

DATED

3 may

2016

**(1) SHAFTESBURY COVENT GARDEN LIMITED**

and

**(2) LLOYDS BANK PLC**

and

**(3) CYLDESDALE BANK PLC**

and

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

**A G R E E M E N T**  
relating to land known as

**23 MONMOUTH STREET LONDON WC2H 9DD and 1 FIELDING COURT 28 EARLHAM  
STREET LONDON WC2H 9LN**

**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 5680

Fax: 020 7974 1920

CLS/PK/1781.206 (final)



THIS AGREEMENT is made the 3 day of May 2016

**BETWEEN:**

1. **SHAFTESBURY COVENT GARDEN LIMITED** (registered under company number 03154145) whose registered office is at 22 Ganton Street, Carnaby, London, W1F 7FD (hereinafter called "the Owner") of the first part
2. **LLOYDS BANK PLC** (registered under company number 00002065) whose registered office is at 25 Gresham Street, London, EC2V 7HN (hereinafter called "the First Property Mortgagee") of the second part
3. **CLYDESDALE BANK PLC** (registered under company number SC001111) whose registered office is at 30 St Vincent Place, Glasgow, G1 2HL (hereinafter called "the Second Property Mortgagee") of the third part
4. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the fourth part

1. **WHEREAS**

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with title absolute of the First Property under title number 40702 and as the freehold proprietor with title absolute of the Second Property under title number NGL726189.
- 1.2 The Owner is the freehold owner of the First Property and the Second Property and is interested in the First Property and the Second Property for the purposes of Section 106 of Act.
- 1.3 The First Planning Application for the First Development of the First Property was submitted to the Council and validated by the Council on 16<sup>th</sup> March 2015 and the Council resolved to grant planning permission conditionally under reference number 2015/1533/P subject to conclusion of this Agreement.



- 1.4 The Second Planning Application for the Second Development of the Second Property was submitted to the Council and validated by the Council on 20<sup>th</sup> March 2015 and the Council resolved to grant planning permission conditionally under reference number 2015/1534/P subject to conclusion of this Agreement.
- 1.5 The Council is the local planning authority for the purposes of the Act for the area in which the First Property and the Second Property are situated and considers it expedient in the interests of the proper planning of its area that the development of the First Property and the Second ~~Development~~ <sup>Property</sup> should be restricted or regulated in accordance with this Agreement. (R)
- 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 First Property Mortgagee as mortgagee under legal charges dated 27<sup>th</sup> February 2014, 1<sup>st</sup> October 2004 and 29<sup>th</sup> November 2001 registered under title number 40702 in respect of the First Property is willing to enter into this Agreement to give its consent to the same.
- 1.8 The Second Property Mortgagee as mortgagee under legal charges dated 29<sup>th</sup> September 1998 and 1<sup>st</sup> October 2004 registered under title number NGL726189 in respect of the Second Property 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 "Business 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 businesses of the locality in which the Second Development is situated
- 2.4 "Business 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 a Business Parking Bay
- 2.5 "the First Development" in respect of the First Property the change of use of the second and third floor from office (Class B1(a)) to residential (Class C3) to form a two-bedroom duplex unit as shown on drawing numbers 22621-01 rev.A. 22621-P01 rev.B and Site Location Plan
- 2.6 "the First Development Implementation Date" the date of implementation of the First 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
- 2.7 "the First Planning Application" a planning application in respect of the First Development of the First Property submitted to the Council and validated on 16<sup>th</sup> March 2015 for which a resolution to grant permission has been passed conditionally under reference number 2015/1533/P subject to conclusion of this Agreement
- 2.8 "the First Planning

Permission"	a planning permission granted for the First Development substantially in the draft form at the First Schedule annexed hereto
2.9 "the First Property"	the land known as 23 Monmouth Street, London, WC2H 9DD the same as shown shaded <del>grey</del> <sup>green</sup> on Plan 1 <i>J.H.C.</i>
2.10 "Occupation Date"	the first date when any part of the First Development or the Second Development is occupied for the purposes of the First Planning Permission or the Second Planning Permission save for the purposes of marketing and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
2.11 "the Parties"	the Council the Owner the First Property Mortgagee and the Second Property Mortgagee
2.12 "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
2.13 "Plan 1"	the plan at the First Schedule annexed hereto showing the First Property
2.14 "Plan 2"	the plan at the Second Schedule annexed hereto showing the Second Property
2.15 "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 First Development and Second Development are situated

- 2.16 "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
- 2.17 "the Second Development" in respect of the Second Property the change of use of the ground floor from residential (Class C3) to office (Class B1(a)) in association with a land use swap at the First Property as shown on drawing numbers Site Location Plan, 22409-01 rev. A and 22409-P01 rev. B
- 2.18 "the Second Development Implementation Date" the date of implementation of the Second 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 Second Planning Application" a planning application in respect of the Second Development of the Second Property submitted to the Council and validated on 20<sup>th</sup> March 2015 for which a resolution to grant permission has been passed conditionally under reference number 2015/1534/P subject to conclusion of this Agreement
- 2.20 "the Second Planning Permission" a planning permission granted for the Second Development substantially in the draft form at the Second Schedule annexed hereto



2.21 "the Second Property" the land known as 1 Fielding Court, 28 Earlham Street, London, WC2H 9LN the same as shown shaded grey on Plan 2

green  
H.L.

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 First Property and or the Second 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, 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 earlier of the First Development Implementation Date and the Second Development Implementation Date.
- 3.6 The Council hereby agrees to grant the First Planning Permission and the Second 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 First Development and the Second Development shall be treated as being designated as "car free" housing in accordance with Clause 4.1 for all relevant purposes.
- 3.9 Where any consent approval acknowledgement or expression of satisfaction is required from any of the Parties pursuant to the provisions of this Agreement such consent approval acknowledgement or expression of satisfaction will not be unreasonably withheld or delayed.

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 First Development each new resident of the First 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 To ensure that prior to occupying any commercial unit in any part of the Second Development each new occupant of a commercial unit forming part of the Second 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 Business Parking Permit to park a vehicle in a Business Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.
- 4.1.3 The Owner for itself and its successors in title to the First Property hereby acknowledge that the provision in Clause 4.1.1 and 4.1.2 hereof will remain for the lifetime of the First Development.



4.1.4 The Owner for itself and its successors in title to the Second Property hereby acknowledge that the provision in Clause 4.1.2 and 4.1.2 hereof will remain for the lifetime of the Second Development.

4.1.5 Prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of all units forming part of the First Development and the Second Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those units that in the Owner's opinion are affected by the Owner's obligations under Clauses 4.1.1 and 4.1.2 of this Agreement.

#### **4.2 USE SWAP**

4.2.1 To notify the Council in writing on or before the First Development Implementation Date and the Second Development Implementation Date.

4.2.2 To complete the First Development in accordance with the First Planning Permission within eighteen (18) calendar months of the earliest of the following two dates namely the First Development Implementation Date or the Second Development Implementation Date such completion to be demonstrated by written notice from the Council to that effect.

4.2.3 To complete the Second Development in accordance with the Second Planning Permission within eighteen (18) calendar months of the earliest of the following two dates namely the Second Development Implementation Date or the First Development Implementation Date such completion to be demonstrated by written notice from the Council to that effect.

4.2.4 Not to Occupy or permit Occupation of the First Property for the purposes of the First Development until the Second Property is fitted out and ready for Occupation for the purposes of the Second Development and the Council has confirmed the same in writing to the Owner.

4.2.5 Not to Occupy or permit Occupation of the Second Property for the purposes of the Second Development until the First Property is fitted out and ready for Occupation for the purposes of the First Development and the Council has confirmed the same in writing to the Owner.



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

- 5.1 The Owner shall give written notice to the Council on or prior to the First Development Implementation Date and or prior to the Second Development Implementation Date specifying that Implementation of the First Development and the Second Development has taken or is about to take place.
- 5.2 Within seven days following completion of the First Development and the Second Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting planning references 2015/1533/P and 2015/1534/P the date upon which the First Development and the Second Development will be 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 First Property and or the Second 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 jointly and severally 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. **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 numbers 2015/1533/P and 2015/1534/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 registers of the titles to the First Property and the Second Property and will furnish the Council forthwith with official copies of such titles to show the entry of this Agreement in the charges registers of the titles to the First Property and the Second 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 its 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 First Property and/or the Second 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 First Planning Permission and or the Second Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time before the commencement of the First Development and/or the Second Development this Agreement shall forthwith determine and cease to have effect.

7. **MORTGAGEE EXEMPTION**

7.1 The First Property 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 First Property.

7.2 The Second Property 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 Second Property.

8. **RIGHTS OF THIRD PARTIES**

A person who is not a party to this Agreement (save for the avoidance of doubt for successors in title or assignees of the First Property Mortgagee, the Second Property Mortgagee or the Owner) has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the terms of this Agreement.

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

**EXECUTED AS A DEED BY** )  
**SHAFTESBURY COVENT GARDEN** )  
**LIMITED** )  
**in the presence of:** )  
**acting by a Director and its Secretary** )  
**or by two Directors** )





**THE FIRST SCHEDULE**

**DRAFT FIRST PLANNING PERMISSION  
and**

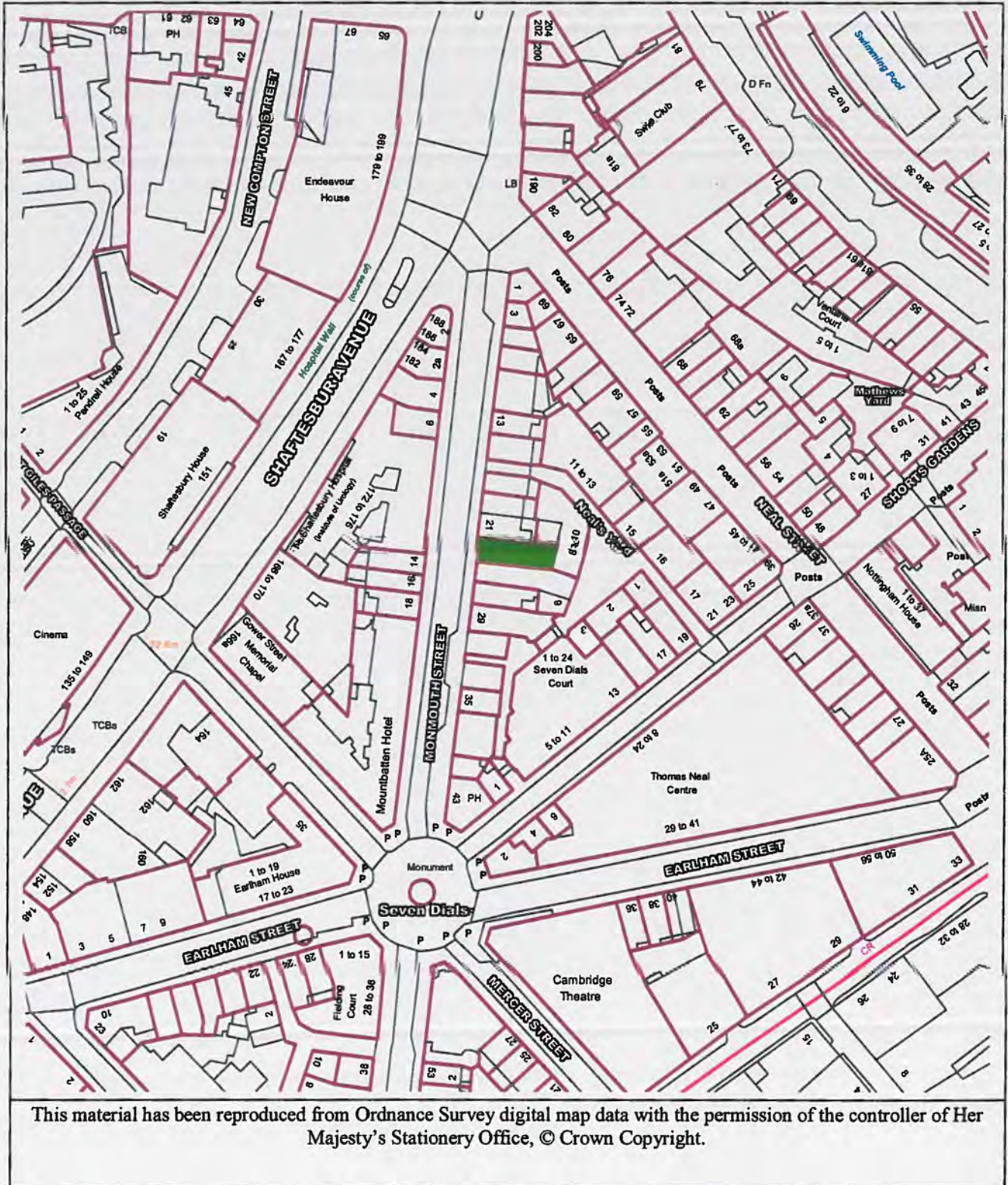
**PLAN OF THE FIRST PROPERTY**





**PLAN OF THE FIRST PROPERTY**

**23 MONMOUTH STREET LONDON WC2H 9DD**



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*Pt STA*  
*R. Alexander*





Rolfe Judd Planning [P5787]  
Old Church Court  
Claylands Road  
London  
SW8 1NZApplication Ref: **2015/1533/P**

17 February 2016

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:  
**23 Monmouth Street**  
**London**  
**WC2H 9DD****DECISION**  
Proposal:  
Change of use of the second and third floor from office (Class B1(a)) to residential (Class C3) to form a two-bedroom duplex unit.  
Drawing Nos: 22621-01 rev.A, 22621-P01 rev.B, Site Location Plan.

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).

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 3 The Mayor of London introduced a Community Infrastructure Levy (CIL) to help pay for Crossrail on 1st April 2012. Any permission granted after this time which adds more than 100sqm of new floorspace or a new dwelling will need to pay this CIL. It will be collected by Camden on behalf of the Mayor of London. Camden will be sending out liability notices setting out how much CIL will need to be paid if an affected planning application is implemented and who will be liable.

The proposed charge in Camden will be £50 per sqm on all uses except affordable housing, education, healthcare, and development by charities for their charitable purposes. You will be expected to advise us when planning permissions are implemented. Please use the forms at the link below to advise who will be paying the CIL and when the development is to commence. You can also access forms to allow you to provide us with more information which can be taken into account in your CIL calculation and to apply for relief from CIL.

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

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



costs index.

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

- 4 Your 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.
- 5 Under Section 25 of the GLC (General Powers) Act 1983, the residential accommodation approved is not permitted for use as holiday lettings or any other form of temporary sleeping accommodation defined as being occupied by the same person(s) for a consecutive period of 90 nights or less. If any such use is intended, then a new planning application will be required which may not be approved.
- 6 If a revision to the postal address becomes necessary as a result of this development, application under Part 2 of the London Building Acts (Amendment) Act 1939 should be made to the Camden Contact Centre on Tel: 020 7974 4444 or Environment Department (Street Naming & Numbering) 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

Culture and Environment Directorate





**THE SECOND SCHEDULE**

**DRAFT SECOND PLANNING PERMISSION**

**and**

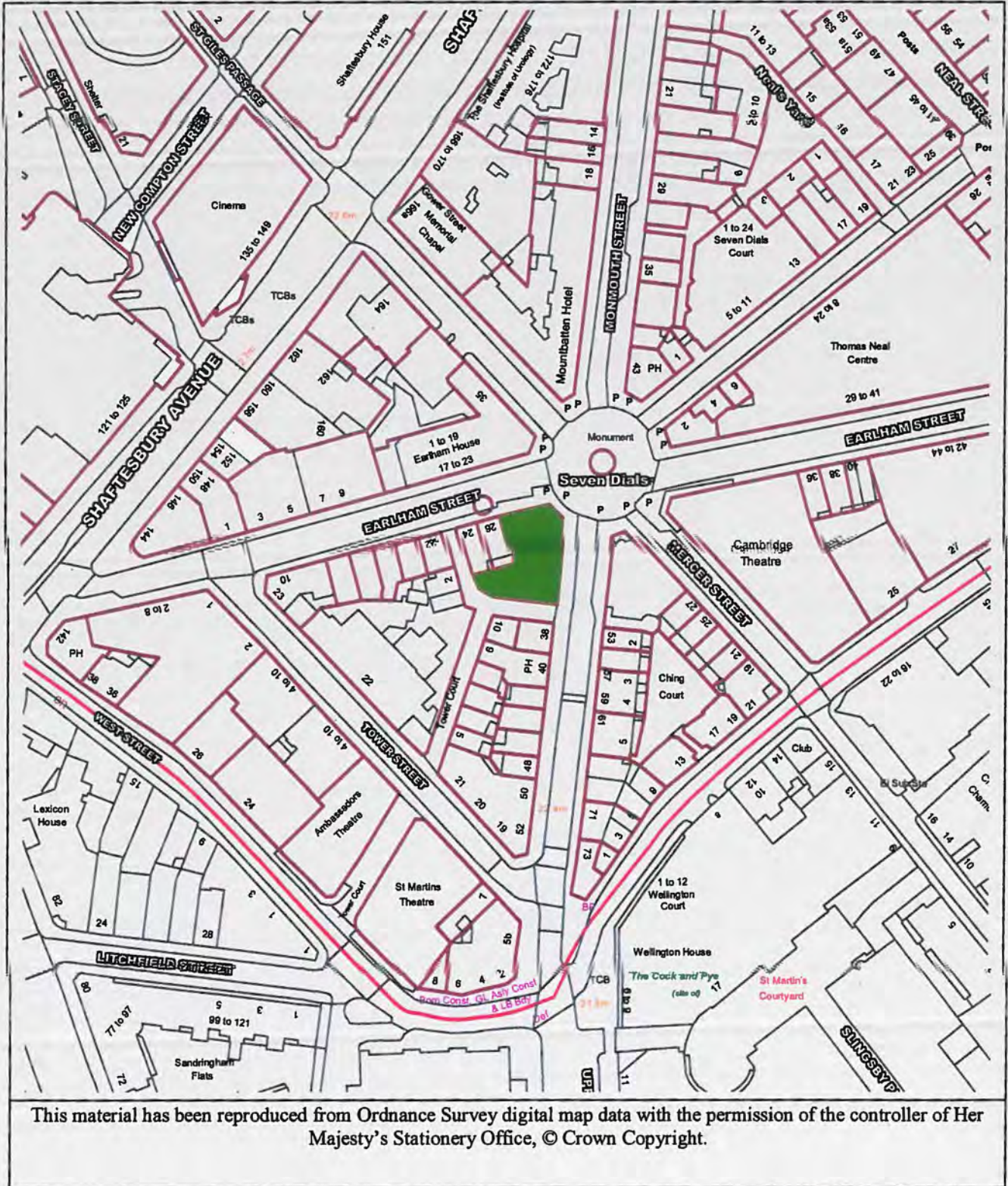
**PLAN OF THE SECOND PROPERTY**





**PLAN 2**

**SECOND PROPERTY: 1 FIELDING COURT, 28 EARLHAM STREET,  
LONDON, WC2H 9LN**



*SR* *PT*  
*R. Alexander*





Rolfe Judd Planning [P5787]  
Old Church Court  
Claylands Road  
London  
SW8 1NZ

Tel 020 7974 4444  
Fax 020 7974 1930  
Textlink 020 7974 6866

planning@camden.gov.uk  
www.camden.gov.uk/planning

Application Ref: **2015/1534/P**

17 February 2016

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:  
**1 Fielding Court**  
**28 Earlham Street**  
London  
WC2H 9LN

Proposal:

**DECISION**

Change of use of the ground floor from residential (Class C3) to office (Class B1(a)) in association with a land use swap at 23 Monmouth Street  
Drawing Nos: Site Location Plan, 22409-01 rev.A, 22409-P01 rev.B.

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.

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Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

Informative(s):

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

Yours faithfully

Culture and Environment Directorate





DATED

3 May

2016

**(1) SHAFTESBURY COVENT GARDEN LIMITED**

and

**(2) LLOYDS BANK PLC**

and

**(3) CYLDESDALE BANK PLC**

and

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

**A G R E E M E N T**  
relating to land known as

**23 MONMOUTH STREET LONDON WC2H 9DD and 1 FIELDING COURT 28 EARLHAM  
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**pursuant to Section 106 of the Town and Country Planning  
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