

DATED

7 March

2018

(1) THREADNEEDLE PENSIONS LIMITED

and

(2) BLACK MURPHY 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

35 FARRINGDON ROAD, LONDON EC1M 3JF

pursuant to

Section 106 of the Town and Country Planning Act 1990 (as amended);

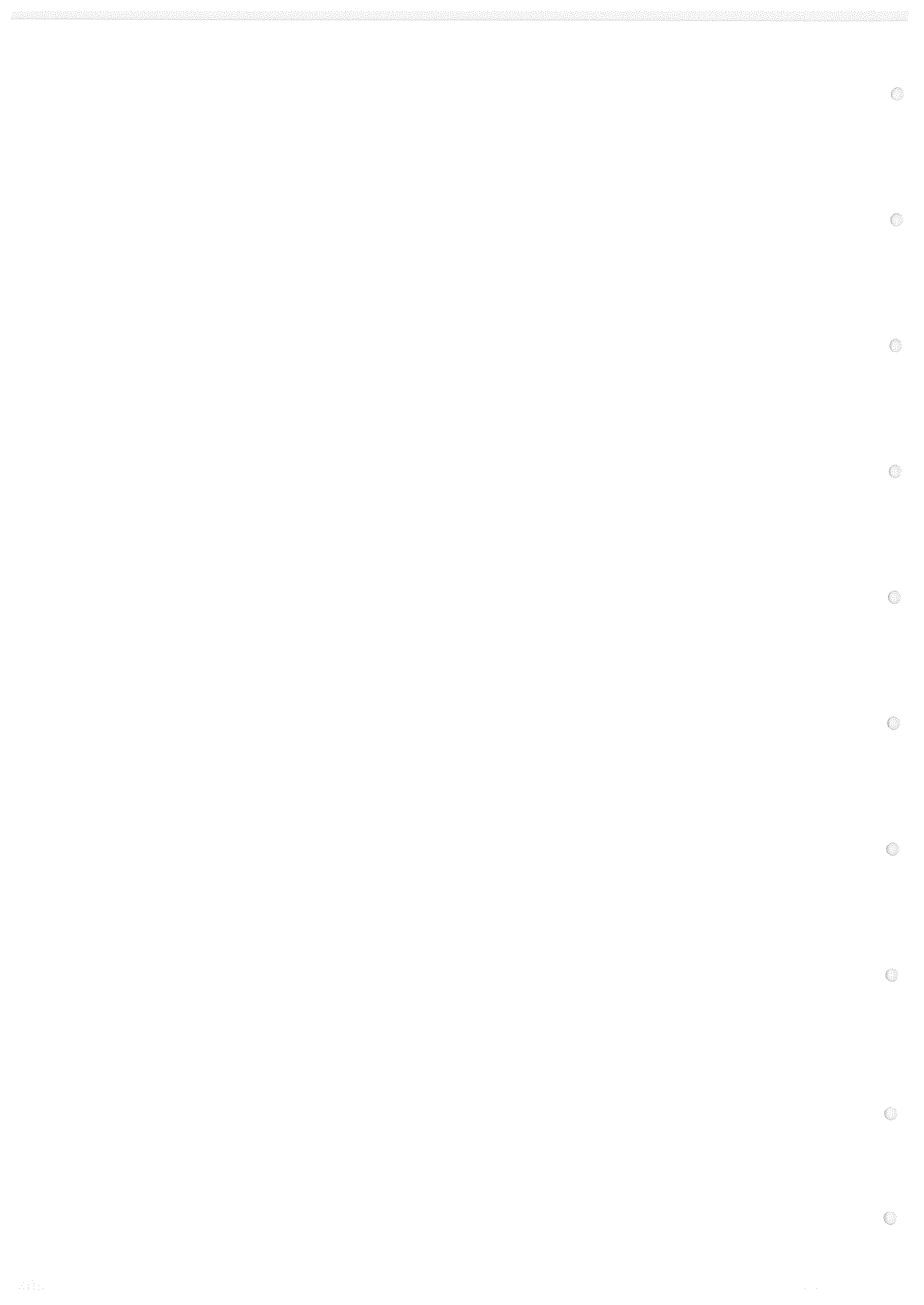
Section 16 of the Greater London Council (General Powers) Act 1974;

Section 111 of the Local Government Act 1972; and

Section 1(1) of the Localism Act 2011

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

Tel: 020 7974 4125
CLS/COM/OO.1800.596



THIS AGREEMENT is made the 7th day of March 2018

B E T W E E N:

- A. **THREADNEEDLE PENSIONS LIMITED** (Co. Regn. No. 0984167) whose registered office is at Cannon Place, 78 Cannon Street, London EC4N 6AG (hereinafter called "the Freeholder") of the first part
- B. **BLACK MURPHY LIMITED** (Co. Regn. No. 06320498) whose registered office is at 29 New Inn Yard, Shoreditch, London EC2A 3EY (hereinafter called "the Interested Party") 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 Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number LN229578.
- 1.2 The Freeholder is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 The Interested Party is interested in the Property by way of a lease Agreement dated 1 December 2017 for a term of 15 years from and including the date of completion of the lease between (1) Threadneedle Pensions Limited (2) Black Murphy Limited to be registered under a unilateral notice in the Charges Register.
- 1.4 The Freeholder and the Interested Party shall hereinafter be jointly referred to as "**the Owner**".
- 1.5 A Planning Application for the development of the Property was submitted to the Council and validated on 17 November 2017 and the Council resolved to grant permission conditionally under reference number 2017/6454/P subject to the conclusion of this legal Agreement.

- 1.6 The Council is the local planning authority for the purposes of the Act and is the local authority for the purposes 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 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.
- 1.7 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

2. **DEFINITIONS**

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

- 2.1 "the Act" the Town and Country Planning Act 1990 (as amended)
- 2.2 "the Agreement" this Planning Obligation made pursuant to Section 106 of the Act
- 2.3 "the Development" change of use of the basement from Sui Generis (Nightclub) use to D2 (Gym) use. Alterations to the front entrance and the installation of 7x air condition units and associated acoustic attenuation shelf to the rear external wall of the courtyard at ground floor level as shown on drawing numbers:- EX01, EX02, GA.00 M001, M002, 015FAR / 101, 015FAR / 200, 015FAR / 204, 015FAR / 300, 015FAR / 410 rev.A, Transport Statement (dated January 2018) and Acoustics Report ref. A1234 R01 (dated 17th November 2017)
- 2.4 "the Environmental Contribution" the sum of £900 (nine hundred 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 provision of various pedestrian cycle and public realm improvements in the vicinity of the Development

- 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 and references to "Implementation" and "Implement" shall be construed accordingly
- 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 Freeholder and the Interested Party
- 2.8 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 17 November 2017 for which a resolution to grant permission has been passed conditionally under reference number 2017/6454/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 35 Farringdon Road, London EC1M 3JF the same as shown shaded grey on the plan annexed hereto

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 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 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 **ENVIRONMENTAL CONTRIBUTION**

- 4.1.1 On or prior to the Implementation Date to pay to the Council the Environmental Contribution in full.
- 4.1.2 Not to Implement or to permit Implementation until such time as the Council has received the Environmental Contribution in full.

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 2017/6454/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 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.

- 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 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 2017/6454/P.
- 5.7 Payment of the Environmental Contribution pursuant to Clause 4 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 2017/6454/P. Electronic Transfer 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, Placeshaping Service, Urban Design and Development Team, 2nd Floor, 5 Pancras Square, London, N1C 4AJ and sent to planning obligations on PlanningObligations@camden.gov.uk quoting the planning reference number 2017/6454/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

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 Freeholder or the Interested Party 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. **JOINT AND SEVERAL LIABILITY**

- 7.1 All Covenants made by the Owner(s) in this Agreement are made jointly and severally and shall be enforceable as such.

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(s) have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY)
THREADNEEDLE PORTFOLIO SERVICES))
LIMITED as attorney for and on behalf of)
THREADNEEDLE PENSIONS LIMITED)
pursuant to a power of
Attorney dated or with effect from ~~1 March~~
~~2015~~ 6 February 2018 AG LLP

.....
NH

Authorised Signatory

.....
[Signature]

Authorised Signatory

[Faint handwritten text]

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO 35 FARRINGDON ROAD, LONDON

EC1M 3JF

EXECUTED AS A DEED BY ^{Phillipa})
BLACK MURPHY LIMITED ^{inga})
acting by a Director in the presence of ^{Black})

[Handwritten Signature]
.....

Director

[Handwritten Signature]
.....

Witness Signature

Hannah Cooper
.....

Witness Name

RLS Law, Suite 30-33 The Hop Exchange
.....
Witness Address *24 Southwark Street*
SE1 1T4

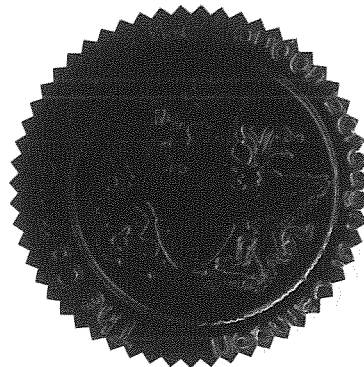
Paralegal
.....

Witness Occupation

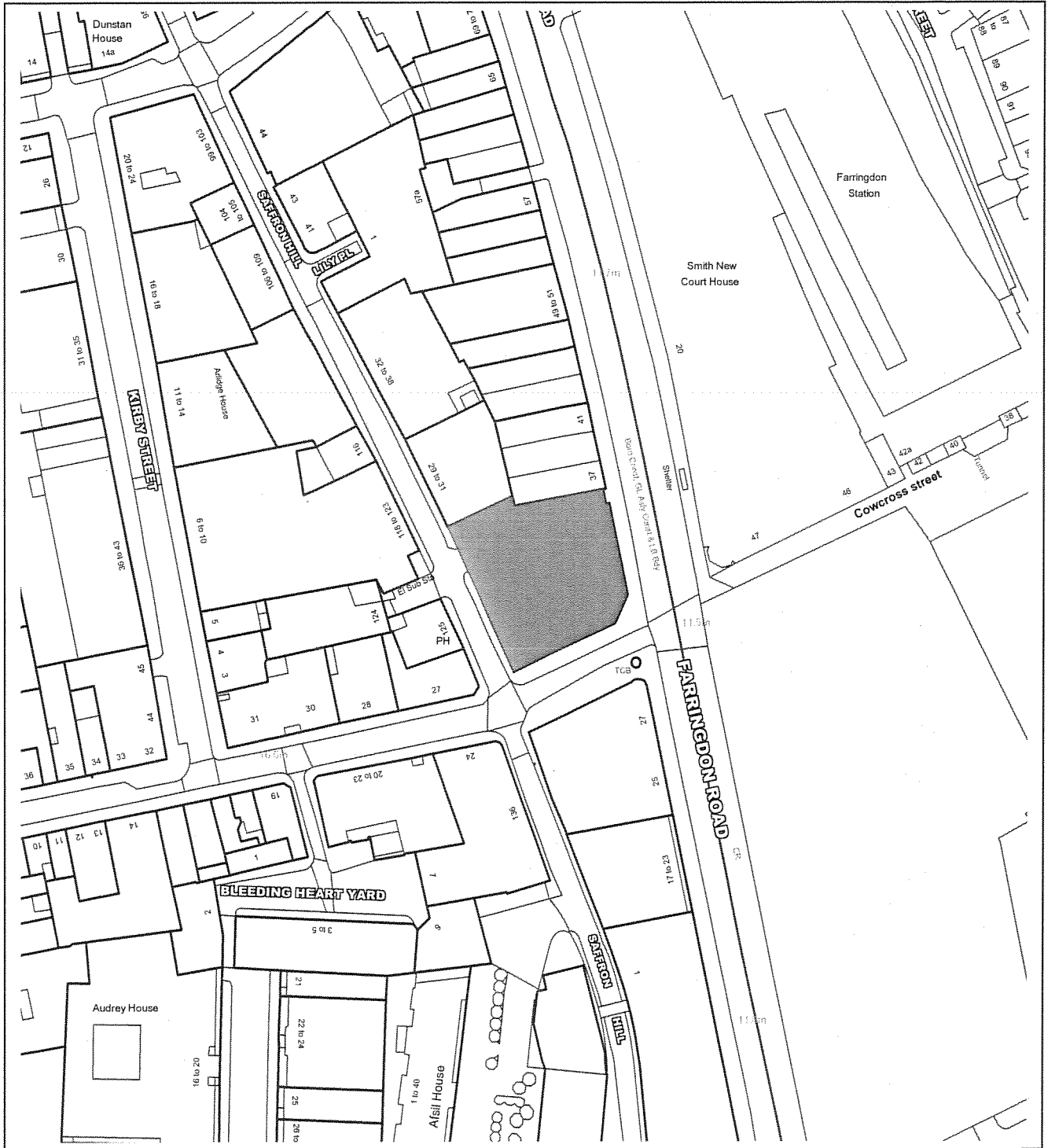
THE COMMON SEAL OF THE MAYOR)
AND BURGESSES OF THE LONDON)
BOROUGH OF CAMDEN was hereunto)
Affixed by Order:-)

R. Alexander
.....

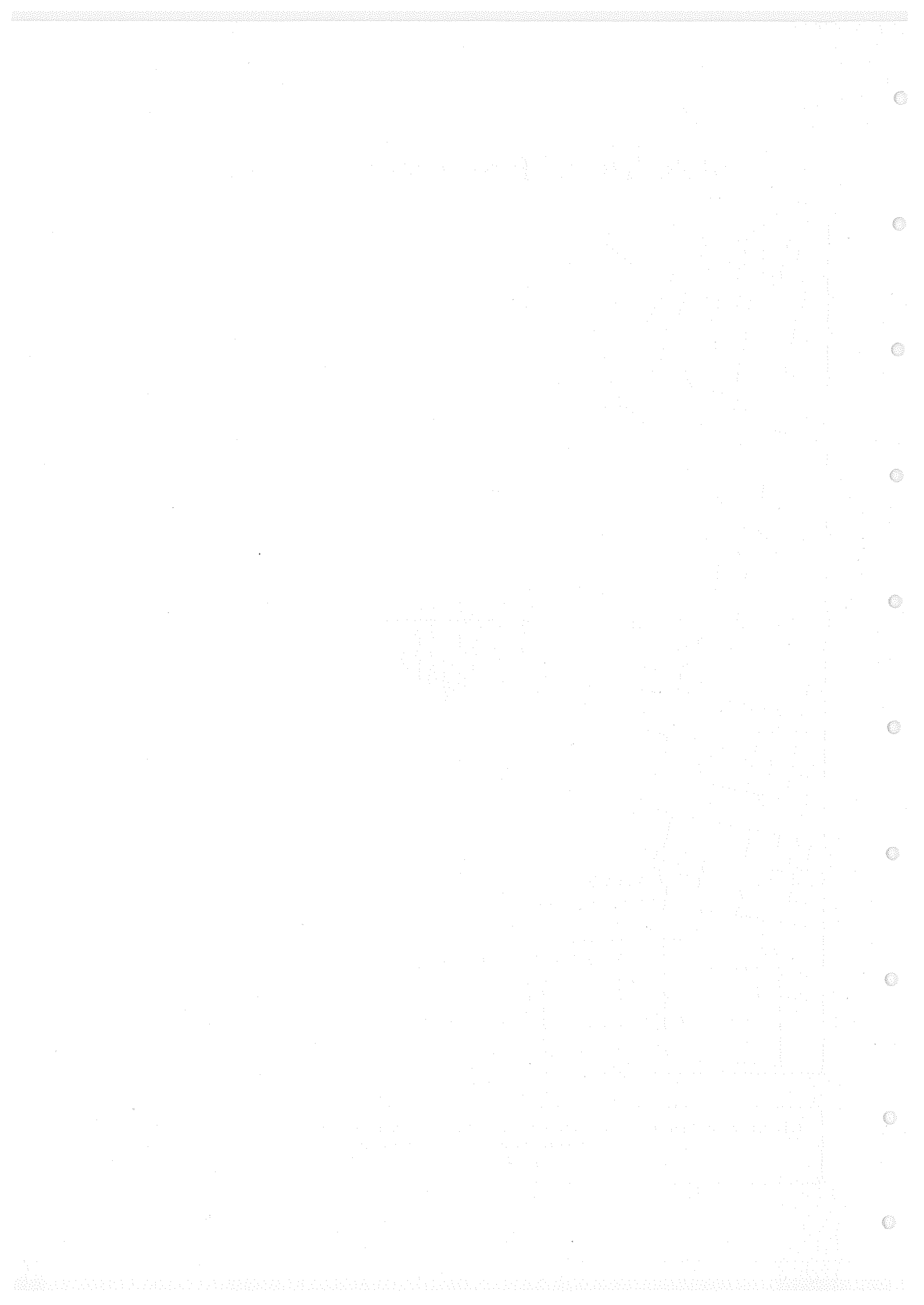
Authorised Signatory



NORTHGATE SE GIS Print Template



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Application ref: 2017/6454/P
Contact: Sofie Fieldsend
Tel: 020 7974
Date: 23 February 2018

Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Phone: 020 7974 4444

camden.gov.uk

planning@camden.gov.uk

www.camden.gov.uk

Rolfe Judd Planning
Old Church Court
Claylands Road
Oval
London
SW8 1NZ

DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Granted

Address:

Basement and ground floor
35 Farringdon Road
London
EC1M 3JB

DECISION

Proposal:

Change of use of the basement from Sui Generis (Nightclub) use to D2 (Gym) use. Alterations to the front entrance and the installation of 7x air condition units and associated acoustic attenuation shelf to the rear external wall of the courtyard at ground floor level.

Drawing Nos: EX01, EX02, GA.00 M001, M002, 015FAR / 101, 015FAR / 200, 015FAR / 204, 015FAR / 300, 015FAR / 410 rev.A, Transport Statement (dated January 2018) and Acoustics Report ref. A1234 R01 (dated 17th November 2017).

The Council has considered your application and decided to grant permission subject to the following condition(s):

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 D1 and D2 of the London Borough of Camden Local Plan 2017.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans:

EX01, EX02, M001, M002, 015FAR / 101, 015FAR / 200, 015FAR / 204, 015FAR / 300, 015FAR / 410 rev.A and Acoustics Report ref. A1234 R01 (dated 17th November 2017).

Reason:

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

- 4 The use hereby permitted shall not be carried out outside the following times: 6:30am to 9:30pm Monday to Friday, 8:30am to 5pm Saturdays and 8:30am to 5pm on Sundays and bank holidays.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies D1, A1 and A4 of the London Borough of Camden Local Plan 2017.

- 5 No music shall be played on the premises in such a way as to be audible within any adjoining premises, adjoining highway/footway.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies G1, A1 and A4 of the London Borough of Camden Local Plan 2017.

- 6 The external noise level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the lowest existing background noise level by at least 10dBA, by 15dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies G1, CC1, D1, A1 and A4 of the London Borough of Camden Local Plan 2017.

- 7 Prior to use, plant or equipment and ducting at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies G1, CC1, D1, A1 and A4 of the London Borough of Camden Local Plan 2017.

- 8 Before the development is first occupied, a Sheffield stand which will provide 2 secure long stay parking spaces for staff on the ground floor lobby as shown on Drawing No. GA.00 will be installed and permanently retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the policy requirements of Policy T1 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Reasons for granting permission.

The change of use from a nightclub (sui generis) to a gym (D2) use would be suitable for the Central London Area as it would provide a service for the local community, encourage a healthy lifestyle and would encourage trip generation, subsequently helping support other businesses. The new development is in close proximity to Farringdon Station and is very well located to public transport nodes. The site has a PTAL score of 6b, it is considered that its location is appropriate to allow as many people as possible to enjoy their benefits and make use of public transport to get there. As the existing unit is a non-retail use and located at basement level, the proposed change would not alter the existing row of consecutive uses. In addition the current use is not protected and therefore its loss in this context is considered to be acceptable. As such, the change is not considered to harm to the character of the host property, streetscene or Hatton Garden Conservation Area.

The proposal will replace an existing set of double glass doors normally screened by a metal shutter with a set of aluminium glazed doors on the front elevation. It is considered that the increased glazing and removal of the shutter will create a more active frontage along Farringdon Road. Therefore it is considered to preserve and enhance the character of the host property and the wider conservation area. These alterations and the change of use would not result in any loss of outlook, light or privacy to any adjoining neighbour.

The proposal includes the installation of seven air conditioning units mounted on the wall of the ground floor courtyard at the rear of the building. The proposed plant equipment would not be visible from the street as it would be screened by the existing 2.9m high brick wall. Overall, given the nature of the development and the fact that it would be well screened from public views, it is considered that the proposal would preserve the character and appearance of the host property and wider Hatton Garden Conservation Area.

A noise survey has been submitted in support of the application. The Council's Environmental Health officer has reviewed the information and considers it to be acceptable, subject to noise compliance and noise/vibration reduction being secured by planning condition. The development would not result in a material impact on the amenity of neighbouring properties in terms of noise.

To comply with policy six vertical cycle spaces would be required to be located on site, however given the space constraints on site and that the applicant has demonstrated that this is not feasible. The use of basement space for cycle parking

provision is not considered to be practical as there is not a lift. To mitigate the absence of the required short stay cycle parking Highways officers have requested the installation of 1 Sheffield stand to provide 2 secure long stay parking spaces for staff on the ground floor lobby and a Pedestrian, Cycling and Environmental Contribution which will be secured by a S106 legal agreement. It is considered that this is sufficient to overcome the issue of not being able to provide the policy requirement of six cycle spaces.

No comments were received during the consultation period. The planning history of the site has been 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 Hatton Garden Conservation Area, under s.72 of the Planning (Listed Buildings and Conservation Area) Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

As such, the proposed development is in general accordance with policies G1, CC1, A1, A4, C3, D1, D2, T1 and T3 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 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.

You can find advice about your rights of appeal at:

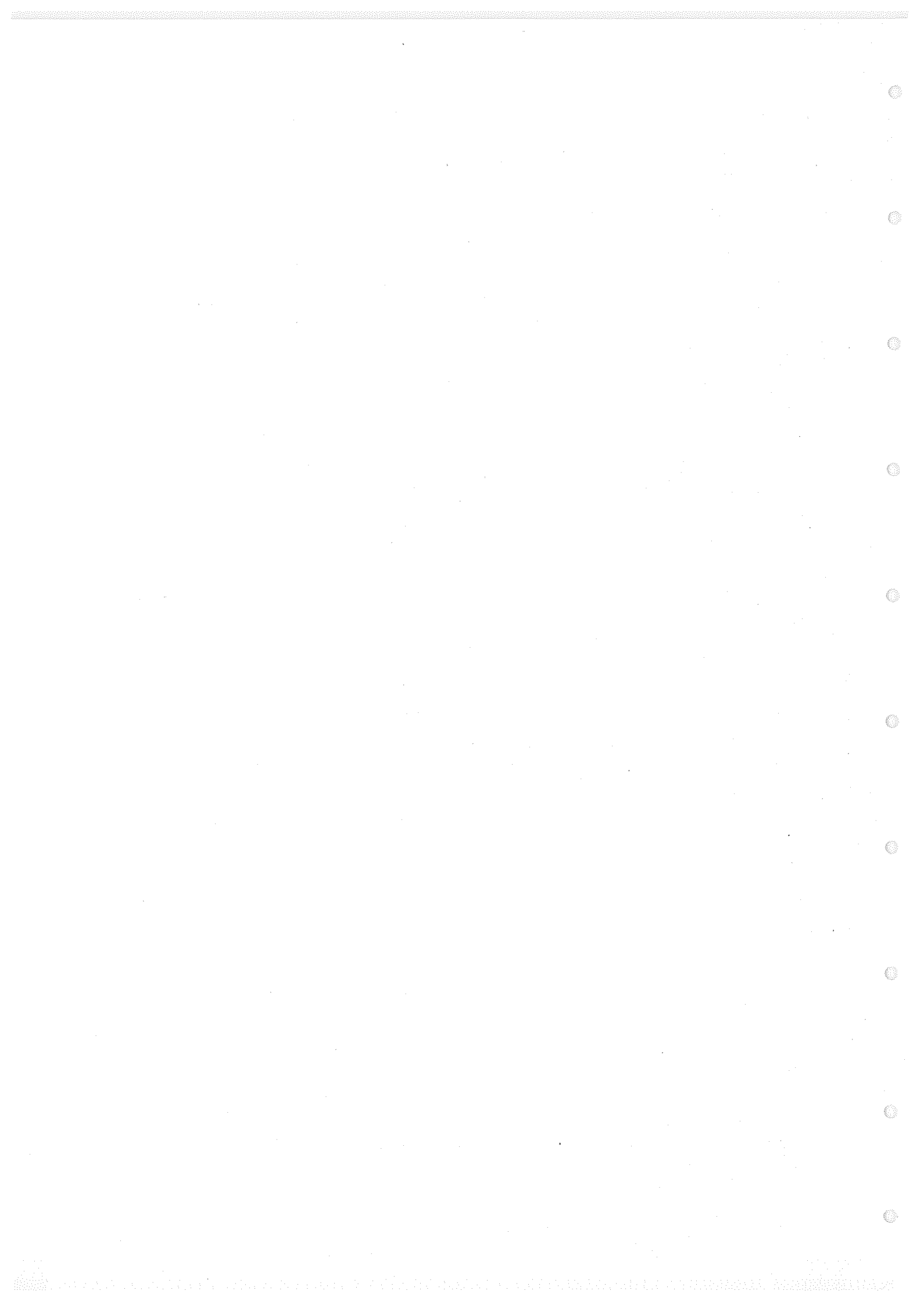
<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

David Joyce
Director of Regeneration and Planning

DRAFT

DECISION





DATED

7 March

2018

(1) THREADNEEDLE PENSIONS LIMITED

and

(2) BLACK MURPHY 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

35 FARRINGDON ROAD, LONDON EC1M 3JF

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

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