

DATED

7 April

2017

(1) HEMAL PATEL

and

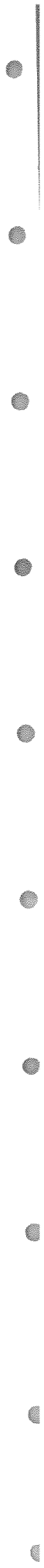
(2) THE MAYOR AND BURGESSES OF
THE LONDON BOROUGH OF CAMDEN

A G R E E M E N T
relating to land known as
Flat 1 86 Canfield Gardens London NW6 3EE
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

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

CLS/COM/ESA/1800.104
s106 FINAL



THIS AGREEMENT is made the 7th day of April 2017

BETWEEN:

- i. **HEMAL PATEL** of Flat 1 86 Canfield Gardens London NW6 3EE (hereinafter called "the Owner") of the first part
- ii. **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

1. **WHEREAS**

- 1.1 The Owner is registered at the Land Registry as the freehold and leasehold proprietor with Title absolute of the Property under Title Number NGL519436 and Title Number NGL934240.
- 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 A Planning Application for the development of the Property was submitted to the Council and validated on 2 November 2016 and the Council resolved to grant permission conditionally under reference number 2016/5934/P subject to conclusion of this legal Agreement.
- 1.4 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.
- 1.5 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

2. **DEFINITIONS**

In this Agreement the following expressions (arranged in alphabetical order) shall unless the context otherwise requires have the following meanings:-

- 2.1 "the Act" the Town and Country Planning Act 1990 (as amended)
- 2.2 "the Agreement" this Planning Obligation made pursuant to Section 106 of the Act
- 2.3 "the Development" conversion and change of use from 1x self-contained 4 bed flat to 2x self-contained flats at ground and basement floor levels as shown on drawing numbers:- London Plan; Existing - Basement floor; Ground floor; Front & Rear elevations; Proposed - Basement floor Flat 1 & 6 dated 15-09-16; Basement floor Plan Bike store Flat 1; Ground floor Flat 1 & 6 dated 15-09-16; Planning Statement, Flat 1, October 2016, Ref. CWA.1305
- 2.4 "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
- 2.5 "the Nominated Unit" the basement and ground floor unit forming part of the Development the same as edged in red on the drawings annexed hereto
- 2.6 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly

- 2.7 "the Parties" mean the Council and the Owner
- 2.8 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 2 November 2016 for which a resolution to grant permission has been passed conditionally under reference number 2016/5934/P subject to conclusion of this Agreement
- 2.9 "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
- 2.10 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.11 "the Property" the land known as Flat 1 86 Canfield Gardens London NW6 3EE the same as shown shaded grey on the plan annexed hereto
- 2.12 "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
- 2.13 "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

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

- 3.1 This Agreement is made in pursuance of Section 106 of the Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.
- 3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies corporations and other artificial persons.
- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction of interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6 and 7 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Implementation Date.
- 3.6 The Council hereby agrees to grant the Planning Permission on the date hereof.
- 3.7 The Parties save where the context states otherwise shall include their successors in title.
- 3.8 The Parties acknowledge that the Development shall be treated as being permanently designated as "car capped" housing in accordance with Clause 4.1 and 4.2 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

Car Capped

- 4.1 To ensure that prior to Occupying the Nominated Unit (being part of the Development) each new occupier of the Nominated Unit 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:
- (i) be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay; and
 - (ii) buy a contract to park within any car park owned, controlled or licensed by the Council.
- 4.2 Not to occupy or use (or permit the occupation or use of) the Nominated Unit (being part of the Development) at any time during which the occupier of the Nominated Unit holds a Residents Parking Permit to park a vehicle in a Residents Parking Bay or is permitted to park a vehicle in any car park owned, controlled or licensed by the Council unless the occupier is the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970).
- 4.3 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1 and 4.2 above will remain permanently.
- 4.4 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 the residential unit that in the Owner's opinion is affected by the Owner's obligation in Clause 4.1 and 4.2 of this Agreement.
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 2016/5934/P the date upon which the Development is ready for Occupation.
- 5.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.
- 5.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.
- 5.5 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its Head of Legal Services a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.
- 5.6 Submission of any plan for approval by the Council under the terms of this Agreement shall be made by the Owner to the Council sending the full document and any appendices in electronic format (where practicable) to the Planning Obligations Monitoring Officer referring to the names dates and Parties to this Agreement and citing the specific clause of this Agreement to which such plan relates quoting the Planning Permission reference 2016/5934/P.
6. **IT IS HEREBY AGREED AND DECLARED** by the Parties hereto that:-

- 6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Placeshaping Service, Urban Design and Development Team, 2nd Floor, 5 Pancras Square, London, N1C 4AJ quoting the Planning Permission reference number 2016/5934/P and in the case of any notice or approval or agreement from the Council this shall be signed by a representative of the Council's Environment Department.
- 6.2 This Agreement shall be registered as a Local Land Charge.
- 6.3 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement on or prior to the date of completion of the Agreement.
- 6.4 The Owner hereby covenants with the Council that it will within 28 days from the date hereof apply to the Chief Land Registrar of the Land Registry to register this Agreement in the Charges Register of the title to the Property and will furnish the Council forthwith on written demand with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property.
- 6.5 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.
- 6.6 Neither the Owner nor 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. **RIGHTS OF THIRD PARTIES**

7.1 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 have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY
HEMAL PATEL
in the presence of:

AP
X [Signature] X

W. Schindler
.....
Witness Signature

Witness Name Malin Schindler

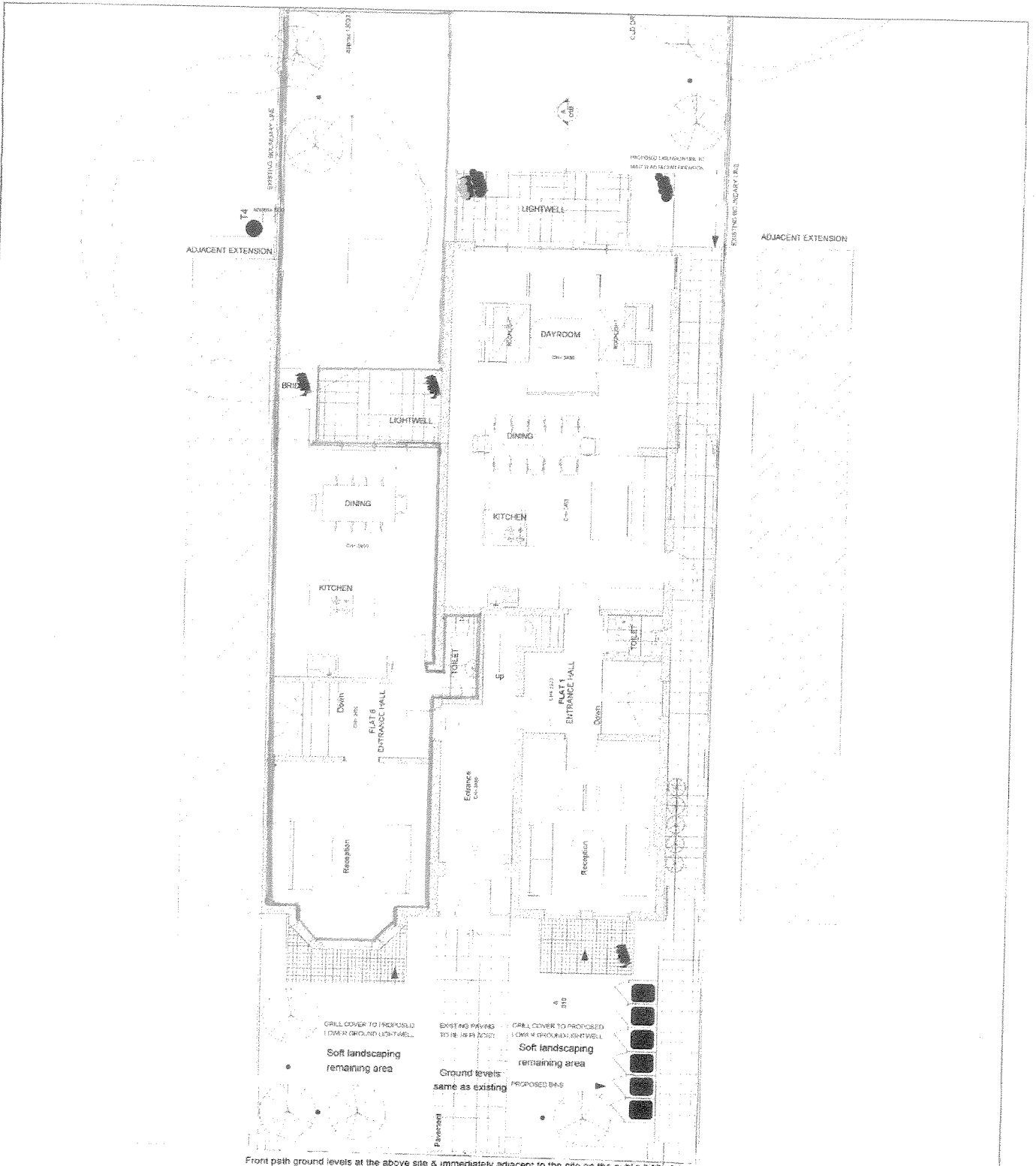
Address Jungshalde 68a 78464 Konstanz

Occupation Au Pair

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

R. Alexander
.....
Authorised Signatory






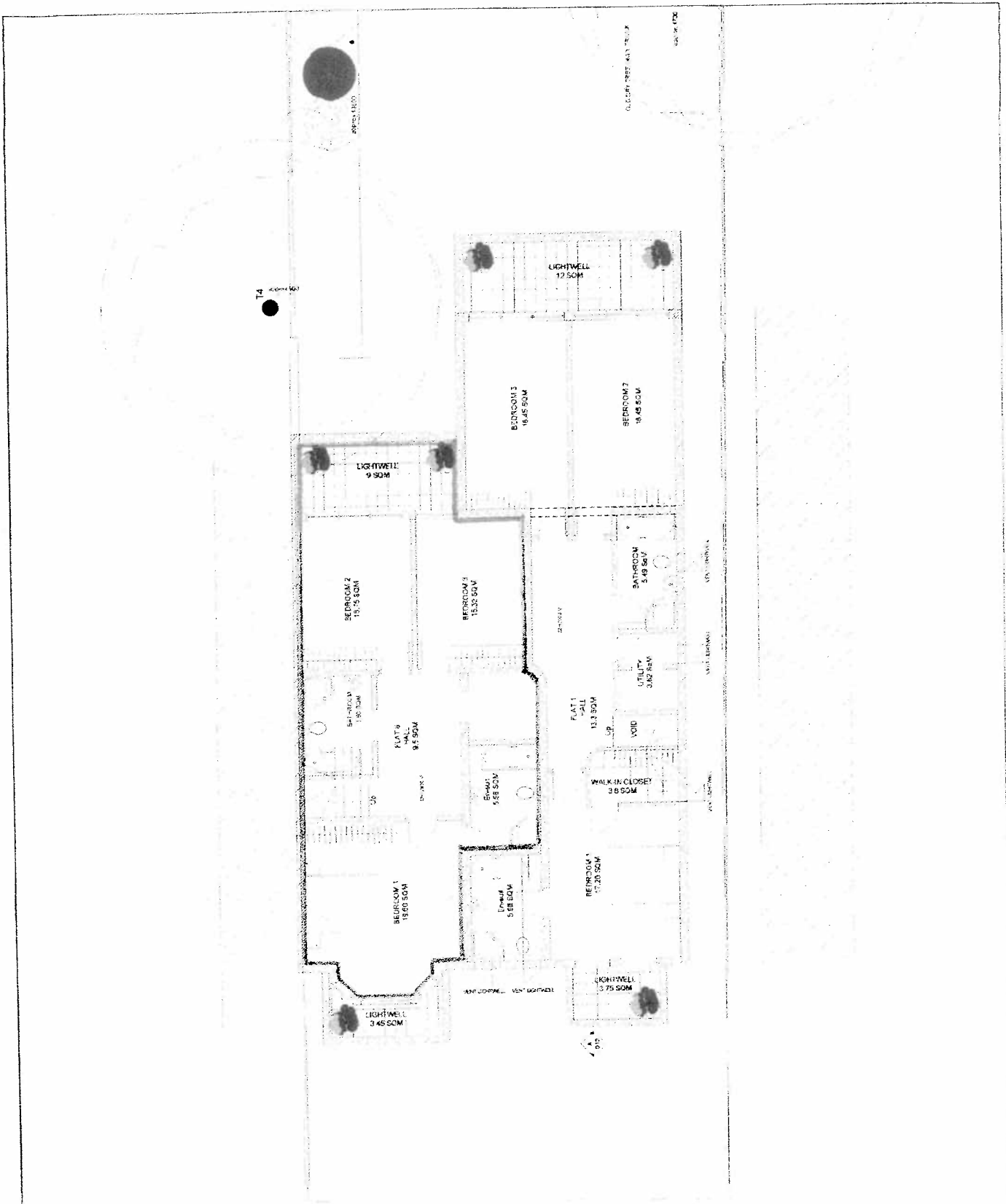
Front path ground levels at the above site & immediately adjacent to the site on the public highway have not altered as a result of the development and remain the same as before

CANFIELD GARDENS

PROPOSED GROUND FLOOR

1st floor unit

 <p>PLACE MY Property Developer 145-157 St John Street, EC1V 4PW London T: 077 868 02 831</p>	CLIENT Ms Patel	PROJECT 86 CANFIELD GARDENS	PRELIMINARY: PLANNING APPLICATION	
	DATE 15-09-16	DRAWN BY DG	CHECKED BY HP	
	TITLE FLAT 1 & 6 PROPOSED GROUND FLOOR PLAN	SCALE 1: 100 @ A3	REVISION	TENDER: AS BUILT:



PROPOSED BASEMENT FLOOR

 145-157 St John Street, EC1V 4PW London T. 077 868 02 831	CLIENT	Ms Patel	PROJECT	86 CANFIELD GARDENS	ISSUED FOR:	PRELIMINARY.	
	DATE	15-09-16	SCALE	1:100 @ A3	DESIGNED BY	HP	
	FLAT 1 & 6			PROPOSED BASEMENT FLOOR PLAN		TENDER:	
						AS BUILT:	

Car free unit

NORTHGATE SE GIS Print Template



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Christopher Wickham Assocs
35 Highgate High Street
London
N6 5JT

Application Ref: 2016/5934/P

08 March 2017

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:

Flat 1
86 Canfield Gardens
London
NW6 3EE

Proposal:

Conversion and change of use from 1x self-contained 4 bed flat to 2x self-contained (3xbed) flats at ground and basement floor levels.

Drawing Nos: London Plan; Existing - Basement floor; Ground floor; Front & Rear elevations; Proposed - Basement floor Flat 1 & 6 dated 15-09-16; Basement floor Plan Bike store Flat 1; Ground floor Flat 1 & 6 dated 15-09-16; Planning Statement, Flat 1, October 2016, Ref. CWA.1305.

DECISION

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 [London Plan; Existing - Basement floor; Ground floor; Front & Rear elevations; Proposed - Basement floor Flat 1 & 6 dated 15-09-16; Basement floor Plan Bike store Flat 1; Ground floor Flat 1 & 6 dated 15-09-16; Planning Statement, Flat 1, October 2016, Ref. CWA.1305.]

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

- 3 The two cycle spaces hereby approved and shown on the basement floor plan shall be provided in its entirety prior to the first occupation of the new unit, and permanently maintained and retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

- 1 Reasons for granting permission:

The existing maisonette (basement and ground floor levels) with 4 bedrooms was recently implemented and is occupied by the applicant; and at the time of the site visit the proposed new unit was vacant. The proposal includes the change of use, a vertical split from 1x 4 bedrooms flat to form a 2x 3 bed self-contained flats. This a net gain of one additional residential unit over 2 floors; which is supported by policies DP2 and CS6 provided they meet the recommended residential development standards and provide an acceptable mix of different size units in accordance with policy DP5. The new units are acceptable in size (130 & 166sqm), amenities and layout; and comprise two sets of double bedrooms each, separate reception and large open-plan kitchen/dining rooms, plus separate reception rooms also dual aspect views; and access to garden amenity space. As the new flat is likely to generate additional on-street parking demand a section 106 agreement has been entered into for car-free housing; the applicant is compliant. Two cycle storage spaces is provided at the basement floor level all in compliance with LDF policies and subject to condition.

The proposed works are internal only; and the proposed change of use would not harm the amenity of any adjoining residential occupiers.

No objections were received prior to making this decision. The site's planning history and relevant appeal decisions were taken into account when coming to this

decision. Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 (CA's) of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

As such, the proposed development is in general accordance with policies CS5, CS6 and CS14 of the London Borough of Camden Local Development Framework Core Strategy, and policies DP2, DP5, DP6, DP17, DP18, DP19, DP24, DP25 and DP26 of the London Borough of Camden Local Development Framework Development Policies. The proposed development also accords with the London Plan 2016; and the National Planning Policy Framework.

- 2 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).
- 3 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.
- 4 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

- 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.

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

Yours faithfully

Supporting Communities Directorate

DECISION



DATED

7 April

2017

(1) HEMAL PATEL

and

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

A G R E E M E N T
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