludes that any of the planning obligations set out in the Agreement are incompatible with any one of the tests for planning obligations set out at Regulation 122 of the CIL Regulations, and accordingly attached no weight to that obligation in determining the appeal then the relevant obligation shall, from the date of the Planning Permission, cease to have effect and the Owner and the Developer shall be under no obligation to comply with them.

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 | "Class A4 (Drinking Establishment Use" | a public house use as included in Class A4 in the Town and Country Planning (Use Classes) Order 1987 (as amended) |
| 2.4 | "the Development" | Demolition of building at 9A and partial demolition of 9 Hargrave Place and |

redevelopment of the site including a new 3 storey building to the rear; multiple storey rear extensions, basement extension, mansard roof addition and associated works to main building at 9; conversion of part of ground floor and upper floors from Public House (A4) to residential (C3) use and the creation of 5 residential flats (3x2 bed and 2x1 bed) as shown on drawing numbers:-

(GAL 220 (PC)) 001; 002 Rev B; 003; 004; 005 Rev E; 006 Rev C; 007 Rev A; 008 Rev E; 009 Rev B, Design and Access Statement (ref: GAL 220/IB/ib) dated 18/09/2015, Basement Impact Assessment - Rev A dated July 2015, Noise Impact Report (ref: 22207/NIA) Rev 3 dated 22/10/2015

- 2.5 "Dwelling" any residential unit constructed on the Property pursuant to the Planning Permission
- 2.6 "Ground Floor Commercial Area" the ground floor commercial sales floor shown on drawing number GAL 220 (PC) 005 Rev E
- 2.7 "the Highways Contribution" the sum of £5,369.77 (five thousand, three hundred, sixty nine pounds and seventy seven pence) 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 carrying out of works to the public highway and associated measures in the vicinity of the Property and as are required due to the Development ("the Highways Works") these to include costs associated with the following:-

- (a) resurfacing the footways adjacent to the

Property; and

- (b) any other works the Council acting reasonably considers necessary as a direct result of the Development

all works will be subject to final measure and for the avoidance of doubt the Council in accepting this sum does not undertake any responsibility in connection with any required statutory undertakers works and excludes any statutory undertakers costs

- 2.8 "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
- 2.9 "the Level Plans" plans demonstrating the levels at the interface of the Development the boundary of the Property and the Public Highway
- 2.10 "the Public Highway" any carriageway footway and/or verge adjoining the Property maintainable at public expense
- 2.11 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.12 "the Parties" mean the Council the Owner and the Mortgagee
- 2.13 "the Planning Application" a planning application in respect of the development of the Property submitted to the

Council and validated on 10 August 2015 under reference number 2015/4456/P

- 2.14 "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
- 2.15 "the Planning Permission" any planning permission granted for the Development by the Secretary of State under reference APP/X5210/W/16/3147248 pursuant to the appeal against refusal of the Planning Application
- 2.16 "the Property" the land known as The Admiral Mann Public House, 9 and 9A Hargrave Place, London N7 0BP the same as shown shaded grey on the plan annexed hereto
- 2.17 "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
- 2.18 "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
- 2.19 "Secretary of State" the Secretary of State for Communities and Local Government (including any inspector appointed on his behalf)

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 (save that financial contributions due under this Agreement shall not be the liability of any individual leasehold proprietors of any residential or commercial parts of the Property) 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 Parties save where the context states otherwise shall include their successors in title.
- 3.7 The Parties acknowledge that the Development shall be treated as being permanently designated as "car free" housing in accordance with Clause 4.1 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

4.1 **CAR FREE**

- 4.1.1 The Owner hereby covenants with the Council to ensure that prior to occupying any residential unit forming part of the Development each new resident 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 be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.
- 4.1.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1.1 above will remain permanently.
- 4.1.3 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 4.1.1 of this Agreement.

4.2 **HIGHWAYS CONTRIBUTION**

- 4.2.1 On or prior to the Implementation Date to pay to the Council the Highways Contribution in full.
- 4.2.2 On or prior to the Implementation Date to submit to the Council the Level Plans for approval.
- 4.2.3 Not to Implement or to permit Implementation until such time as the Council has received the Highways Contribution in full.

- 4.2.4 Not to Implement nor permit Implementation until such time as the Council has approved the Level Plans.
- 4.2.5 The Owner acknowledges that the Council has the right reserved to it to construct the Public Highway to levels it considers appropriate.
- 4.2.6 On completion of the Highway Works the Council may provide to the Owner a certificate specifying the sum ("the Certified Sum") expended by the Council in carrying out the Highway Works.
- 4.2.7 If the Certified Sum exceeds the Highway Contribution then the Owner shall within fourteen days of the issuing of the said certificate pay to the Council the amount of the excess.
- 4.2.8 If the Certified Sum is less than the Highway Contribution then the council shall within twenty eight days of the issuing of the said certificate pay to the Owner the amount of the difference between the Certified Sum and the Highway Contribution.

4.3 GROUND FLOOR CLASS A4 (DRINKING ESTABLISHMENT) USE

- 4.3.1 Not to Occupy or permit Occupation of a Dwelling until such time as the Council has been notified in writing by the Owner that the Ground Floor Commercial Area has been let and is Occupied by a Class A4 (Drinking Establishment) Use.

4.4 FUTURE OCCUPIERS

- 4.4.1 The Owner covenant with the Council that:
- (i) the marketing materials given to each purchaser or potential purchaser of a Dwelling (which for the purpose of this paragraph will include anyone taking an interest by way of a lease) will contain information about the Admiral Mann Public House (or as otherwise named) including licensed hours and details of entertainment; and
 - (ii) the lease of each Dwelling will contain information about the Admiral Mann Public House (or as otherwise named) including licensed hours and details of entertainment.

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 2015/4456/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 £500 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 2015/4456/P.

5.7 Payment of the Highways Contribution pursuant to Clause 4.8 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 2015/4456/P. Electronic Transfer be made 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.

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, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the Planning Permission reference number 2015/4456/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 or 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. **MORTGAGEE EXEMPTION**

- 7.1 The Mortgagee hereby consents to the Owner entering into this Agreement and agrees that the security of its charges over the Property shall take effect subject to this Agreement.
- 7.2 The Parties agree that the obligations contained in this Agreement shall not be enforceable against any mortgagee or chargee of the whole or any part of the Property unless it takes possession of the Property in which case it will be bound by the obligations as a person deriving title from the Owner.

8. **RIGHTS OF THIRD PARTIES**

- 8.1 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 and the Mortgagee have executed this instrument a deed the day and year first before written

EXECUTED AS A DEED BY
WOODHAM PROPERTIES LIMITED
~~was hereunto affixed~~
in the presence of:-
acting by a Director ~~and its Secretary~~
~~or by two Directors~~
in the presence of:

)
)
) *A. Anne*
)
)
)

.....
~~Director~~ *Signature of witness*
Name: DAVID FREIFELD
Address: 9 ST GEORGES ROAD LONDON NW11 0L4.

.....
~~Director/Secretary~~

EXECUTED as a Deed
By COMMERCIAL ACCEPTANCES
LIMITED
by
in the presence of:-

)
)
) *J. Ware*
)
)
)

.....
ADAM WARE 100 GEORGE ST
LONDON W1U 8NU

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

)
)
)
)

.....
R. Alexander
.....
Authorised Signatory





9 & 9A Hargrave Place, London N7 0BP



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DATED 12 SEPTEMBER 2016

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and

(2) COMMERCIAL ACCEPTANCES LIMITED

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(3) THE MAYOR AND BURGESSES OF
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A G R E E M E N T

relating to land known as

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Act 1990 (as amended) and
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