

DATED

9<sup>th</sup> February

2016/7

1) BELSIZE GARAGES PROJECT LIMITED

and

2) HERITABLE DEVELOPMENT FINANCE 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

Village Close Garages, Belsize Lane, London NW3 5AS  
pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended) and Section 278 of the Highways Act 1980

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CLS/COM/PM/1685.2220

2016/1437/P

FINAL 030816



THIS AGREEMENT is made the 9<sup>th</sup> day of February 2016/7

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

- i. **BELSIZE GARAGES PROJECT LIMITED** (Registered Company number: 05505317) of Suite 2 Fountain House 1a Elm Park Stanmore Middlesex HA7 4AU (hereinafter called "the Owner" of the first part)
- ii. **HERITABLE DEVELOPMENT FINANCE LIMITED** (Co. Regn. No. 08606584) of Reliance House, Sun Pier, Medway Street, Chatham ME4 4ET (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 in relation to the Property under Title Number NGL257868 subject to a charge to the Mortgagees
- 1.2 The Mortgagee has the benefit of a legal charge and debenture in relation to the Property and is willing to enter into this Agreement to give its consent to the same. The Mortgagee as mortgagee under a legal charge registered under Title Number NGL257868 and dated 5<sup>th</sup> May 2016 and under a legal charge contained in a debenture registered under Title Number NGL257868 and dated 5th May 2016. The Mortgagee is willing to enter into this Agreement to give its consent to the same.
- 1.3 The Owner and the Mortgagee are interested in the Property for the purposes of Section 106 of the Act.
- 1.4 Each of the Garage Leaseholders stated in the Second Schedule are to be granted a lease of at least 150 years by the Owner for at least one Leasehold Parking Space within the basement of the Development.

- 1.5 A Planning Application for the development of the Property was submitted to the Council and validated on 16 March 2016 and the Council resolved to grant planning permission conditionally under reference number 2016/1437/P subject to conclusion of this Agreement.
- 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 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 and Section 278 of the 1980 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 1980 Act"                    | the Highways Act 1980  |
| 2.3 | "Affordable Housing"              | low cost housing including social rented housing and intermediate housing that meets the needs of people who cannot afford to occupy homes available in the open market as defined in annex 2 to the National Planning Policy Framework 2012 and successor documents |
| 2.4 | "Affordable Housing Contribution" | the sum of £450,000 (four hundred and fifty thousand 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 towards the provision of Affordable Housing in the London Borough of Camden

2.5 "the Agreement" this planning obligation made pursuant to Section 106 of the Act

2.6 "the Certificate of Practical Completion" the certificate issued by the Owner's contractor architect or project manager certifying that the Development has been completed

2.7 "Construction Management Plan" a plan setting out the measures that the Owner will adopt in undertaking the demolition of the existing buildings and the construction of the Development using good site practices in accordance with the Council's Considerate Contractor Manual 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 the 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) incorporation of the provisions set out in the First Schedule annexed hereto

- (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

2.8 "the Construction Phase"

the whole period between

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

and for the avoidance of doubt includes the demolition of the Existing Buildings

2.9 "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

2.10 “Deferred Affordable Housing Contribution”

the maximum sum of £84,000 (eighty four thousand pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement to be applied by the Council in the event of receipt towards the provision of Affordable Housing within the London Borough of Camden

2.11 “Deficit”

a negative figure or figure of zero produced from the Post Construction Viability Assessment by taking the residual site value of the Development and subtracting the sum of five million one hundred and thirty one thousand pounds (£5,131,000)

2.12 “the Development”

Variation of Condition 2 (approved plans) of planning permission 2014/3604/P dated 20/01/16 (for demolition of existing garages and redevelopment of the site to provide a part three part four storey building comprising of 7 units and basement level for provision of parking, associated access and landscaping) namely to reconfigure the internal layout to provide 2 additional units to provide a mix of 5 x 3 bed and 4 x 2 bed and alteration to the rear building line. as shown on drawing numbers: 080-01, 010-SU, 010-00 Rev P3, 010-01 Rev P3, 010-02 Rev P3, 010-03 Rev P3, 040-01 Rev P3, 040-02 Rev P3, 040-03 Rev P3, 040-04 Rev P3, Basement Impact Assessment by CGL dated February 2013, Arboricultural Impact Assessment Report

by Landmark Trees dated 27th February 2013, Daylight and Sunlight Report by eb7 dated May 2013, Environmental Noise Survey by Hann Tucker Associated dated May 2013 and Sustainability Report and Energy Statement by eb7 dated May 2013. Superseded plans: 010-00 Rev P3, 010-01 Rev P3, 010-02 Rev P3, 010-03 Rev P3, 040-01 Rev P3, 040-02 Rev P3, 040-03 Rev P3, 040-04 Rev P3 and Daylight and Sunlight report by eb7 dated May 2013. Revised Plans: 3106 050, 3106 051 Rev A, 3106 052, 3106 053, 3106 054, 3106 055, 3106 056, 3106 057, 3106 058, 3106 059, 3106 060 and Daylight and sunlight report by Deloitte dated 26 February 2016.

- 2.13 "the Environmental Contribution" the sum of £14,000 (fourteen thousand 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 provision of various pedestrian cycle and public realm improvements in the vicinity of the Development
- 2.14 "the Existing Buildings" the existing garage buildings presently located at the Property
- 2.15 "the Garage Leaseholders" those persons listed in the Second Schedule to this Agreement
- 2.16 "Leaseholder Parking Space" the fifteen car parking spaces located on the basement floor of the Development as shown on Plan 2 and to be used and occupied only by the Garage Leaseholders (and their successors in title to a Leaseholder Parking Space) on the terms set out in this Agreement



2.17 "the Highways Contribution"

the sum of £15,500 (fifteen thousand five hundred 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 event of receipt for the carrying out of works to the public highway and associated measures in the vicinity of the Property such works to include:

- (i) the footway and the vehicular crossover adjacent to the Property;
- (ii) any other works to the Public Highway that are considered necessary in relation to this Development;

("the Highways Works") all works will be subject to final measure and any level adjustment required 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

2.18 "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

2.19 "the Level Plans"

plans demonstrating the levels at the interface of the Development the boundary of the Property and the Public Highway

2.20 "Occupation Date"

the date when any part of the Development is occupied for the purposes authorised by the Planning Permission but not including

occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly

- 2.21 "the Parties" the Council the Owner and the Mortgagee
- 2.22 "Plan 1" the plan showing the Property annexed hereto
- 2.23 "Plan 2" the plan showing the Leaseholder Parking Spaces to be leased to the Garage Leaseholders on the basement level of the Development annexed hereto
- 2.24 "Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 16 March 2016 for which a resolution to grant permission has been passed conditionally under reference number 2016/1437/P subject to conclusion of this Agreement
- 2.25 "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 8.1 hereof
- 2.26 "the Planning Permission" a planning permission pursuant to the Planning Application granted for the Development substantially in the draft form annexed hereto

2.27 "the Post Construction Viability Assessment"

an assessment to be undertaken by the Owner and submitted to the Council in accordance with the terms of this Agreement such assessment to:-

- (a) be presented substantially in the same form as the Owner's viability assessment submitted as part of the validated Planning Application entitled Village Close Garages GLA Development Control Toolkit Report June 2014 Appendix 1 GLA Development Control Toolkit or such other form as agreed by the Council in writing; and
- (b) be based on the same percentage developer's return on market housing value as the Owner's viability assessment submitted as part of the validated Planning Application (per (a) above) or such alternative percentages as agreed by the Council in writing

with a view inter alia to evidence to the Council's reasonable satisfaction the residual site value of the Property such assessment shall include (but not be limited to) the following:-

- (c) a copy of the Owner's viability assessment submitted as part of the validated Planning Application entitled Village Close Garages GLA Development Control Toolkit Report June 2014 Appendix 1 GLA Development Control Toolkit;

- (d) receipted invoices; certified costs; certified copies of sales contracts; and best estimates of costs yet to be incurred and value of any unsold space and any other evidence reasonably required by the Council to show any revenue and/or costs incurred in relation to the Development;
- (e) a solicitors certification confirming the sales of the residential units forming part of the Development were arm's length third party bona fide transactions and not:-
  - (i) designed to reduce the revenue received from sales of the residential units forming part of the Development;
  - (ii) confined to transactions between the Owner and subsidiary companies of the Owner;
  - (iii) transactions between the Owner and its employees; or
  - (iv) transactions including deferred consideration coverage or loans or finance deals from the Owner;
- (f) payment of £5,000 to cover the Council's costs in verifying the material and information contained within the assessment;
- (g) details of any grant funding received in relation to the Development whether related to Affordable Housing or any other aspect of the Development;

- (h) any further information the Council acting reasonably requires
- 2.28 "the Property" the land known as Village Close Garages, London NW3 5AS the same as shown outlined in dashed red line on Plan 1 annexed hereto
- 2.29 "the Public Highway" any carriageway footway and/or verge adjoining the Property maintainable at public expense
- 2.30 "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
- 2.31 "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
- 2.32 "the Service Management Plan" a plan setting out a package of measures to be adopted by the Owner and approved by the Council from time to time for the management of the deliveries and servicing to the Development securing the minimisation of conflicts between service vehicle and car and pedestrian movements and the minimisation of damage to amenity from such servicing and deliveries which shall include inter alia the following:-
- (a) a requirement for delivery vehicles to unload from a specific suitably located area;

- (b) details of the person/s responsible for directing and receiving deliveries to the Property;
- (c) measures to avoid a number of delivery vehicles arriving at the same time;
- (d) likely frequency and duration of servicing movements and measures to be taken to avoid any conflicts;
- (e) likely nature of goods to be delivered;
- (f) the likely size of the delivery vehicles entering the Property;
- (g) measures taken to ensure pedestrian management and public safety during servicing including a statement setting out how highway safety will be maintained during servicing movements
- (h) measures taken to address servicing movements on and around the Property with a view inter alia to combining and/or reducing servicing and minimise the demand for the same
- (i) provision of swept path drawings to ascertain manoeuvring when entering and exiting the Property in accordance with the drawings submitted and agreed with the Council;

(j) details of arrangements for refuse storage and servicing; and

(k) identifying means of ensuring the provision of information to the Council and provision of a mechanism for review and update as required from time to time

2.33 "Surplus"

a positive figure produced from the Post Construction Viability Assessment by taking the residual site value of the Development and subtracting the sum of five million one hundred and thirty one thousand pounds (£5,131,000)

2.34 "the Sustainability Plan"

a plan securing the incorporation of sustainability measures in the carrying out of the Development in its fabric and in its subsequent management and occupation which shall include:-

(a) include a pre-Implementation review by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Sustainability Plan are achievable in the Development and satisfy the aims and objectives of the Council's strategic policies on sustainability contained within its development plan; and

(b) measures to secure a post construction review of the Development by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Sustainability Plan

have been achieved in the Development and will be maintainable in the Development's future management and occupation

**3. NOW THIS DEED WITNESSETH as follows:-**

- 3.1 This Agreement is made in pursuance of Section 106 of the Act and Section 278 of the 1980 Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.
- 3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies corporations and other artificial persons.
- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 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 on 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 and those deriving title under them.



- 3.8 The Parties acknowledge that the Development shall be treated as being permanently designated as "car free" housing in accordance with Clause 4.2 for all relevant purposes.

#### **4. OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

##### **4.1 AFFORDABLE HOUSING CONTRIBUTION**

- 4.1.1 Prior to Implementation to pay the Council the Affordable Housing Contribution in full.
- 4.1.2 Not to Implement or to permit Implementation until such time as the Council has received the Affordable Housing Contribution in full.

##### **4.2 CAR FREE**

- 4.2.1 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 entitled to buy a contract to park within any car park owned, controlled or licensed by the Council.
- 4.2.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.2.1 above will remain permanently.
- 4.2.3 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 4.2.1 of this Agreement.

#### **4.3 CONSTRUCTION MANAGEMENT PLAN**

- 4.3.1 Prior to the Implementation Date to provide the Council for approval a draft Construction Management Plan.
- 4.3.2 Not to Implement nor allow Implementation of the Development until such time as the Council has approved the Construction Management Plan as demonstrated by written notice to that effect as may be amended from time to time subject to first obtaining written approval of the Council.
- 4.3.3 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.
- 4.3.4 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 as approved by the Council from time to time 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.

#### **4.4 DEFERRED AFFORDABLE HOUSING CONTRIBUTION**

- 4.4.1 The Parties agree that notwithstanding the remaining clauses in 4.4 of this Agreement, the Owner may at any time following Implementation pay the Council the Deferred Affordable Housing Contribution in full.

4.4.2 To submit the Post Construction Viability Assessment to the Council for approval in writing either:-

(a) on the date of issue of the Certificate of Practical Completion; or

(b) at any time after Implementation ALWAYS PROVIDED the Owner has exchanged on the sales for no less than five residential units forming part of the Development and provides sufficient information to the Council to evidence the same.

4.4.3 Not to complete on the sale of more than four residential units until such time as the Post Construction Viability Assessment has been submitted to the Council for approval in writing.

4.4.4 Upon the issue of the approval of the Post Construction Viability Assessment the Council will provide to the Owner the following:-

(a) a certificate specifying the sum (“the Assessment Certified Sum”) reasonably and properly expended by the Council in assessing the Post Construction Viability Assessment; and

(b) a certificate specifying the sum (“the Viability Certified Sum”) properly assessed by the Council in accordance with the provisions of Clause 4 of this Agreement as being recoverable from the Deferred Affordable Housing Contribution under the terms of this Agreement.

4.4.5 If the Assessment Certified Sum exceeds the payment made under clause 2.27(f) of this Agreement then the Owner shall within twenty-eight (28) days of the issuing of the said certificate pay to the Council the amount of the excess.

4.4.6 In the event the approved Post Construction Viability Assessment shows a Deficit the Viability Certified Sum shall be zero and the Owner shall have no obligation to pay the Affordable Housing Deferred Contribution or any part thereof.

- 4.4.7 In the event the Post Construction Viability Assessment shows a Surplus that is less than two times the Affordable Housing Deferred Contribution the Viability Certified Sum shall be half of the Surplus up to the limit of the Affordable Housing Deferred Contribution.
- 4.4.8 In the event the Post Construction Viability Assessment shows a Surplus that is greater than or equal to two times the Affordable Housing Deferred Contribution the Viability Certified Sum shall be the full amount of the Affordable Housing Deferred Contribution.
- 4.4.9 The Owner shall within 28 days of receipt of the Viability Certified Sum pay to the Council the sum specified within the Viability Certified Sum.
- 4.4.10 Not to Occupy or permit Occupation of any more than four residential units until such time as the Council has confirmed receipt of the Viability Certified Sum in writing.

#### **4.5 ENVIRONMENTAL CONTRIBUTION**

- 4.5.1 Prior to the Implementation Date to pay to the Council the Environmental Contribution in full.
- 4.5.2 Not to Implement or to permit Implementation until such time as the Council has received the Environmental Contribution in full.

#### **4.6 GARAGE LEASEHOLDERS CAR PARKING SPACES**

- 4.6.1 The Owner shall not sell or lease the Leaseholder Parking Spaces to any owner / occupier of the residential units in the Development PROVIDED THAT this clause shall not apply to a Garage Leaseholder (or any successors in title) who acquires or leases a residential unit within the Development.
- 4.6.2 Following the issue of the Certificate of Practical Completion the Owner shall lease the Leaseholder Parking Spaces for exclusive use and occupation by the Garage Leaseholders (and their successors in title) only for the lifetime of the Development AND TO ENSURE THAT each lease of a Leaseholder Parking Space granted to Garage Leaseholder shall include the following terms:
- (a) each Leaseholder Parking Space shall be used in strict accordance with the requirements of the approved Service Management Plan (a copy of which to be appended to each lease); and
  - (b) each Leaseholder Parking Space shall not be Occupied or used at any time when the Leaseholder Parking Space is not being managed in strict accordance with the approved Service Management Plan.
  - (c) not to lease licence permit assign or enable the use of their allocated Leaseholder Parking Space to or by any owner or occupier of the residential flats in the Development or their successors in title unless such owner or occupier is a Garage Leaseholder
- 4.6.3 The Owner shall offer the Council up to date address and contact details of each Garage Leaseholder (or their relevant successors in title) with a plan showing which of the Leaseholder Parking Spaces is occupied by the relevant Garage Leaseholder following the issue of the Certificate of Practical Completion and thereafter within 7 days of any written request from the Council.
- 4.6.4 The Owner shall inform and assist the Council in identifying any breach of the Service Management Plan OR if an owner / occupier of the residential unit in the Development has acquired, leased or is using or occupying any Leaseholder Parking Space and are not a Garage Leaseholder (or their successor in title).

#### **4.7 HIGHWAYS CONTRIBUTION**

4.7.1 Prior to the Implementation Date to:-

- (i) pay to the Council the Highways Contribution in full; and
- (ii) submit to the Council the Level Plans for approval.

4.7.2 Not to Implement or to allow Implementation until such time as the Council has:-

- (i) received the Highways Contribution in full; and
- (ii) approved the Level Plans as demonstrated by written notice to that effect.

4.7.3 For the avoidance of doubt the Owner acknowledges that the Council has the right reserved to it to construct the Public Highway to levels it considers appropriate and does not undertake any responsibility in connection with any required statutory undertakers works and that the Highways Contribution excludes any statutory undertakers costs.

4.7.4 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.

4.7.5 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.

#### **4.8 SERVICE MANAGEMENT PLAN**

4.8.1 Prior to Implementation to submit to the Council for approval the Service Management Plan.

4.8.2 Not to Occupy or permit Occupation of any part of the Development until such time as the Council has approved the Service Management Plan as demonstrated by written notice to that effect as may be amended from time to time subject to first obtaining the written approval of the Council.

4.8.3 After the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in

strict accordance with the Service Management Plan as approved by the Council from time to time and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Service Management Plan.

#### **4.9 SUSTAINABILITY PLAN**

4.9.1 Prior to the Implementation Date to submit to the Council for approval the Sustainability Plan.

4.9.2 Not to Implement nor permit Implementation until the Sustainability Plan has been approved by the Council as demonstrated by written notice to that effect as may be amended from time to time subject to first obtaining written approval of the Council.

4.9.3 Not to Occupy or permit Occupation of the Property until a satisfactory post-completion review has been submitted to and approved by the Council in writing confirming that the measures incorporated in the Sustainability Plan as approved by the Council have been incorporated into the Property.

4.9.4 Following the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Sustainability Plan as approved by the Council from time to time and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Sustainability Plan as approved by the Council from time to time.

#### **4.10 RESIDENTS OF THE DEVELOPMENT**

4.10.1 No individual owner / occupier of the nine residential units in the Development shall be entitled to acquire, lease or otherwise use or occupy any of the Leaseholder Parking Space for the lifetime of the Development PROVIDED THAT this clause shall not apply to any Garage Leaseholder who acquires or leases a residential unit within the Development.

## **5 OBLIGATIONS OF THE GARAGE LEASEHOLDERS**

Each of the Garage Leaseholders (and successors in title) to be granted a lease by the Owner upon the completion of the Development agrees to covenant with the Council as follows:

- 5.1 To only use and occupy their relevant Leaseholder Parking Space located on the basement floor of the Property as shown on Plan 2.
- 5.2 Not to use or occupy any parking space that is not allocated to them.
- 5.3 Not to sell let sublease licence permit assign or enable the use of the allocated Leaseholder Parking Space to or by any owner or occupier of the residential flats in the Development or to their successors in title unless such owner or occupier is a Garage Leaseholder.
- 5.4 Not to use and occupy their Leaseholder Parking Space in a manner that is not in strict accordance with the requirements of the approved Service Management Plan of which the Owner shall include a copy with any grant of lease of the Leaseholder Parking Space to the Garage Leaseholders (or at the time of any subsequent assignment to their successors in title).
- 5.5 Following Occupation not to occupy or use the Leaseholder Parking Spaces at any time when the Leaseholder Parking Spaces are not being managed in strict accordance with the Service Management Plan and the terms of this Agreement.
- 5.6 Apart from the obligations stated here in Clause 5 (and to comply with the provisions of the Service Management Plan) none of the obligations stated within this Agreement shall bind the Garage Leaseholders or their successors in title.



## **6 NOTICE TO THE COUNCIL/OTHER MATTERS**

- 6.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken or is about to take place.
- 6.2 Within seven days following the issue of the Certificate of Practical Completion the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting planning reference 2016/1437/P the date upon which the Development is ready for Occupation.
- 6.3 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.
- 6.4 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.
- 6.5 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 £1,000.00 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.
- 6.6 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 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 reference 2016/1437/P.

- 6.7 Payment of the contributions pursuant to Clause 4 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 2016/1437/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.
- 6.8 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.
- 6.9 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

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

- 6.10 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.

## **7 MORTGAGEE EXEMPTION**

- 7.1 The Mortgagee hereby consents to the completion of this Agreement and agree to the Property being bound by it and to the same being registered at the Land Registry as provided in Clause 8.4 hereof and for the avoidance of doubt agree to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.

- 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 IT IS HEREBY AGREED AND DECLARED by the Parties hereto that:-**

- 8.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 20161437/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.
- 8.2 This Agreement shall be registered as a Local Land Charge.

- 8.3 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.
- 8.4 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.
- 8.5 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.
- 8.6 Neither the Owner nor their successors in title nor any person deriving title from them shall be bound by the obligations in this Agreement in respect of any period during which it no longer has an interest in the Property but without prejudice to liability for any breach committed prior to the time it disposed of its interest.
- 8.7 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.
- 8.8 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for Implementation or is modified (other than by agreement with or at the request of the Owner) this Agreement shall forthwith determine and cease to have effect.
- 8.9 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.
- 8.10 Where any consent, approval or expression or satisfaction is required to be given under this Agreement, it shall not be unreasonably withheld or delayed.

8.11 The Council agrees the following:

- (a) not to spend (or commit to spend) the contributions referred to in clause 4 otherwise than for the purposes for which the contributions are paid as specified in this Agreement, or for such other purposes for the benefit of the Development as the Council and the Owner shall agree.
- (b) if any part of the contributions has not been spent within a period of 10 years from the date of first Occupation, the Council shall return any unexpended part of the contributions within a period of 2 months of receipt of a written notice of refund from the Owner.
- (c) upon receipt of a written request from the Owner to provide the Owner with details as to how the sums received pursuant to this Agreement have been spent PROVIDED THAT the Council shall not be obliged to respond to more than one request per financial year.
- (d) to use reasonable endeavours to complete the Highway Works prior to Occupation of the Development

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

EXECUTED AS A DEED BY )  
BELSIZE GARAGES PROJECT LIMITED )  
in the presence of: )

.....  
Director

.....  
Director / Secretary

EXECUTED AS A DEED BY )  
HERITABLE DEVELOPMENT FINANCE )  
LIMITED )  
in the presence of: )

*[Faint signature]*

*[Handwritten signature]*

.....  
**Authorised Signatory**

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

*R. Alexander*  
.....

**Authorised Signatory**



## THE FIRST SCHEDULE Construction Management Plan Highway Measures

A Construction Management Plan outlines how construction work will be carried out and how this work will be serviced (e.g. delivery of materials, set down and collection of skips), with the objective of minimising traffic disruption and avoiding dangerous situations and minimising the impact on local amenity. A Construction Management Plan should cover both demolition and construction phases of development. Details of the Construction Management Plan will relate to the scale and kind and location of the development and they should assess the impact on transport and on local amenity including road user amenity. Should any one of these criteria be considered not to be relevant, then specific justification, as to why that particular criterion is not relevant, will need to be provided. The Construction Management Plan should demonstrate that the following has been considered and where necessary the impacts mitigated:

*(Note the term 'vehicles' used here refers to all vehicles associated with the implementation of the development, e.g. demolition, site clearing, delivering of plant, material and construction, staff parking etc)*

- a) A brief description of the site, surrounding area and development proposals for which the Construction Management Plan applies.
- b) Proposed start and end dates for each phase of construction.
- c) The proposed working hours within which vehicles will arrive and depart.
- d) The access arrangements for vehicles.
- e) Proposed routes for vehicles between the site and the Transport for London Road Network (TLRN). Consideration should also be given to weight restrictions, low bridges and cumulative affects of construction on the highway. A map of the TLRN can be downloaded from the following site:-  
[http://www.tfl.gov.uk/assets/downloads/TFL\\_Base\\_Map\\_Master.pdf](http://www.tfl.gov.uk/assets/downloads/TFL_Base_Map_Master.pdf)
- f) Typical sizes of all vehicles and the approximate frequency and times of day when they will need access to the site, for each phase of construction.
- g) Swept path drawings for any tight manoeuvres on vehicle routes to the site.
- h) Details (including accurate scaled drawings) of any highway works necessary to enable construction to take place.

- i) Parking and loading arrangement of vehicles and delivery of materials and plant to the site.
- j) Details of proposed parking bays suspensions and temporary traffic management orders.
- k) Proposed overhang (if any) of the public highway (scaffolding, cranes etc.).
- l) Details of hoarding required or any other occupation of the public highway.
- m) Details of how pedestrian and cyclist safety will be maintained, including any proposed alternative routes (if necessary), and any Banksman arrangements.
- n) Details of how traffic associated with the Development will be managed in order to reduce congestion.
- o) Details of any other measures designed to reduce the impact of associated traffic (such as the use of construction material consolidation centres).
- p) Details of how any significant amounts of dirt or dust that may be spread onto the public highway will be cleaned or prevented.
- q) Details of consultation on a draft Construction Management Plan with local residents, business, local groups (e.g. residents/tenants and business associations) and Ward Councillors. Details should include who was consulted, how the consultation was conducted and the comments received in response to the consultation. In response to the comments received, the Construction Management Plan should then be amended where appropriate and where not appropriate a reason should be given why not. The revised Construction Management Plan should also include a list of all the comments received. You are advised to check your proposed approach to consultation with the Council before carrying it out.
- r) Details of any Construction Working Group that will be set up, addressing the concerns of surrounding residents, as well as contact details for the person responsible for community liaison on behalf of the developer, and how these contact details will be advertised to the community.
- s) Details of any schemes such as the "Considerate Contractors Scheme" that the project will be signed up to should form part of the consultation and be notified to the Council. Contractors will also be required to follow the "Guide for Contractors Working in Camden" also referred to as "Camden's Considerate Contractor's Manual"
- t) Details of other construction sites in the local area and how your Construction Management Plan takes into consideration the cumulative effects of construction local to your site.
- u) Any other relevant information with regard to traffic and transport.



- v) The Construction Management Plan should also include the following statement:

*"The agreed contents of the Construction Management Plan must be complied with unless otherwise agreed with the Council. The project manager shall work with the Council to review this Construction Management Plan if problems arise in relation to the construction of the Development. Any future revised plan must be approved by the Council and complied with thereafter."*

**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**

**THE SECOND SCHEDULE**  
**GARAGE LEASEHOLDERS**

Name and address of Garage Leaseholder
David Turner and Frances Lesley Turner of 1 Village Close, Belsize Lane, London, NW3 5AH (double garage)
Lalith Christopher De Kauwe and Kathryn Frances De Kauwe of 2 Village Close, Belsize Lane, London, NW3 5AH
Trevor Webster of 3 Village Close, Belsize Lane, London, NW3 5AH
Clare Francis Williams of 99 Fowlers Walk, Ealing, London, W5 1BQ
Montague Vincent Raphael and Horatia Mary Raphael (c/o Francesca Lincoln) of 5 Village Close, Belsize Lane, London, NW3 5AH
Barbara Diana Shields of 6 Village Close, Belsize Lane, London, NW3 5AH, and Robert Shields of 10 Adams House Rutat Avenue Cambridge CB1 3RE and Margaret Shields of 14a Park Vista London SE10 9LZ (Garage 6)
Doreen Rabson of 7 Village Close, Belsize Lane, London, NW3 5AH
Yassaman Hamedi of 8 Village Close, Belsize Lane, London, NW3 5AH (Garage 11 & 12)
Wendy Louise Atherton of 7 Belsize Crescent, NW3 5QY
Edward Barry Adams and Geoffrey Bernstein (c/o The Trustees of Paravid Directors Pensions Scheme) of Lidbrook House, Regents Park Road, Finchley, London N3 3HT and 100 Belsize Lane, London, NW3 5BB
Professor Christopher John Dickinson of 57 Belsize Lane, London, NW3 5AU
Susana Wheelhouse of 11 Village Close, Belsize Lane, London, NW3 5AH (Garage 9)
Eve Roberts of 14 Village Close, Belsize Lane, London, NW3 5AH



**PLANNING**

DO NOT SCALE FROM THIS DRAWING. Verify all dimensions on site.

<b>PKS</b> architects	project: Belsize Close Garages NW3		date: 08-01	
	Site Location Plan			
	scale: 1:500 @ A4	author: CSp	date: JUNE 2012	sheet no: 831
			080-01	

4/11  
1/10/12



Belsize Ltd  
Hillview House  
1 Hallswelle Parade  
London  
NW11 0DI

Application Ref: **2016/1437/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:  
**Village Close Garages**  
**Belsize Lane**  
**London**  
**NW3 5AS**

Proposal:

**DECISION**  
Variation of Condition 2 (approved plans) of planning permission 2014/3604/P dated 20/01/16 (for demolition of existing garages and redevelopment of the site to provide a part three part four storey building comprising of 7 units and basement level for provision of parking, associated access and landscaping) namely to reconfigure the internal layout to provide 2 additional units to provide a mix of 5 x 3 bed and 4 x 2 bed and alteration to the rear building line.

Drawing Nos: Superseded plans: 010-00 Rev P3, 010-01 Rev P3, 010-02 Rev P3, 010-03 Rev P3, 040-01 Rev P3, 040-02 Rev P3, 040-03 Rev P3, 040-04 Rev P3 and Daylight and Sunlight report by eb7 dated May 2013.

Revised Plans: 3106 050, 3106 051 Rev A, 3106 052, 3106 053, 3106 054, 3106 055, 3106 056, 3106 057, 3106 058, 3106 059, 3106 060 and Daylight and sunlight report by Deloitte dated 26 February 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 purposes of this decision, Condition no.2 of planning permission 2014/3604/P shall be replaced with the following condition:

#### REPLACEMENT CONDITION 2

The development hereby permitted shall be carried out in accordance with the following approved plans: 080-01, 010-SU, 3106 050, 3106 051 Rev A, 3106 052, 3106 053, 3106 054, 3106 055, 3106 056, 3106 057, 3106 058, 3106 059, 3106 060, Basement Impact Assessment by CGL dated February 2013, Arboricultural Impact Assessment Report by Landmark Trees dated 27th February 2013, Daylight and sunlight report by Deloitte dated 26 February 2016, Environmental Noise Survey by Hann Tucker Associated dated May 2013 and Sustainability Report and Energy Statement by eb7 dated May 2013.

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

Informative(s):

- 1 Reason for granting permission

No alterations are proposed to the form of the front elevations of the building. There would be the formation of a lightwell to the front elevation to provide a basement level garden for flat 1, however this would not increase the size of the basement and would not be noticeable from the street given the approved front boundary treatment. As such, no objection is raised to this proposed change. The proposed alteration to the rear building line would regularise the form of the rear building line and extend it further to the south. Given the siting of this extended element of the building it would not be readily perceived from the public realm and would not impact on the character of the surrounding area. Furthermore the design of the southern elevation is similar to the approved elevation so any views that would be preceptable from private views would not be significantly different to the approved development. No objection is therefore raised to the proposed amendment.

The extension to the rear would enable the internal reconfiguration of the units to provide 2 additional units, to provide a mix of 5 x 3 bed and 4 x 2 bed which would still be in accordance with policy in terms of unit mix. The units would continue to be of a good standard of accommodation and no objection is raised to the reconfiguration. There would be no alteration to the number of car parking spaces within the basement, they would be reconfigured but the development would continue to provide 15 car parking spaces within the basement.

In terms of amenity the applicant has provided a revised daylight and sunlight report to take account of the altered rear wall of the building and how this would impact on neighbouring residents. The report demonstrates that there would not be any significant change in the impact on neighbouring residents over and above that of the approved application. There would be one further window impact within 15 Belsize Avenue, however, this impact would be minimal and is not considered to result in a detrimental loss of light to the occupiers.

No objections have been received prior to making this decision. The sites planning history and relevant appeal decisions were taken into account when coming to this decision.

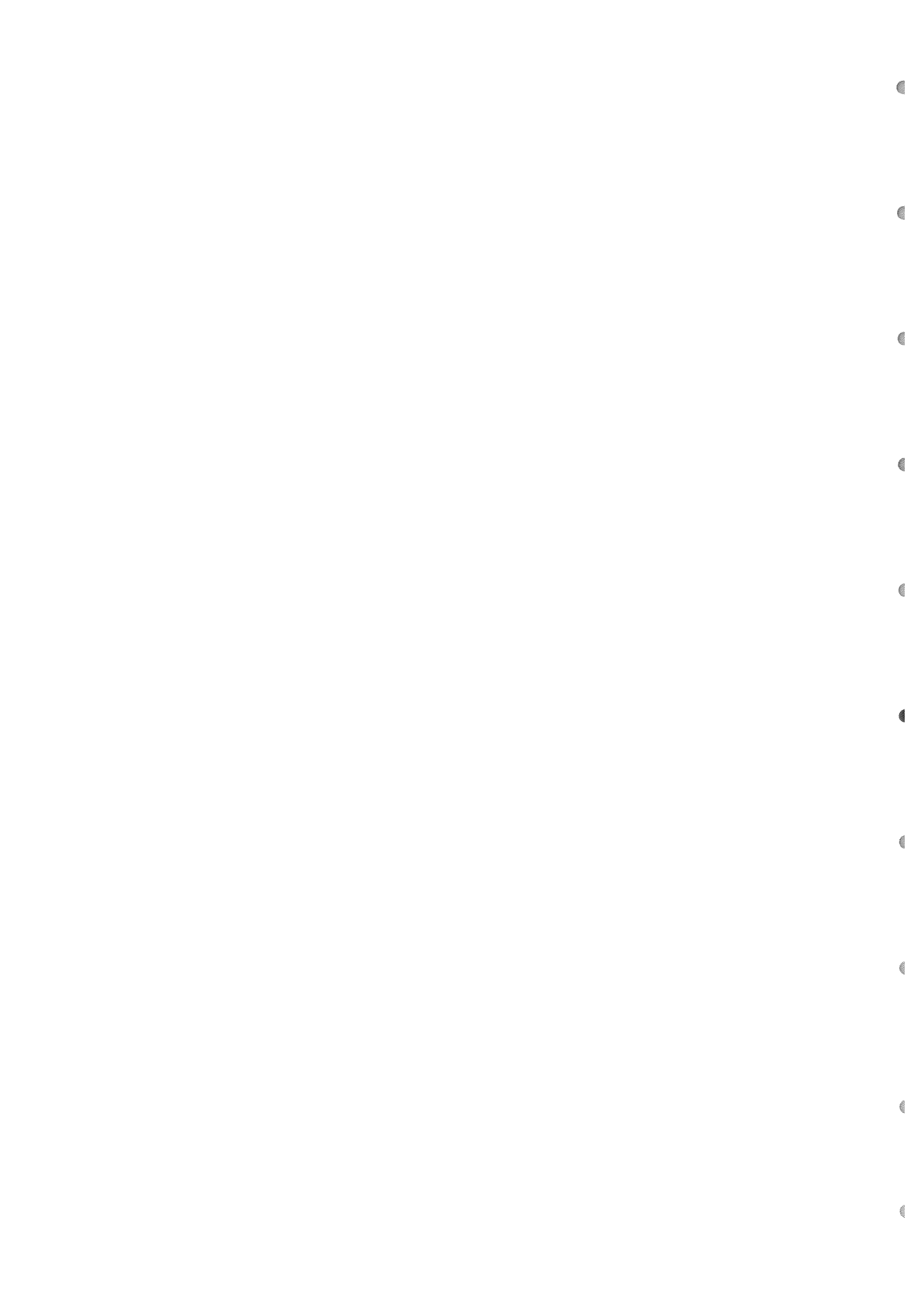
As such, the proposed amendments are in general accordance with policies CS5, CS6 and CS14 of the London Borough of Camden Local Development Framework Core Strategy, and policies DP5, DP18, DP24, DP25 and DP26 of the London Borough of Camden Local Development Framework Development Policies. The proposed development also accords with policies 3.3, 3.5, 3.9, 6.13, 7.4 and 7.6 of the London Plan 2015, consolidated with alterations since 2011; and paragraphs 14, 17, 29-41 and 47-66 of the National Planning Policy Framework.

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

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







DATED

*9<sup>th</sup> February*

2016~~7~~

1) BELSIZE GARAGES PROJECT LIMITED

and

2) HERITABLE DEVELOPMENT FINANCE LIMITEDLLP

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

Village Close Garages, Belsize Lane, London NW3 5AS

pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended) and Section 278 of the Highways Act 1980