

DATED 8th November 2017

(1) HEMAL PATEL

and

(2) HSBC BANK 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

FLAT 1 & 5, 86 CANFIELD GARDENS, LONDON, NW6 3EE

pursuant to

**Section 106 of the Town and Country Planning Act 1990 (as amended);
Section 16 of the Greater London Council (General Powers) Act 1974;
Section 111 of the Local Government Act 1972; and
Section 1(1) of the Localism Act 2011**

Andrew Maughan
Head of Legal Services
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 2188

G:\case files\culture & env\planning\NS\s106 Agreements\86CanfieldGardens (CF)
CLS/COM/NS/1800.433

FINAL

THIS AGREEMENT is made the

8th

day of

November

2017

BETWEEN:

- A. **HEMAL PATEL** of 23a Alvanley Gardens, London NW6 1JD and of Flat 1, 86 Canfield Gardens, London NW6 3EE (hereinafter called "the Owner") of the first part
- B. **HSBC BANK PLC** (Co. Regn. No. 14259) of 40 Wakefield Road, Leeds LS98 1FD, trading as First Direct (hereinafter called "the Mortgagee") of the second part
- C. **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 and leasehold proprietor with Title absolute of the Property under Title Number NGL519436, Title Number NGL934555 and Title Number NGL934240.
- 1.2 The Owner is the freehold and leasehold 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 4th May 2017 and the Council resolved to grant permission conditionally under reference number 2017/2549/P subject to the conclusion of this legal Agreement.
- 1.4 The Council is the local planning authority for the purposes of the Act and Section 16 of the Greater London Council (General Powers) Act 1974 Section 111 of the Local Government Act 1972; and Section 1(1) of the Localism Act 2011 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 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL934555 and dated 22nd August 2014 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 Development"	conversion from 1x self-contained 4 bed flat to 2x self-contained 3-bed flats at ground and basement floor levels (Amendment to permission ref: 2016/5934/P to apply the car-free restriction to existing Flat 5 instead of proposed Flat 6) as shown on drawing numbers:- OS Location Plan (ref: NGL519436), Existing Basement Floor Plan (No Ref), Existing Ground Floor Plan (No Ref), Existing Front and Rear Elevations (No Ref), Existing Side Elevations (No Ref), Existing Section A-A (No Ref), Existing Section B-B (No Ref), Existing Roof Plan (No Ref), Proposed Basement Plan (No Ref), Proposed Ground Floor Plan (No Ref), Planning Statement Christopher Wickham Associates (No ref), Second and Third Floor Car Free Unit Plan (No Ref)
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"	Flat 5 the same as edged in red on the drawing 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 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 and validated on 4 th May 2017 for which a resolution to grant permission has been passed conditionally under reference number 2017/2549/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 & Flat 5, 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

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 is also made in pursuance of Section 16 of the Greater London Council (General Powers) Act 1974 Section 111 of the Local Government Act 1972; and Section 1(1) of the Localism Act 2011 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.
- 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 and 4.2 for all relevant purposes.
- 3.9 The Parties acknowledge that this agreement supersedes the agreement dated 7 April 2017 under reference number 2016/5934/P.

4. **OBLIGATIONS OF THE OWNER**

- 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 Nominated Unit hereby acknowledges that the provision in Clause 4.1 and 4.2 in this Agreement shall continue to have effect in perpetuity.

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 Development 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 planning reference 2017/2549/P the date upon which the 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 Nominated Unit 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 reference number 2017/2549/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~~ ^{Nominated Unit} and will furnish the Council forthwith with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the ~~Property~~.
^{Nominated Unit}

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 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~~ ^{Nominated Unit} 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 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~~.
^{Nominated Unit}

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
HEMAL PATEL
in the presence of:

)
)
)

L.A.M.A.
.....
Witness Signature

Witness Name: *Laura Proudfoot*
Address: *19 PRINCESS ROAD LONDON NW1 8JR*
Occupation: *LICENSED CONVEYANCER*

EXECUTED AS A DEED BY
HSBC BANK PLC
by
in the presence of:-

Signed as a Deed by:- *SUSAN BROWN*
)
) *Susan Brown*
)
) *Solicitor*
Solicitor
Attorney for HSBC Bank plc
in the presence of:- *[Signature]*

..... *DAVID NATHAN SANDERSON*
Solicitor
HSBC Bank plc
PO Box 6308, Coventry, CV3 9LR

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

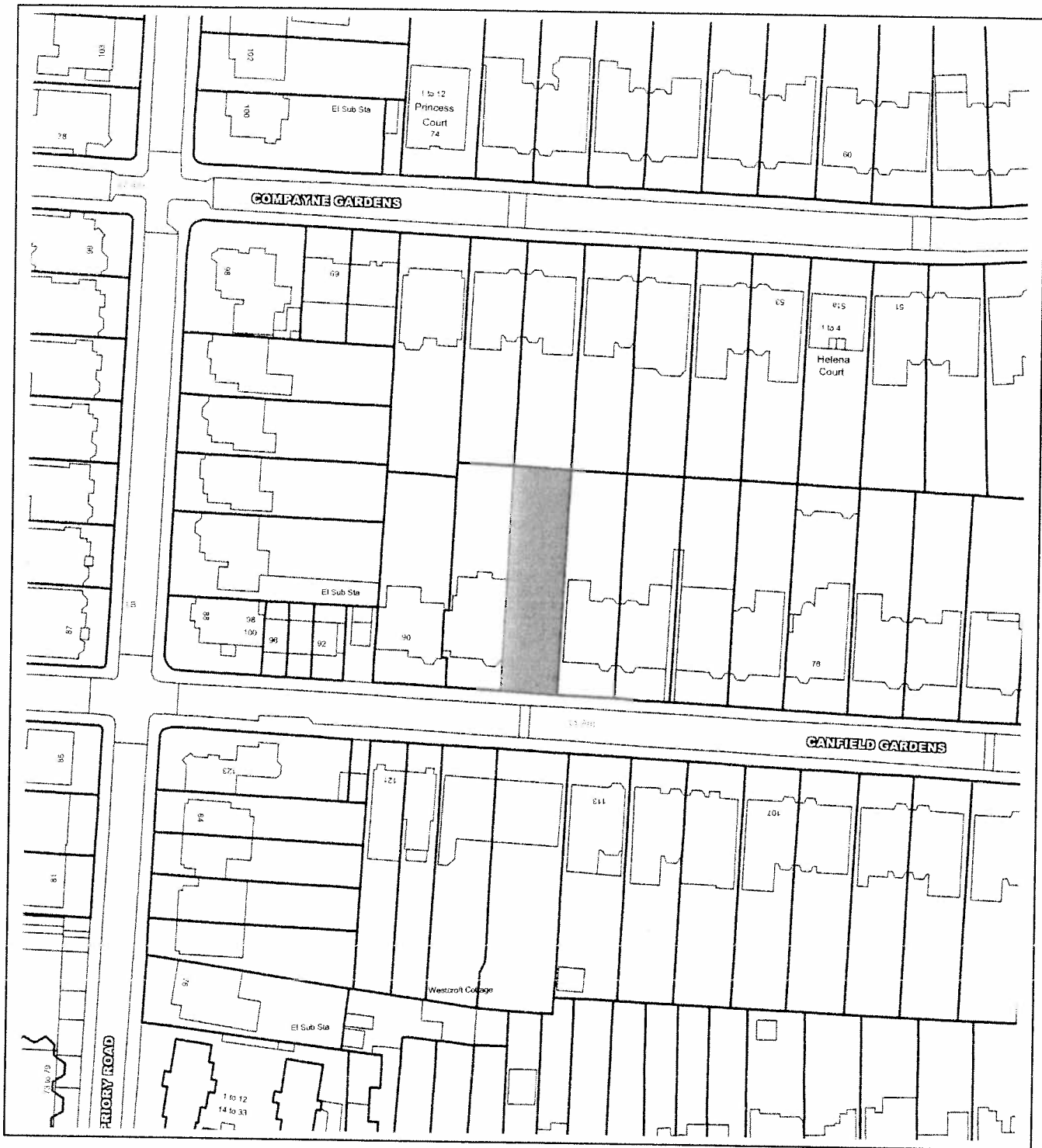
R. Alexander
.....
Authorised Signatory





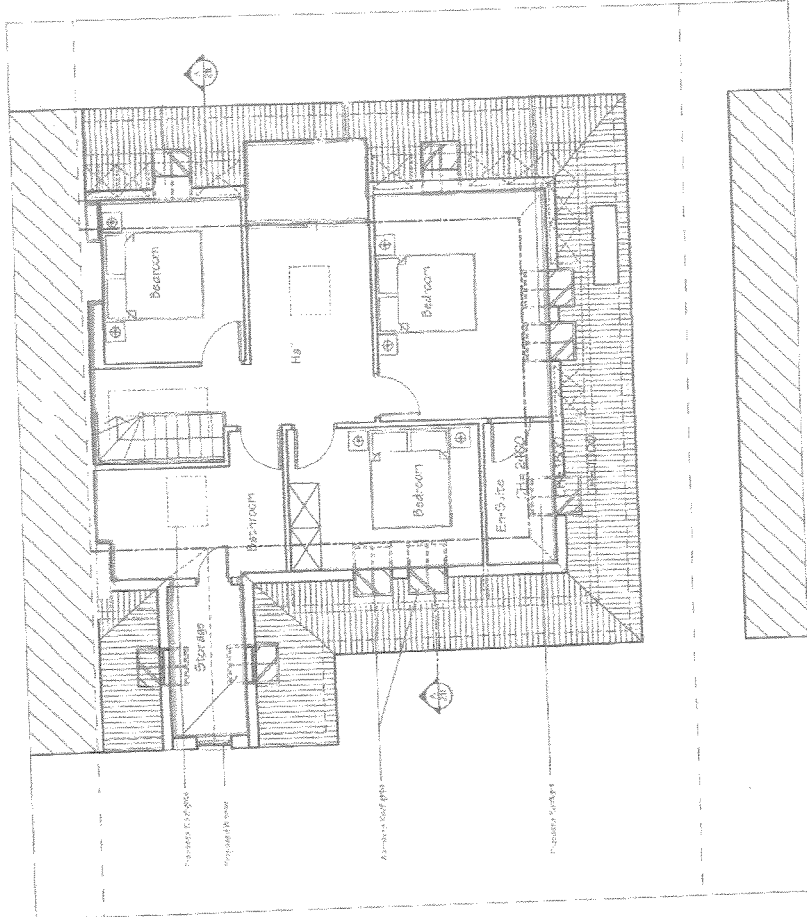
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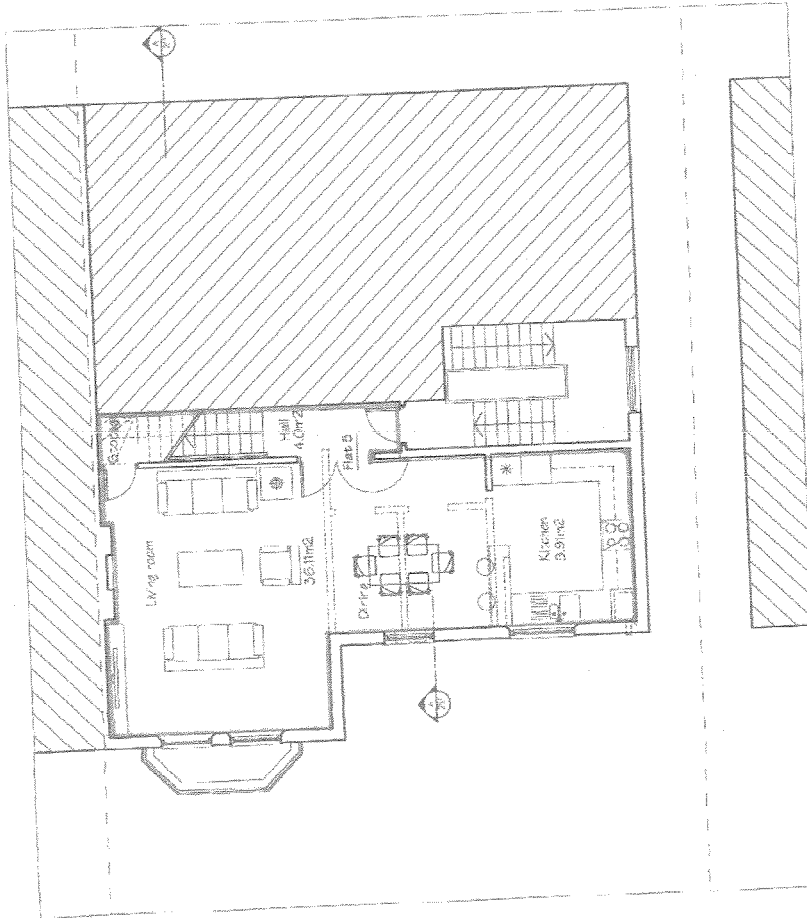


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Third Floor Plan - F.A.T. 5



Second Floor Plan - F.A.T. 5

Client	85 Canfield Close London NW6 3EE
Project	Second & Third Floor Plans
Scale	1:200
Date	07/01/02

Drawn by	MS
Checked by	MS
Scale	1:200
Date	07/01/02

Project	85 Canfield Close London NW6 3EE
Project	Second & Third Floor Plans
Scale	1:200
Date	07/01/02

Project	85 Canfield Close London NW6 3EE
Project	Second & Third Floor Plans
Scale	1:200
Date	07/01/02

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Project	Second & Third Floor Plans
Scale	1:200
Date	07/01/02

PLANNING

THIS DRAWING HAS BEEN PREPARED BY J.S. DEERICKA
 THE DRAWING HAS BEEN CHECKED AND APPROVED BY
 J.S. DEERICKA AS THE DESIGNER'S REPRESENTATIVE
 FOR THE ARCHITECTURAL DESIGN AND PLANNING
 CONSULTANT APPROVAL

RA



Christopher Wickham Assocs
35 Highgate High Street
London
N6 5JTApplication Ref: **2017/2549/P**

06 October 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:

Flats 1 & 5
86 Canfield Gardens
London
NW6 3EE

Proposal:

Conversion from 1x self-contained 4 bed flat to 2x self-contained 3-bed flats at ground and basement floor levels (Amendment to permission ref: 2016/5934/P to apply the car-free restriction to existing Flat 5 instead of proposed Flat 6).

Drawing Nos: OS Location Plan (ref: NGL519436), Existing Basement Floor Plan (No Ref), Existing Ground Floor Plan (No Ref), Existing Front and Rear Elevations (No Ref), Existing Side Elevations (No Ref), Existing Section A-A (No Ref), Existing Section B-B (No Ref), Existing Roof Plan (No Ref), Proposed Basement Plan (No Ref), Proposed Ground Floor Plan (No Ref), Planning Statement Christopher Wickham Associates (No ref), Second and Third Floor Car Free Unit Plan (No Ref).

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 - OS Location Plan (ref: NGL519436), Existing Basement Floor Plan (No Ref), Existing Ground Floor Plan (No Ref), Existing Front and Rear Elevations (No Ref), Existing Side Elevations (No Ref), Existing Section A-A (No Ref), Existing Section B-B (No Ref), Existing Roof Plan (No Ref), Proposed Basement Plan (No Ref), Proposed Ground Floor Plan (No Ref), Planning Statement Christopher Wickham Associates (No ref), Second and Third Floor Car Free Unit Plan (No Ref).

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

- 3 Two secured and covered cycle spaces shall be provided in the rear garden of proposed flat 6 at ground floor level prior to the first occupation of this 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 T1 of the London Borough of Camden Local Plan 2017

Informative(s):

- 1 Reasons for granting permission:-

This application is for the conversion of an existing 1 x 4 bedroom flat to 2 x 3-bed flats at ground and basement floor levels. The application is submitted as an amendment to permission ref: 2016/5934/P for the same development. The proposed amendment is the application of the car-free restriction to existing Flat 5 instead of proposed Flat 6.

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 provided the new units meet the recommended residential development standards and provide an acceptable mix of different size units. 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.

All new residential development in the borough is required to be car free where future residents would not be able to obtain car-parking permits, which is secured by s.106 legal agreement. The former permission ref: 2016/5934/P applied the car free restriction to proposed flat 6 at ground and basement levels. This application proposes to apply the car free restriction to an existing upper floor unit within the building (flat 5) instead of proposed flat 6. This existing flat has the same number of bedrooms as proposed flat 6 and this swap would still achieve the policy objective of reducing car use, enhancing the use of sustainable transport and reducing congestion in the area. It is considered that the proposed application of the car-free restriction to existing Flat 5 instead of proposed Flat 6 would remain within the spirit of the Council's policies and is supported.

Two cycle storage spaces would be provided at the rear ground floor level all in compliance with 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 was 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 H1; H6; A1, D1, D2, T1 and T2 of the London Borough of Camden Local Plan 2017. 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 that 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, Judd St, Kings Cross, London NW1 2QS (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 Noise and Licensing Enforcement Team, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (Tel. No. 020 7974 4444 or search for 'environmental health' on the Camden website 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 You are advised that Section 44 of the Deregulation Act 2015 [which amended the Greater London Council (General Powers) Act 1973]] only permits short term letting of residential premises in London for up to 90 days per calendar year. The person who provides the accommodation must be liable for council tax in respect of the premises, ensuring that the relaxation applies to residential, and not commercial, premises.

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



DATED

8th November

2017

(1) HEMAL PATEL

and

(2) HSBC BANK PLC

and

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

A G R E E M E N T

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