

DATED 07 March

2014

**(1) SIMON MICHAEL PETER MACDONAGH and LESLEY ANNE MACDONAGH**

**and**

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

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**DEED OF VARIATION**

Relating to the Agreement dated 7 February 2013  
Between the Mayor and the Burgesses of the  
London Borough of Camden,  
Simon Michael Peter Macdonagh and Lesley Anne Macdonagh

under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as

**28 KINGS MEWS LONDON WC1N 2JB**

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Andrew Maughan  
Head of Legal Services  
London Borough of Camden  
Town Hall  
Judd Street  
London WC1H 9LP

Tel: 020 7974 6007  
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CLS/COM/PM/1685.2103  
2013/4839/P

FINAL - 28.01.14



THIS AGREEMENT is made on the 07 day of March 2014

**BETWEEN**

- (1) **SIMON MICHAEL PETER MACDONAGH** and **LESLEY ANNE MACDONAGH** of Peakes Farm, Sedgehill, Shaftesbury, Dorset SP7 9HQ (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

(together "the Parties")

**WHEREAS:**

- 1.1 The Council and the Owner entered into an Agreement (hereafter "the Original Agreement") dated 7 February 2013 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute of the Property under title number NGL922574.
- 1.3 The Owner submitted a planning application (hereafter "the Planning Application") for the Development of the Property to the Council on 31 July 2013 which was validated by the Council on the 2 August 2013 and given the reference number 2013/4839/P.
- 1.4 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.5 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.

1.6 This Agreement is made by virtue of the Town and Country Planning Act 1990 Section 106 (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 Original Agreement the Parties have agreed to vary the terms of the Original Agreement as hereinafter provided.

1.8 This Agreement is made by virtue of Section 106 of the Act and is a planning obligation for the purposes of that section and shall be enforceable by the Council against the Owner in respect of the Property.

## 2. **INTERPRETATION**

2.1 All words and phrases defined in the Original Agreement shall have the same meaning in this Agreement save where the context otherwise dictates and for the avoidance of any doubt the Original Agreement shall remain in full force and effect save as varied by this Agreement

2.2 All reference in this Agreement to clauses in the Original Agreement are to clauses within the Original Agreement unless otherwise stated

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" means this Deed of Variation

2.3.2 "Original Agreement" means the Section 106 Agreement relating to the Property made under the Town and Country Planning Act 1990 (as amended) dated 7 February 2013 made between the Council and the Owner in respect of permissions 2012/3113/P and 2012/3190/C

- 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 shall include their successors in title

### **3. VARIATION TO THE ORIGINAL AGREEMENT**

- 3.1 The Original Agreement shall apply equally to planning permission 2012/3113/P as it does to 2013/4839/P and for the purpose of implementing 2013/4839/P any reference in the Original Agreement to planning permission 2012/3113/P shall be substituted to mean reference number 2013/4839/P.
- 3.2 The following definitions contained in the Original Agreement shall be varied in the following manner:
- 3.2.1 Clause 2.8 of the Original Agreement (definition of "the Development") shall be deleted in its entirety and replaced with the following:

"the Development"	Erection of a 3 storey plus basement 3-bedroom dwelling house (Class C3), following demolition of existing office/warehouse (Class B1/B8) as shown on drawings: Site Location Plan; 200_03_01; 02; 03; 04; 05; 06; 40; 41; 42; 43; 44; 45; 46; 47; 48; Design and Access Statement by FT Architects dated March 2013; Basement Impact Assessment by Campbell Reith Consulting Engineers dated June 2012; Code for Sustainable Homes Pre-Assessment by Abba Energy
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Ltd dated 28/02/2013; Historic Environment Assessment by Museum of London Archaeology dated March 2013; Planning Support Statement by Farebrothers dated August 2012 (2013/4839/P) and Partial demolition of existing office/warehouse building (Class B1/B8) as shown on drawing numbers Site Location Plan 200\_03\_101; 01; 02; 03; 05; 06; Design and Access Statement by FT Architects dated June 2012; Overarching Planning Statement by FT Architects dated June 2012; (2012/3190/C)

- 3.2.2 Clause 2.13 of the Original Agreement (definition of "Planning Application") shall be deleted in its entirety and replaced with the following:

"Planning Application" a planning application in respect of the Development of the Property submitted to the Council and validated on the 2 August 2013 under reference number 2013/4839/P.

- 3.2.3 Clause 2.15 of the Original Agreement (definition of "Planning Permissions") shall refer to the draft planning permission for the Development substantially found in the draft form annexed in this Agreement

- 3.2.4 A new Clause 5.1.1 to be inserted into the Original Agreement as follows:

The Owner shall give written notice to the Council on or prior to the Implementation date stating which of the planning permissions (with the reference number) the Owner has or intends to implement.

3.3.1 In all other respects the Original Agreement shall continue in full force and effect save as varied by this Agreement and save where before the date hereof the covenants contained therein have been performed and are thereby discharged

**4. PAYMENT OF THE COUNCIL'S LEGAL COSTS**

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

**5. REGISTRATION AS LOCAL LAND CHARGE**

5.1 This Agreement shall be registered as a Local Land Charge

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

EXECUTED AS A DEED BY  
SIMON MICHAEL PETER MACDONAGH )

In the presence of:

Signature of Witness: 

Name of Witness: MARC COMPAGNONI

Address of Witness: 10 GREAT JAMES ST LONDON WC1

Occupation of Witness: SOLICITOR

DEED OF VARIATION TO S106 AGREEMENT DATED 7 FEBRUARY 2013 IN RELATION  
TO 28 KINGS MEWS, LONDON, WC1N 2JB (2013/4839/P)

EXECUTED AS A DEED BY  
LESLEY ANNE MACDONAGH

) *Lesley Macdonagh*

In the presence of:

Signature of Witness: *Maria C...*

Name of Witness: *MARIA CAMPAGNON*

Address of Witness: *10 Great Jones St  
London WC1*

Occupation of Witness: *Solicitor*

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

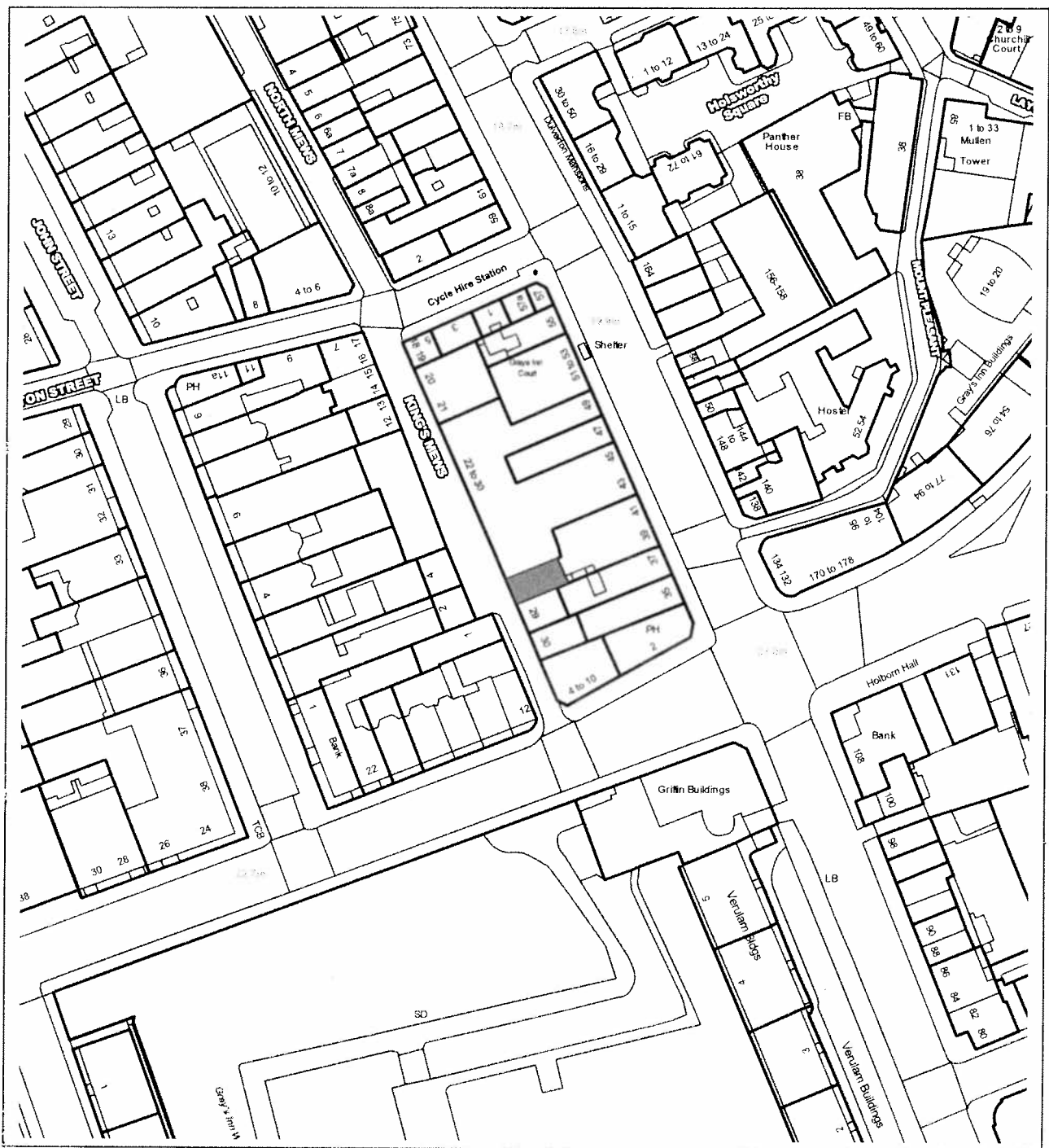
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*T M Knowles*  
.....  
Authorised Signatory



28 Kings Mews, London WC1N 2JB  
2013/4839/P



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Application Ref: **2013/4839/P**

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:  
**28 King's Mews**  
**London**  
**WC1N 2JB**

**DECISION**  
Proposal:  
Erection of a 3 storey plus basement 3-bedroom dwelling house (Class C3), following demolition of existing office/warehouse (Class B1/B8)  
Drawing Nos: Site Location Plan; 200\_03\_01; 02; 03; 04; 05; 06; 40; 41; 42; 43; 44; 45; 46; 47; 48; Design and Access Statement by FT Architects dated March 2013; Basement Impact Assessment by Campbell Reith Consulting Engineers dated June 2012; Code for Sustainable Homes Pre-Assessment by Abba Energy Ltd dated 28/02/2013; Historic Environment Assessment by Museum of London Archaeology dated March 2013; Planning Support Statement by Farebrothers dated August 2012

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 The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; 200\_03\_01; 02; 03; 04; 05; 06; 40; 41; 42; 43; 44; 45; 46; 47; 48; Design and Access Statement by FT Architects dated March 2013; Basement Impact Assessment by Campbell Reith Consulting Engineers dated June 2012; Code for Sustainable Homes Pre-Assessment by Abba Energy Ltd dated 28/02/2013; Historic Environment Assessment by Museum of London Archaeology dated March 2013; Planning Support Statement by Farebrothers dated August 2012

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

- 3 Prior to first occupation of the building, details showing the location and extent of photovoltaic cells/solar water heaters to be installed on the building and manufacturer's specifications shall have been submitted to and approved by the Local Planning Authority. The equipment shall be installed in full accordance with the details approved by the Local Planning Authority and permanently retained and maintained thereafter.

Reason: In order to secure appropriate energy and resource efficiency measures and on-site renewable energy generation in accordance with the requirements of policy CS13 (Tackling climate change and promoting higher environmental standards) of the London Borough of Camden Local Development Framework Core Strategy and policies DP22 (Promoting sustainable design and construction), DP23 (Water), DP24 (Securing high quality design) and DP32 (Air quality and Camden's Clear Zone) of the London Borough of Camden Local Development Framework Development Policies.

- 4 Prior to the first occupation of the building a plan showing details of the green roof including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long term viability of the green roof, and a programme for an initial scheme of maintenance shall be submitted to and approved in writing by the local planning authority. The green roof shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme of maintenance.

Reason: To ensure that the green roof is suitably designed and maintained in accordance with the requirements of policies CS13 (Tackling climate change and promoting higher environmental standards), CS14 (Promoting high quality places and conserving our heritage) and CS15 (Protecting and improving our parks and open spaces and encouraging biodiversity) of the London Borough of Camden Local Development Framework Core Strategy and policies DP22 (Promoting sustainable

design and construction), DP23 (Water), DP24 (Securing high quality design) and DP32 (Air quality and Camden's Clear Zone) of the London Borough of Camden Local Development Framework Development Policies.

- 5 The proposed development shall not be occupied until the whole of the cycle parking provision shown on the approved drawings is provided. The whole of the cycle parking provision shall be permanently retained and maintained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy CS11 (Promoting sustainable and efficient travel) of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 (Walking, cycling and public transport) of the London Borough of Camden Local Development Framework Development Policies.

- 6 The details of the facing materials to be used on the building shall not be otherwise than as those submitted to and approved by the Council before any work is commenced on the relevant part of the development. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.

- 7 A sample panel of the facing brickwork demonstrating the proposed colour, texture, face-bond and pointing shall be provided on site and approved by the Council before the relevant parts of the works are commenced and the development shall be carried out in accordance with the approval given. The sample panel shall be retained on site until the work has been completed.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.

- 8 The first and second floor windows to the rear elevation facing Gray's Inn Road are to be obscure glazed and permanently retained as such thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

- 9 The development hereby approved shall not commence until such time as a suitably qualified chartered engineer with membership of the appropriate professional body has been appointed to inspect, approve and monitor the critical elements of both permanent and temporary basement construction works throughout their duration to ensure compliance with the design which has been checked and approved by a building control body. Details of the appointment and the appointee's responsibilities shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. Any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Development Policies and policy DP27 (Basements and Lightwells) of the London Borough of Camden Local Development Framework Development Policies.

- 10 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the (No. 2) (England) Order 2008 or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A-H) [and Part 2 (Classes A-C)] of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the local planning authority.

Reason: To safeguard the visual amenities of the area and to prevent over development of the site by controlling proposed extensions and alterations in order to ensure compliance with the requirements of policies CS14 (Promoting high quality places and conserving our heritage) and CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

- 11 Prior to the commencement of development a programme of archaeological investigation including the details of the suitably qualified investigating body to carry out such archaeological works as required shall be submitted to and approved in writing by the local planning authority. The development shall then only take place in accordance with such details as have been approved. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved, and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.

Reason: Important archaeological remains may exist on this site. Accordingly the

Council wishes to secure the provision of archaeological investigation and the subsequent recording of the remains prior to development in accordance with the requirements of policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.

- 12 The lifetime homes features and facilities, as indicated on the drawings and documents hereby approved shall be provided in their entirety prior to the first occupation of the new residential unit.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 (Providing quality homes) of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 (Lifetime homes and wheelchair homes) 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 The Mayor of London introduced a Community Infrastructure Levy (CIL) to help pay for Crossrail on 1st April 2012. Any permission granted after this time which adds more than 100sqm of new floorspace or a new dwelling will need to pay this CIL. It will be collected by Camden on behalf of the Mayor of London. Camden will be sending out liability notices setting out how much CIL will need to be paid if an affected planning application is implemented and who will be liable.

The proposed charge in Camden will be £50 per sqm on all uses except affordable housing, education, healthcare, and development by charities for their charitable purposes. You will be expected to advise us when planning permissions are implemented. Please use the forms at the link below to advise who will be paying

the CIL and when the development is to commence. You can also access forms to allow you to provide us with more information which can be taken into account in your CIL calculation and to apply for relief from CIL.

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

We will then issue a CIL demand notice setting out what monies needs to paid when and how to pay. Failure to notify Camden of the commencement of development will result in a surcharge of £2500 or 20% being added to the CIL payment. Other surcharges may also apply for failure to assume liability and late payment. Payments will also be subject to indexation in line with the construction costs index.

Please send CIL related documents or correspondence to [CIL@Camden.gov.uk](mailto:CIL@Camden.gov.uk)

- 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.
- 5 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.
- 6 This permission is granted without prejudice to the necessity of obtaining consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Application forms may be obtained from the Council's website, [www.camden.gov.uk/planning](http://www.camden.gov.uk/planning) or the Camden Contact Centre on Tel: 020 7974 4444 or email [env.devcon@camden.gov.uk](mailto:env.devcon@camden.gov.uk).
- 7 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.
- 8 The development of this site is likely to damage heritage assets of archaeological interest. The applicant should therefore submit detailed proposals in the form of an archaeological project design. The project design should be in accordance with English Heritage Greater London Archaeological Advisory Service guidelines.
- 9 Due to the proximity of the proposed basement to the public highway you are required to submit an application for "Approval in Principle" to the Council's Highways Team. Please contact Shane Greig [shane.greig@camden.gov.uk](mailto:shane.greig@camden.gov.uk) 020 7974 8980 for further details.



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

Culture and Environment Directorate

**DRAFT**

**DECISION**



DATED

07 March

2014

**(1) SIMON MICHAEL PETER MACDONAGH and LESLEY ANNE MACDONAGH**

**and**

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

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