

DATED

2015

**(1) JEREMY HILTON ROBERT STEIN**

and

**(2) BANK OF SCOTLAND PLC**

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  
163 Sumatra Road  
Hampstead London (NW6 1PN)  
pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended)  
Section 278 of the Highways Act 1980

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Head of Legal Services  
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Town Hall  
Judd Street  
London WC1H 9LP

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**THIS AGREEMENT** is made the                      day of                      2015

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

- i.        **JEREMY HILTON ROBERT STEIN** of 163 Sumatra Road London NW6 1PN (hereinafter called "the Owner") of the first part
- ii.       **BANK OF SCOTLAND PLC** (Scot. Co. Regn. No. SC327000) of Birmingham Midshires Division, Pendeford Business Park, Wobaston Road, Wolverhampton WV9 5HZ (hereinafter called "the Mortgagee") of the second part
- iii.      **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third part

**1.        WHEREAS**

- 1.1       The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number LN124587 subject to a charge to the Mortgagee.
- 1.2       The Owner is the freehold Owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3       A Planning Application for the development of the Property was submitted to the Council and validated on 1 May 2015 and the Council resolved to grant permission conditionally under reference number 2015/2203/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       As local highway authority the Council considers the Highways Works to be carried out pursuant to this section 278 Agreement to be in the public benefit.

1.6 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

1.7 The Mortgagee as mortgagee under a legal charge registered under Title Number LN124587 and dated 25 September 2006 (hereinafter called "the Legal Charge") is willing to enter into this Agreement to give its consent to the same.

2. **DEFINITIONS**

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

2.1 "the Act" the Town and Country Planning Act 1990 (as amended)

2.2 "the Agreement" this Planning Obligation made pursuant to Section 106 of the Act

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

2.4 "Construction Management Plan" a plan setting out the measures that the Owner will adopt in undertaking the construction of the Development using good site practices in accordance with the Council's Considerate Contractor Manual to ensure the Construction Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network including (but not limited to):-

- (i) a statement to be submitted to Council giving details of the environmental protection highways safety and community liaison measures proposed to be adopted by the Owner in order to mitigate and offset potential or likely effects and impacts arising from the demolition of the Existing Buildings or structures on the Property and the building out of the Development;
- (ii) incorporation of the provisions set out in the First Schedule annexed hereto
- (iii) proposals to ensure there are no adverse effects on the Conservation Area features
- (iv) effects on the health and amenity of local residences site construction workers local businesses and adjoining developments undergoing construction;
- (v) 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);
- (vi) the inclusion of a waste management strategy for handling and disposing of construction waste; and

(vii) identifying means of ensuring the provision of information to the Council and provision of a mechanism for monitoring and reviewing as required from time to time

2.5 "the Construction Phase"

the whole period between

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

2.6 "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

2.7 "the Development"

conversion of existing single family dwelling into 4 (2 x 1 bedroom and 2 x 2 bedroom) self-contained units with associated amenity, cycle storage and refuse provision as shown on drawing numbers OS Map, Site location plan, design and access statement, SMTRD-LH000, SMTRD-E201, SMTRD-E202, SMTRD-P200, SMTRD-P201, SMTRD-P202, SMTRD-P203, SMTRD-P204, SMTRD-S201, SMTRD-S202, SMTRD-E701, SMTRD-P700, SMTRD-P701, SMTRD-P702, SMTRD-P703, SMTRD-P704, SMTRD-P705, SMTRD-S701, SMTRD-S702, SMTRD-S703 and Basement Impact Assessment (dated August 2015)

2.8 "the Highways Contribution"

the sum of £5,000 (five 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 carrying out of works to the public highway and associated measures in the vicinity of the Property and as are required due to the Development ("the Highways Works") these to include costs associated with the following:-

(a) [awaiting instructions]; and

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

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

2.9 "the Implementation Date"

the date of implementation of the Development by the carrying out of a material operation as defined in Section 56 of the Act and references to "Implementation" and "Implement" shall be construed accordingly

2.10 "the Level Plans"

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

- 2.11 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.12 "the Parties" mean the Council the Owner and the Mortgagee
- 2.13 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 1 May 2015 for which a resolution to grant permission has been passed conditionally under reference number 2015/ subject to conclusion of this Agreement
- 2.14 "Planning Obligations Monitoring Officer" a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof
- 2.15 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.16 "the Property" the land known as 163 Sumatra Road London NW6 1PN the same as shown shaded grey on the plan annexed hereto
- 2.17 "the Public Highway" any carriageway footway and/or verge adjoining the Property maintainable at public expense
- 2.18 "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

- 2.19 "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 or interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7 and 8 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Implementation Date.
- 3.6 The 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 free" housing in accordance with Clause 4.1 for all relevant purposes.

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

The Owner hereby covenants with the Council as follows:-

##### 4.1 **Car Free**

4.1.1 To ensure that prior to occupying any residential unit forming part of the Development each new resident of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.

4.1.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1 above will remain permanently.

4.1.3 On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the residential units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those residential units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.1 of this Agreement.

##### 4.2 **Construction Management Plan**

4.2.1 On or prior to the Implementation Date to provide the Council for approval a draft Construction Management Plan.

- 4.2.2 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.
- 4.2.3 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.
- 4.2.4 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the Construction Management Plan and not to permit the carrying out of any works comprised in demolition or building out the Development at any time when the requirements of the Construction Management Plan are not being complied with and in the event of non compliance with this sub-clause the Owner shall forthwith take any steps required to remedy such non-compliance.

#### 4.3 **Highways Contribution**

- 4.3.1 On or prior to the Implementation Date to pay to the Council the Highways Contribution in full.
- 4.3.2 On or prior to the Implementation Date to submit to the Council the Level Plans for approval.
- 4.3.3 Not to Implement or to permit Implementation until such time as the Council has received the Highways Contribution in full.
- 4.3.4 Not to Implement nor permit Implementation until such time as the Council has approved the Level Plans.
- 4.3.5 The Owner acknowledges that the Council has the right reserved to it to construct the Public Highway to levels it considers appropriate.
- 4.3.6 On completion of the Highway Works the Council may provide to the Owner a

certificate specifying the sum (“the Certified Sum”) expended by the Council in carrying out the Highway Works.

- 4.3.7 If the Certified Sum exceeds the Highway Contribution then the Owner shall within fourteen days of the issuing of the said certificate pay to the Council the amount of the excess.
- 4.3.8 If the Certified Sum is less than the Highway Contribution then the council shall within twenty eight days of the issuing of the said certificate pay to the Owner the amount of the difference between the Certified Sum and the Highway Contribution.

5. **NOTICE TO THE COUNCIL/OTHER MATTERS**

- 5.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Planning Permission has taken or is about to take place.
- 5.2 Within seven days following completion of the Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting the Planning Permission reference 2015/2203/P the date upon which the Development is ready for Occupation.
- 5.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.
- 5.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations

contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.

- 5.5 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its Head of Legal Services a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.
- 5.6 Submission of any plan for approval by the Council under the terms of this Agreement shall be made by the Owner to the Council sending the full document and any appendices in electronic format (where practicable) to the Planning Obligations Monitoring Officer referring to the names dates and Parties to this Agreement and citing the specific clause of this Agreement to which such plan relates quoting the Planning Permission reference 2015/2203/P.
- 5.7 Payment of the Highways Contribution pursuant to Clause 4.3 of this Agreement shall be made by the Owner to the Council sending the full amount via electronic transfer (where practicable). The owner shall notify the Planning Obligations Monitoring Officer that payment has been made referring to names date and Parties to this Agreement and citing the specific clause of this Agreement to which such contribution relates quoting the planning reference 2015/2203/P. Electronic Transfer is to be made directly to the National Westminster Bank of Hampstead Village quoting Sort Code 50-30-03 and London Borough of Camden General Account no. 24299480.
- 5.8 All consideration given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable in respect thereof and all parties other than the Council shall pay and indemnify the Council against any such value added tax properly payable on any sums paid to the Council under this Agreement upon presentation of an appropriate value added tax invoice addressed to the Owner.
- 5.9 Any sums referred to in this Agreement as payable or to be applied by any party other than the Council under this Agreement shall be paid or applied TOGETHER WITH if such payment or application is made more than three months from the date of this Agreement a further sum ("A") being equal to the original sum payable ("B")

multiplied by a figure being a fraction of which the All Items of Retail Prices ("the AllIRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AllIRP figure published before the date such payment or application is made ("Y") less the last published AllIRP figure at the date hereof ("X") is the numerator so that

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

5.10 All costs and expenses payable to the Council under this Agreement shall bear interest at the rate of 4% above the Base Rate of the National Westminster Bank plc from time to time being charged from the date such payment is due until payment is made.

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

6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the Planning Permission reference number 2015/2203/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 the or the Mortgagee nor their successors in title nor any person deriving title from them shall be bound by the obligations in this Agreement in respect of any period during which it no longer has an interest in the Property but without prejudice to liability for any breach committed prior to the time it disposed of its interest.
- 6.7 For the avoidance of doubt the provisions of this Agreement (other than those contained in this sub-clause) shall not have any effect until this Agreement has been dated.
- 6.8 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of development this Agreement shall forthwith determine and cease to have effect.

7. **MORTGAGEE EXEMPTION**

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

8. **RIGHTS OF THIRD PARTIES**

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

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

**EXECUTED AS A DEED BY** )  
**JEREMY HILTON ROBERT STEIN** )  
**in the presence of:** )

.....  
**Witness Signature**

**Witness Name**

**Address**

**Occupation**

**EXECUTED as a Deed** )  
**By BANK OF SCOTLAND PLC** )  
**by** )  
**in the presence of:-** )

.....

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

.....

**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) All contractors and sub-contractors operating large vehicles over 3.5 tonnes must meet all of the following conditions:-
- 1) Operators must be a member of TfL’s Fleet Operator Recognition Scheme ([www.tfl.gov.uk/fors](http://www.tfl.gov.uk/fors)) or similar at the Bronze level.
  - 2) All drivers must have undertaken cycle awareness training such as the Safe Urban Driver module through FORS or similar.
  - 3) All vehicles associated with the construction of the Development must:
    - i. Have Side Guards fitted, unless it can be demonstrated to the reasonable satisfaction of the Employer, that the Lorry will not perform the function, for which it was built, if Side Guards are fitted.
    - ii. Have a close proximity warning system fitted comprising of a front mounted, rear facing CCTV camera (or Fresnel Lens where this provides reliable alternative), a Close Proximity Sensor, an in-cab warning device (visual or audible) and an external warning device to make the road user in close proximity aware of the driver’s planned manoeuvre.
    - iii. Have a Class VI Mirror
    - iv. Bear prominent signage on the rear of the vehicle to warn cyclists of the dangers of passing the vehicle on the inside.
- v) Any other relevant information with regard to traffic and transport.
- w) 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**