

DATED

6 MARCH

2018

(1) ABHAY RUPARELL

and

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

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**DEED OF VARIATION**

Relating to the Agreement dated 9 March 2015  
between  
(1) Abhay Ruparell and  
(2) the Mayor and the Burgesses of the London Borough of Camden

under section 106 of the Town and  
Country Planning Act 1990

Relating to development at land known as

**2 Oakhill Avenue  
London  
NW3 7RE**

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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/1800.467 (final)

**THIS DEED** is made the 6<sup>th</sup> day of March 2018

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

1. **ABHAY RUPARELL** of 2 Oakhill Avenue, London, NW3 7RE (hereinafter called "the Owner") of the first part
2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second part

**WHEREAS**

- A. The Owner is registered at the Land Registry as the freehold proprietor with title absolute of the Property under title number NGL745114 and is interested in the Property for the purposes of Section 106 of the Act.
- B. 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 the Existing Agreement as modified by this Deed.
- C. The Council and the Owner entered into the Existing Agreement on 9 March 2015.
- D. The Owner has submitted the Minor Material Amendment application in respect of the Property to amend the Planning Permission and the Council has agreed to modify the Planning Permission under Section 73 of the Act subject to the Parties entering into this Deed to secure amendments to the Existing Agreement.

**NOW IT IS HEREBY AGREED and WITNESSED as follows:**

**1 LEGAL EFFECT AND INTERPRETATION**

- 1.1 This Deed is made in pursuance of Section 106 and Section 106A of the Act.

- 1.2 The planning obligations in the Existing Agreement as modified by this Deed shall be enforceable by the Council against the Owner as provided therein 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.
- 1.3 Save as expressly stated otherwise all words and expressions used in this Deed shall have the same meaning as in the Existing Agreement.
- 1.4 For the purposes of this Deed the following words and expressions shall have the meanings assigned unless the context states otherwise:

|   |  |
|---|--|
| <b>Act</b>                                  | Town and Country Planning Act 1990   |
| <b>Annex 1</b>                              | the annex numbered "Annex 1" attached hereto   |
| <b>this Deed</b>                            | this deed of variation to the Existing Agreement made pursuant to Section 106 and Section 106A of the Act  |
| <b>Existing Agreement</b>                   | the agreement dated 9 March 2015 between (1) Abhay Ruparell and (2) the Mayor and the Burgesses of the London Borough of Camden entered into pursuant to Section 106 of the Act  |
| <b>Minor Material Amendment Application</b> | an application under Section 73 of the Act having reference number 2017/2614/P to amend the Planning Permission to permit <b>variation of condition 3</b> (approved plans) to simplify the structural design, reduce vibration |

noise and disturbance to neighbours and to reduce the scope of differential settlement between adjacent buildings as shown on drawings numbered lower ground floor plan (proposed) by Elliott Wood no. 2150667 S.010 P2, Ground floor plan (proposed) no. 2150667 S.020 P2, First floor plan (proposed) by Elliott Wood no. 2150667 S.030 P2, Second floor plan (proposed) by Elliott Wood no. 2150667 S.040 P2, Roof plan (proposed) no. 2150667 S.050 2, substructure construction sequence by Elliott Wood ref. HSt/LG/SQ.02/ P1 and HSt/SQ.03/P1, GEA letter dated 2.3.17 ref. J13073B/JD/1, CGL letter dated 19.4.17 ref. CG/08999a, CGL response to audit ref CG/08999a, BIA Audit by Campbell Reith ref. 12466-94 Rev F1 dated October 2017

**Minor Material Amendment**

a decision under Section 73 of the Act pursuant to the Minor Material Amendment Application having reference number 2017/2614/P in a form substantially similar to that at Annex 1 to this Deed amending the Planning Permission

**Planning Permission**

the planning permission granted by the Council for development at the Property by a notice dated 9 March 2015 and having the reference number 2013/6162/P

**Parties**

the Council and the Owner being the parties to this Deed and shall include their successors in title, transferees and assigns

**3 VARIATION OF THE EXISTING AGREEMENT**

With effect from the date of this Deed and the Council issuing a notice granting planning permission for the Minor Material Amendment, the Existing Agreement shall be varied as follows:

3.1 the definition at clause 2.7 shall be **varied** to the following:

""the Development"

basement excavation and extensions to rear and side in connection with conversion of existing single family dwelling into 2 x 3 bedroom maisonettes (Class C3) as shown on drawing numbers:- Construction Method Statement ref. 21915 dated June 2013 by Ben Sheterline, Basement Impact Assessment ref. J13073 (Issue no. 3) dated July 2013 by Price & Myers / GEA, Independent Assessment of BIA ref. BIA/4415 dated April 2014 by Chelmer Consultancy Service (CCS), Letter by Price & Myers dated 26/6/14 ref. 21915/BS: Response to CCS Independent Assessment, Construction Method Statement ref. 21915 dated June 2014 (Rev A) by Ben Sheterline, Letter by GEA ref. J13073/ME/2 dated 8/7/14: Response to CCS Independent Assessment dated April 2014, Review of revised BIA and CMS ref. RRBC/4415 dated August 2014 by CCS, Ground Movement Assessment ref. CG/08999 dated September 2014 by CGL, Site Specific Arboricultural Survey, Impact & Method Statement dated 25/10/13 by R Wassell. Drawings nos.: Prefix: '2

Oakhill Avenue/05 OS 01, (as existing:) GA 01, 1182G, 11821, 11822, 1182R, 1182E, 1182LS, (as proposed:) GA 01/C, GA 02/B, GA 03/A, GA 04/A, GA 06/B, GA 10/C, GA 09/A, GA 07/C and GA 08/A **as varied by the Minor Material Amendment**

3.2 the following definition shall be **added** to the Existing Agreement:

““2.8A “Minor Material Amendment”

a decision under Section 73 of the Act having reference number 2017/2614/P in a form substantially similar to that at Annex 1 to this Deed amending the Planning Permission”

3.3 the following definition shall be **added** to the Existing Agreement:

““2.8B “Minor Material Amendment Application”

an application under Section 73 of the Act having reference number 2017/2614/P to amend the Planning Permission to permit variation of condition 3 (approved plans ) to simplify the structural design, reduce vibration noise and disturbance to neighbours and to reduce the scope of differential settlement between adjacent buildings as shown on drawings numbered lower ground floor plan (proposed) by Elliott Wood no. 2150667 S.010 P2, Ground floor plan (proposed) no. 2150667 S.020 P2, First floor plan (proposed) by Elliott Wood no. 2150667 S.030 P2, Second floor plan (proposed) by Elliott Wood no. 2150667 S.040 P2, Roof plan (proposed) no. 2150667 S.050 2, substructure construction sequence by Elliott Wood ref. HSt/LG/SQ.02/ P1 and HSt/SQ.03/P1, GEA letter dated 2.3.17 ref.

J13073B/JD/1, CGL letter dated 19.4.17 ref. CG/08999a, CGL response to audit ref CG/08999a, BIA Audit by Campbell Reith ref. 12466-94 Rev F1 dated October 2017”

- 3.4 the numbering of Clause 2 (Definitions) of the Existing Agreement shall be re-numbered accordingly;
- 3.5 the draft planning permission reference 2017/2614/P at Annex 1 to this Deed shall be treated as annexed to the Existing Agreement in addition to the existing annexures.
- 3.6 in all other respects the Existing Agreement (as varied by this Deed) shall continue in full force and effect.

#### 4 MISCELLANEOUS PROVISIONS

- 4.1 This Deed shall be registered as a Local Land Charge.
- 4.2 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 Deed in the Charges Register of the title to the Property and will furnish the Council forthwith on written demand with official copies of such title to show the entry of this Deed in the Charges Register of the title to the Property.
- 4.3 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Deed on or prior to the date of completion of this Deed.
- 4.4 The Contracts (Rights of Third Parties) Act 1999 shall not apply this Deed.
- 4.5 This Deed is governed by and shall be interpreted in accordance with the laws of England.





**ANNEX 1**

**draft planning permission ref. 2017/2614/P**



Studio B Architects  
53 Priory Road  
London  
NW6 3NE

Application Ref: **2017/2614/P**

28 February 2018

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:  
**2 Oakhill Avenue**  
**LONDON**  
**NW3 7RE**

**DECISION**  
Proposal:

Variation of condition 3 (approved plans) of planning permission ref. 2013/6162/P dated 09/03/2015 (as amended by planning permission ref. 2015/5055/P dated 16/02/2016) for 'basement excavation and extensions to rear and side in connection with conversion of existing single family dwelling into 2 x 3 bedroom maisonettes' namely to simplify the structural design, reduce vibration noise and disturbance to neighbours and to reduce the scope of differential settlement between adjacent buildings.

Drawing Nos:

Superseded:

GA 01/C, GA 02/B, GA 03/A, GA 04/A, GA 06/B, GA 10/C, GA 09/A, GA 07/C and GA 08/A.

Proposed:

Lower ground floor plan (proposed) by Elliott Wood no. 2150667 S.010 P2, Ground floor plan (proposed) no. 2150667 S.020 P2, First floor plan (proposed) by Elliott Wood no. 2150667 S.030 P2, Second floor plan (proposed) by Elliott Wood no. 2150667 S.040 P2, Roof plan (proposed) no. 2150667 S.050 2, substructure construction sequence by Elliott Wood ref. HSt/LG/SQ.02/ P1 and HSt/SQ.03/P1, GEA letter dated 2.3.17 ref. J13073B/JD/1, CGL letter dated 19.4.17 ref. CG/08999a, CGL response to audit ref CG/08999a, BIA Audit by Campbell Reith ref. 12466-94 Rev F1 dated October 2017.

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 the original permission (ref. 2013/6162/P).

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 For the purposes of this decision, condition no. 3 of planning permission 2013/6162/P shall be replaced with the following condition:

REPLACEMENT CONDITION 3:

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

05SE GA 09, 05SE GA 07, 05SE GA 06, 05SE GA 02, 05SE GA 05, 05SE GA 08 A, [Prefix: '2 Oakhill Avenue'/05] OS 01.05, GA 04, 05 GA 03A, Site Specific Arboricultural Survey, Construction Method Statement ref. 21915 dated June 2013 by Ben Sheterline, Basement Impact Assessment ref. J13073 (Issue no. 3) dated July 2013 by Price & Myers / GEA, Independent Assessment of BIA ref. BIA/4415 dated April 2014 by Chelmer Consultancy Service (CCS), Letter by Price & Myers dated 26/6/14 ref. 21915/BS: Response to CCS Independent Assessment, Construction Method Statement ref. 21915 dated June 2014 (Rev A) by Ben Sheterline, Letter by GEA ref. J13073/ME/2 dated 8/7/14: Response to CCS Independent Assessment dated April 2014, Review of revised BIA and CMS ref. RRBC/4415 dated August 2014 by CCS, Ground Movement Assessment ref. CG/08999 dated September 2014 by CGL, Impact & Method Statement dated 25/10/13 by R Wassell; Lower ground floor plan (proposed) by Elliott Wood no. 2150667 S.010 P2, Ground floor plan (proposed) no. 2150667 S.020 P2, First floor plan (proposed) by Elliott Wood no. 2150667 S.030 P2, Second floor plan (proposed) by Elliott Wood no. 2150667 S.040 P2, Roof plan (proposed) no. 2150667 S.050 2, substructure construction sequence by Elliott Wood ref. HSt/LG/SQ.02/P1 and HSt/SQ.03/P1, GEA letter dated 2.3.17 ref. J13073B/JD/1, CGL letter dated 19.4.17 ref. CG/08999a, CGL response to audit ref CG/08999a, BIA Audit by Campbell Reith ref. 12466-94 Rev F1 dated October 2017.

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

- 4 A detailed drawing of the rear side of the lower ground floor maisonette (lower ground and ground floor level) to show glazing (obscured and non-obscured), shall be submitted to and approved in writing by the local planning authority before the relevant part of the work is begun:

The relevant part of the works shall be carried out in accordance with the details thus approved and maintained and retained thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy A1 of the London Borough of Camden Local Plan 2017.

- 5 Prior to the commencement of any works on site, details demonstrating how trees to be retained shall be protected during construction work shall be submitted to and approved by the local planning authority in writing. Such details shall follow guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction". All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the approved protection details.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policies A2 and A3 of the London Borough of Camden Local Plan 2017.

- 6 Before the development commences, details of secure and covered cycle storage area for 2 cycles shall be submitted to and approved by the local planning authority. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and permanently 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.

- 7 Full details in respect of the green roof in the area indicated on the approved roof plan (over side extension and rear extension) shall be submitted to and approved by the local planning authority before the relevant part of the development commences. The buildings shall not be occupied until the approved details have been implemented and these works shall be permanently retained and maintained thereafter.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies G1, CC1, CC2, CC3, D1, D2 and A3 of the London Borough of Camden Local Plan 2017.

- 8 The development hereby approved shall not commence until such time as a suitably qualified chartered engineer with membership of the appropriate professional body has been appointed to inspect, approve and monitor the critical elements of both permanent and temporary basement construction works throughout their duration to ensure compliance with the design which has been checked and approved by a building control body. Details of the appointment and the appointee's responsibilities shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. Any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policies D1, D2 and A5 of the London Borough of Camden Local Plan 2017.

- 9 The high-level small windows on the side elevation and the side fixed panel to the rear upper ground enclosed balcony shall be provided as obscured glazing and maintained and retained as such.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy A1 of the London Borough of Camden Local Plan 2017.

- 10 No development shall take place until full details of hard and soft landscaping and means of enclosure of all un-built, open areas have been submitted to and approved by the local planning authority in writing. Such details shall include details of any proposed earthworks including grading, mounding and other changes in ground levels. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area in accordance with the requirements of policies A2, A3, A5, D1 and D2 of the London Borough of Camden Local Plan 2017.

- 11 All hard and soft landscaping works shall be carried out in accordance with the approved landscape details prior to the occupation for the permitted use of the development or any phase of the development. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a high quality of visual amenity in the scheme in accordance with the requirements of policies A2, A3, A5, D1 and D2 of the London Borough of Camden Local Plan 2017.

- 12 Prior to the end of the next available planting season (in accordance with the commencement of development), replacement (1x) tree planting shall be carried out in accordance with details of replanting species, position, date and size, where applicable, that have first been submitted to and approved by the local planning authority in writing.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area, in accordance with the requirements of policies A2 and A3 and D2 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 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).
- 2 Your proposals may be subject to control under the Party Wall etc Act 1996 which covers party wall matters, boundary walls and excavations near neighbouring buildings. You are advised to consult a suitably qualified and experienced Building Engineer.
- 3 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.

- 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 You are reminded that this decision only grants permission for permanent residential accommodation (Class C3). Any alternative use of the residential units for temporary accommodation, i.e. for periods of less than 90 days for tourist or short term lets etc, would constitute a material change of use and would require a further grant of planning permission.
- 6 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)

- 7 You are advised that the development approved under this decision letter may give rise to liability for the Mayor of London's Community Infrastructure Levy (CIL) as well as the Camden CIL. The Council will determine the liable amount for both CILs on receipt from you of the completed Additional Information Requirement Form. In the event of the completed Additional Information Requirement Form not being received, the Council will calculate any liability on the basis of relevant available information. If you wish to discuss the CIL liability in respect of the development hereby approved please contact <https://www.camden.gov.uk/ccm/content/contacts/contact-community-infrastructure-levy-team/>



- 8 You are encouraged to re-use or retain the existing fish scale tiles on site as much as possible in the interest of sustainability and the protection of the character and appearance of the conservation area.

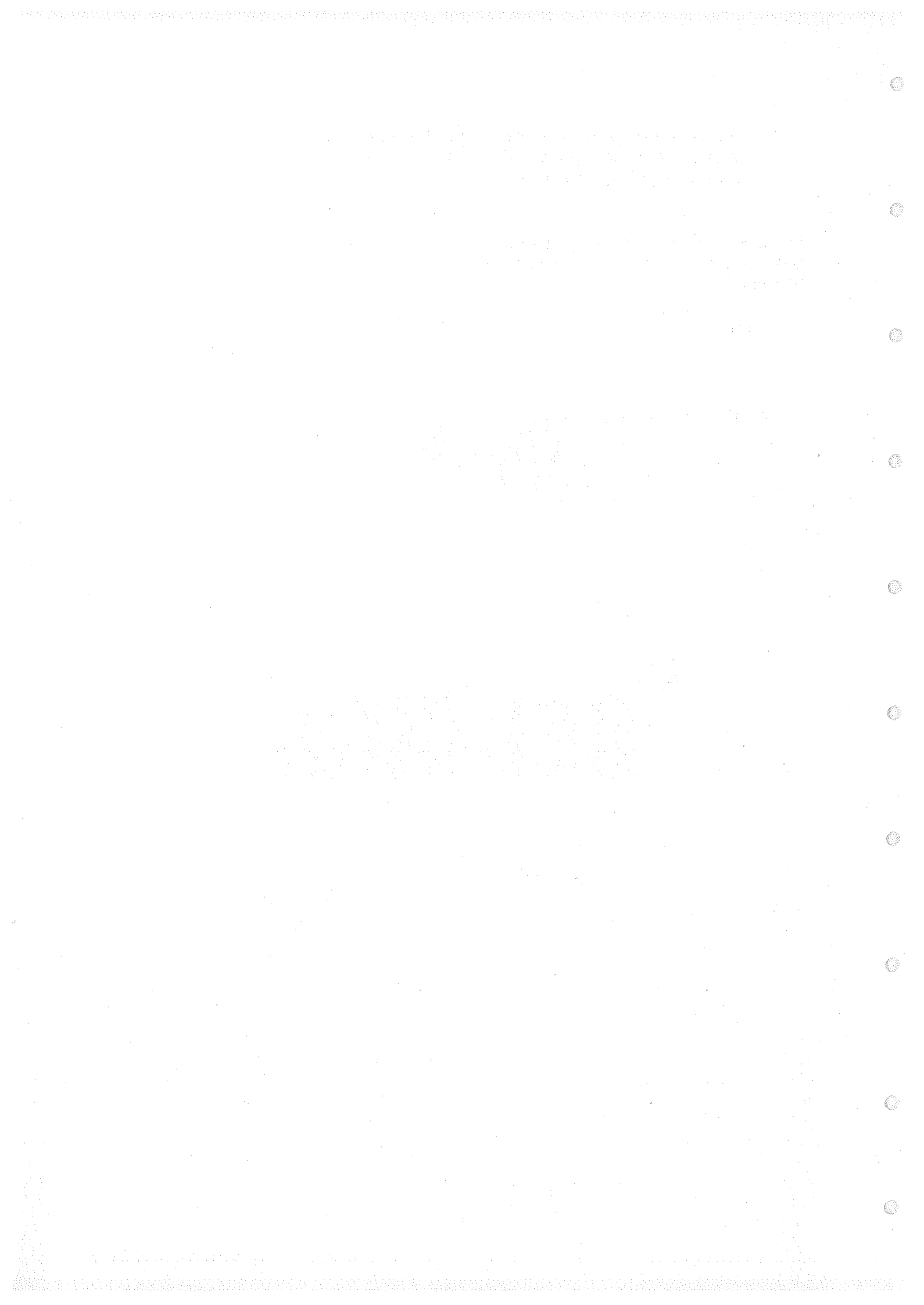
In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Supporting Communities Directorate

**DRAFT**

**DECISION**



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

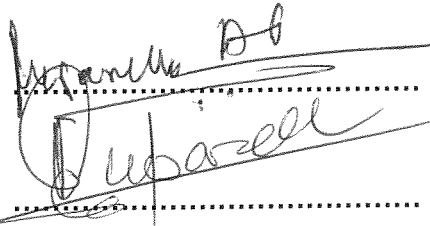
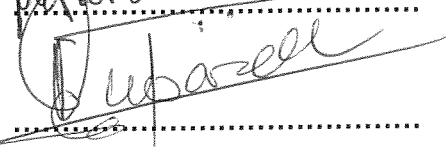
EXECUTED AS A DEED BY  
ABHAY RUPARELL  
in the presence of:

Witness Signature:

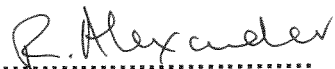
Witness Name: (CAPITALS)

Address:

Occupation:

)   
) .....  
)   
) .....  
) AASHREET RUPARELL  
) .....  
) FLAT 3  
) .....  
) 53 PRIORY ROAD NW6 3NE  
) .....  
) INVESTOR  
) .....

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

.....  
  
.....  
Authorised Signatory







DATED

6 MARCH

2018

(1) ABHAY RUPARELL

and

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

---

**DEED OF VARIATION**

Relating to the Agreement dated 9 March 2015  
between  
(1) Abhay Ruparell and  
(2) the Mayor and the Burgesses of the London Borough of Camden

under section 106 of the Town and  
Country Planning Act 1990

Relating to development at land known as

**2 Oakhill Avenue  
London  
NW3 7RE**

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

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