

DATED 19 SEPTEMBER 2017

(1) SHIVA KINGSWAY LIMITED

and

(2) SANNE FIDUCIARY SERVICES 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

Kingsway Hall Hotel
66 Great Queen Street
London
WC2B 5BX

pursuant to
Section 106 of the Town and Country Planning Act 1990 and
Section 278 of the Highways Act 1980

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 5647
Fax: 020 7974 2962

CLS/PK/1800.76 (final)

THIS AGREEMENT is made the 19th day of September 2017

B E T W E E N:

1. **SHIVA KINGSWAY LIMITED** (registered under company number 09213060) whose registered office is at 505 Pinner Road, Harrow, Middlesex, HA2 6EH (hereinafter called "the Owner") of the first part
2. **SANNE FIDUCIARY SERVICES LIMITED** (incorporated in Jersey under company number 41570) whose registered office is at 13 Castle Street, St. Helier, Jersey, JE4 5UT (hereinafter called "the Mortgagee") of the second part
3. **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 numbers NGL735597, NGL616553 and NGL787451 subject to a charge to the Mortgagee.
- 1.2 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 The Planning Application for the Development of the Property was submitted to the Council and validated on 27th April 2016 and the Council resolved to grant permission conditionally under reference number 2016/2244/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.

1.6 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.

1.7 The Mortgagee as proprietor of legal charges contained in debentures dated 13th October 2014 and 9th October 2014 and a legal charge dated 1st December 2014 all registered under title numbers NGL735597, NGL616553 and NGL787451 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 |
| 2.2 | "this Agreement" | this agreement made pursuant to Section 106 of the Act section 278 of the Highways Act 1980 |
| 2.3 | "the Development" | installation of new facade at ground floor level and removal of vehicular entrance and exit as shown on drawing numbers Site Location Plan 001 P1; 022 P1; 023 P1; 042 P1; 050 P1; 102 P7; 103 P6; 202 P7; 300 P6; 01 P1; Design and Access Statement dated April 2016; Highways Technical Note date November 2016 |
| 2.4 | "the Highways Contribution" | the sum of £33,504.97 (thirty-three thousand five hundred and four pounds and ninety-seven pence) to be paid by the Owner to the Council in accordance with the terms of this Agreement |

and to be applied by the Council in event of receipt for carrying out works to the public highway and associated measures in the vicinity of the Property such works to include the following ("the Highways Works"):

- (i) to remove two (2) existing vehicle crossovers;
- (ii) to pave part of the footway in Yorkstone and install granite kerbing; and
- (iii) any other works required as a direct result of the Development (such works as considered necessary by the Council acting reasonably)

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 undertaker's costs

2.5 "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 save that for the purposes of this Agreement the erection of fencing to enclose the Development or any part of the Development or the laying or provision of services and/or services diversion works on or under the Development or any part of the Development and the clearing of any rooms in the existing buildings at the Property shall not be deemed to be carrying out of a material operation for the purposes of this Agreement and and references to "Implementation" and "Implement" shall be construed accordingly

- 2.6 "the Level Plans" plans demonstrating the levels at the interface of the Development the boundary of the Property and the Public Highway
- 2.7 "the Parties" the Council, the Owner and the Mortgagee
- 2.8 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council for which a resolution to grant permission has been passed conditionally under reference number 2016/2244/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 at the First Schedule annexed hereto
- 2.11 "the Property" the land known as Kingsway Hall Hotel, 66-69 Great Queen Street, London, WC2B 5BX and 70 Great Queen Street, London, WC2B 5AX and Passageway In Middle Yard, Great Queen, Street the same as shown edged red on the plan at the Second Schedule annexed hereto
- 2.12 "the Public Highway" any carriageway footway and/or verge adjoining the Property maintainable at public expense

NOW THIS DEED WITNESSETH AS FOLLOWS:-

- 3.1 This Agreement is made in pursuance of Section 106 of the Act, Section 278 of the Highways Act 1980 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, 8 and 9 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.

4. OBLIGATIONS OF THE OWNER

The Owner hereby covenants with the Council as follows:-

4.1 HIGHWAYS

4.1.1 On or 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.

4.1.2 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 (such approval not to be unreasonably withheld or delayed).

4.1.3 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 undertaker's costs.

4.1.4 On completion of the Highway Works the Council shall (upon receipt of a written request from the Owner) provide to the Owner a certificate specifying the sum ("the Certified Sum") reasonably and properly expended by the Council in carrying out the Highway Works.

4.1.5 If the Certified Sum exceeds the Highway Contribution then the Owner shall within 21 (twenty-one days) of the issuing of the said certificate pay to the Council the amount of the excess.

4.1.6 If the Certified Sum is less than the Highway Contribution then the Council shall within 21 (twenty-one days) of the issuing of the said certificate pay to the Owner the amount of the excess.

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 Development has taken or is about to take place.

5.2 Within ten 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 planning reference 2016/2244/P the date upon which the Development was completed.

- 5.3 The Owner and the Council shall act in good faith and shall co-operate with each other to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council made in writing and giving not less than 48 hours' prior notice (save in the case of emergency) to have access to any part of the Property or any requests to provide documentation relating to the Development 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 Borough Solicitor 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 to the Council 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 2016/2244/P.
- 5.7 Payment of the financial contribution pursuant to Clause 4 (Obligations of the Owner) of this Agreement shall be made by the Owner to the Council sending payment for the full amount in the form of a banker's draft 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 Contribution relates quoting the planning application reference 2016/2244/P or by electronic transfer 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 and to inform the Planning Obligations Monitoring Officer of such payment quoting the above details as if the payment had been made by banker's draft.

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 Index of Retail Prices ("the AIIRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AIIRP figure published before the date such payment or application is made ("Y") less the last published AIIRP figure at the date hereof ("X") is the numerator so that

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

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

6. **IT IS HEREBY AGREED AND DECLARED BY THE PARTIES HERETO THAT:-**

6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection

with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 2016/2244/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 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.
- 6.5 Neither the Owner, 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.
- 6.6 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.
- 6.7 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of development 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 and the Council will effect cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

7. **MORTGAGEE EXEMPTION**

The Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 hereof and for the avoidance of doubt agrees to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.

8. **RIGHTS OF THIRD PARTIES**

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

9. **JURISDICTION**

This Agreement is governed by and interpreted in accordance with the law of England and the Parties agree that the courts of England shall have jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

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)
SHIVA KINGSWAY LIMITED)
acting by a Director and its Secretary)
or by two Directors)

Director Name: (CAPITALS))

Director Signature:)

Director/Secretary Name (CAPITALS))

..... *Upmy Vyas*
..... *[Signature]*

..... *RISHI SACHDEV*

Director/Secretary Signature:)

[Handwritten Signature]
.....

EXECUTED AS A DEED BY)
SANNE FIDUCIARY SERVICES LIMITED)
acting by a Director and its Secretary)
or by two Directors)

Director Name: (CAPITALS))

Director Signature:)

[Handwritten Signatures]
.....

Director/Secretary Name (CAPITALS))

Director/Secretary Signature:)

Neville Scott
Authorised Signatory
.....
Beejadhursingh Surnam
Authorised Signatory.....

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

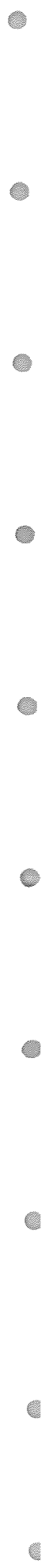
[Handwritten Signature]
.....

Authorised Signatory



THE FIRST SCHEDULE

DRAFT PLANNING PERMISSION



Ray Hole Architects
9th floor
69 Park Lane
Croydon
CR0 1JD

Application Ref: **2016/2244/P**

09 June 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:
Kingsway Hall Hotel
66 Great Queen Street
London
WC2B 5BX

Proposal:
Installation of new facade at ground floor level and removal of vehicular entrance and exit.

DECISION
Drawing Nos: Site Location Plan 001 P1; 022 P1; 023 P1; 042 P1; 050 P1; 102 P7; 103 P6;
202 P7; 300 P6; 01 P1; Design and Access Statement dated April 2016; Highways
Technical Note date November 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 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 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 001 P1; 022 P1; 023 P1; 042 P1; 050 P1; 102 P7; 103 P6; 202 P7; 300 P6; 01 P1; Design and Access Statement dated April 2016; Highways Technical Note date November 2016

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

Informative(s):

- 1 Reasons for granting permission.

The hotel is a postmodern, neo-classical building dating from the late 1990's. The main entrance is set back from the street in the form of a double height porte cochere. It is proposed to infill this recessed area to create a more functional entrance and increase internal floorspace. The design has been revised to relate better to the building above. The existing triple arched entrance will be retained and house a central main entrance flanked by glazed doors on one side and a fixed panel on the other.

The retention of the arches, topped by an illuminated glass canopy, is considered to provide a clearer focus for the main entrance and more visible support for the floors above, whilst preserving the architectural integrity of the façade. The design of the glazing to the former vehicular entrances has been simplified and relates better to the surrounding area. The proposal would also provide improved interaction with the street and is more in keeping with other ground floor frontages in the vicinity. As such the proposal would enhance the character and appearance of the Kingsway Conservation Area.

The removal of the porte cochere would transfer vehicle pick-ups and drop offs from within the site to the public highway, but would create approximately 15m of additional kerbside space from the removal of the crossovers to mitigate this. The applicants have submitted a Transport Assessment and Road Safety Audit which

reveal an average of 56 visits per day (4 visits per hour) with a maximum of 2 car visits at any one time, with visits normally lasting under 2 minutes. The proposal would have no impact on the number of vehicles serving the hotel and Officers consider the proposal acceptable in transport terms as it would not contribute to an unacceptable increase in traffic movements or congestion. The removal of the crossovers would improve pedestrian safety.

The reinstatement of the footway would require a financial contribution which would be secured by way of a section 106 agreement in line with policy DP21.

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

Special attention has been paid to the desirability of preserving or enhancing the character and appearance of the conservation area, under s.72 of the Planning (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, CS8, CS9, CS11, and CS14 of the London Borough of Camden Local Development Framework Core Strategy, and policies DP14, DP16, DP17, DP21, 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 2012.

- 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 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

DRAFT

DECISION

THE SECOND SCHEDULE

PLAN OF THE PROPERTY



ORIGINAL SHEET SIZE: A1

NOTES
1. ALL DIMENSIONS SHOWN ON THIS DRAWING SHALL BE CHECKED ON SITE AND THE ARCHITECT SHALL BE ADVISED OF ANY DISCREPANCIES PRIOR TO WORK COMMENCING.
2. PLANS HAVE BEEN BASED ON CAD DATA PROVIDED BY THE CLIENT WHICH HAS NOT BEEN CHECKED FOR ACCURACY.

NOTES

NO.	DESCRIPTION	DATE	BY
01	Prepared by: [Name]	15.05.08	[Name]
02	Revised by: [Name]	24.12.08	[Name]

DESIGNER	RAYHOLE ARCHITECTS
CLIENT	THE SHAWING & SONS LTD
PROJECT	NEW BUILDING
ADDRESS	100, KINGSWAY
PROJECT	KINGSWAY HOTEL
TITLE	REVISION PLAN
DATE	22.05.15
JOB NO	1500
DRAWN BY	CHRYSTOPHER
CHECKED BY	CHRISTOPHER
SCALE	1:100
REVISION NO	001
REVISION	P2

rayholearchitects
100, Kingsway, London, W2 7AY
Tel: +44 (0) 20 7493 4973
Email: info@rayholearchitects.com







DATED 19 SEPTEMBER 2017

(1) SHIVA KINGSWAY LIMITED

and

(2) SANNE FIDUCIARY SERVICES 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

**Kingsway Hall Hotel
66 Great Queen Street
London
WC2B 5BX**

pursuant to
**Section 106 of the Town and Country Planning Act 1990 and
Section 278 of the Highways Act 1980**

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 5647
Fax: 020 7974 2962

CLS/PK/1800.76 (final)