

DATED

31 May 2018

2018

(1) ALEXANDER JASPER EDMUND ABBEY and KATHRYN HELEN DENT

and

(2) THE CO-OPERATIVE 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

42A COITY ROAD, LONDON NW5 4RY

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.1800.598

COULD GLO...

THIS AGREEMENT is made the 31st day of May 2018

B E T W E E N:

- A. **ALEXANDER JASPER EDMUND ABBEY and KATHRYN HELEN DENT** of 42a Coity Road, London NW5 4RY (hereinafter called "the Owner") of the first part
- B. **THE CO-OPERATIVE BANK PLC** (Co. Regn. No. 990937) whose registered office is at PO BOX 101, 1 Balloon Street, Manchester, M60 4EP (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 leasehold proprietor with Title absolute of the Property under Title Number NGL707881 subject to a charge to the Mortgagee.
- 1.2 The Owner is the leasehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 The Council is registered at Land Registry as the freehold proprietor with Title Absolute of the Property under Title Number 321006.
- 1.4 A Planning Application for the development of the Property was submitted to the Council and validated on 29 November 2017 and the Council resolved to grant permission conditionally under reference number 2017/6260/P subject to the conclusion of this legal Agreement.
- 1.5 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.

- 1.6 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 Mortgagee as mortgagee under a legal charge registered under Title Number NGL707881 and dated 8 February 2016 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 "Basement Approval in Principle Application" an application to the Council's Highways Structural team for an approval in principle of the construction of the basement (forming part of the Development) which is to be assessed by the Council with a view to ensuring that sufficient loadings are maintained at all times at the interaction of the Development site and the Public Highway so as to ensure that the Public Highway is not compromised at any time during the Construction Phase or thereafter
- 2.4 "Basement Approval in Principle Contribution" the sum of £500 (five hundred pounds) to be applied by the Council in event of receipt towards the assessment by the Council's Highways Structural team of the Basement Approval in Principle Application

- 2.5 "the Development" Erection of single storey rear extension at lower ground floor level with roof terrace above and infill conservatory to the side; lowering of front vault floor level by 500mm and replacement front door as shown on drawing numbers:- P_100 rev 01, _P_00 rev 02, _P_01, _P_Rf, _P_10 rev 01, _P_200, _P_11, _P_20 rev 01, and design and access statement dated 6 November 2017
- 2.6 "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
- 2.7 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.8 "the Parties" mean the Council, the Mortgagee and the Owner
- 2.9 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 29 November 2017 for which a resolution to grant permission has been passed conditionally under reference number 2017/6260/P subject to conclusion of this Agreement
- 2.10 "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
- 2.11 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.12 "the Property" the land known as 42A Coity Road, London NW5 4RY 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. PROVIDED HOWEVER that the Council shall not be bound by the obligations of the Owner in this Agreement insofar as it is the freehold owner and the obligations of the Owner contained herein will only be bound to the freehold proprietor deriving title to the freehold of the Property from the Council and any subsequent derivatives of title thereafter.
- 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 **BASEMENT APPROVAL IN PRINCIPLE**

4.1.1 On or prior to the Implementation Date to:-

- (a) submit the Basement Approval in Principle Application; and
- (b) pay to the Council the Basement Approval in Principle Contribution

4.1.2 Not to Implement or permit Implementation of any part of the Development until such time as:

- (a) the Council has approved the Basement Approval in Principle Application as demonstrated by written notice to that effect; and
- (b) the Council has received the Basement Approval in Principle Application 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 2017/6260/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 reasonable 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 2017/6260/P.
- 5.7 Payment of the Basement Approval in Principle 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 2017/6260/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 AIIRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AIIRP figure published before the date such payment or application is made ("Y") less the last published AIIRP figure at the date hereof ("X") is the numerator so that

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

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

6. **IT IS HEREBY AGREED AND DECLARED** by the Parties hereto that:-

6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, 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

2017/6260/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 Owner nor the Mortgagee nor their successors in title nor any person deriving title from them shall be bound by the obligations in this Agreement in respect of any period during which it no longer has an interest in the Property but without prejudice to liability for any breach committed prior to the time it disposed of its interest.
- 6.7 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.

7.2 The Parties agree that the obligations contained in this Agreement shall not be enforceable against any mortgagee or chargee of the whole or any part of the Property unless it takes possession of the Property in which case it will be bound by the obligations as a person deriving title from the Owner.

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
ALEXANDER JASPER EDMUND ABBEY**
in the presence of:

)
)
)

A. Abbey

.....
Witness Signature

Witness Name: ISABEL BREBBIA.

Address: 42 CHEVENING RD, LONDON NW6 6DE

Occupation: ARCHITECT.

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO 42A COITY ROAD, LONDON
NW5 4RY

EXECUTED AS A DEED BY
KATHRYN HELEN DENT
in the presence of:

) *Kate Dent*
)

[Signature]
.....
Witness Signature

Witness Name: ISABEL BREBBIA.

Address: 42 CHEVENING RD, LONDON, NW6 6DE.

Occupation: ARCHITECT.

[Signature]

EXECUTED AS A DEED BY
THE CO-OPERATIVE BANK PLC
by
in the presence of:-

) signed as a deed by
) SAMANTHA SKEWTON
) for and behalf of western mortgage
) services limited as a duly
) appointed attorney on behalf
) of the co-operative fire Bank
) P.L.C trading as Platform.

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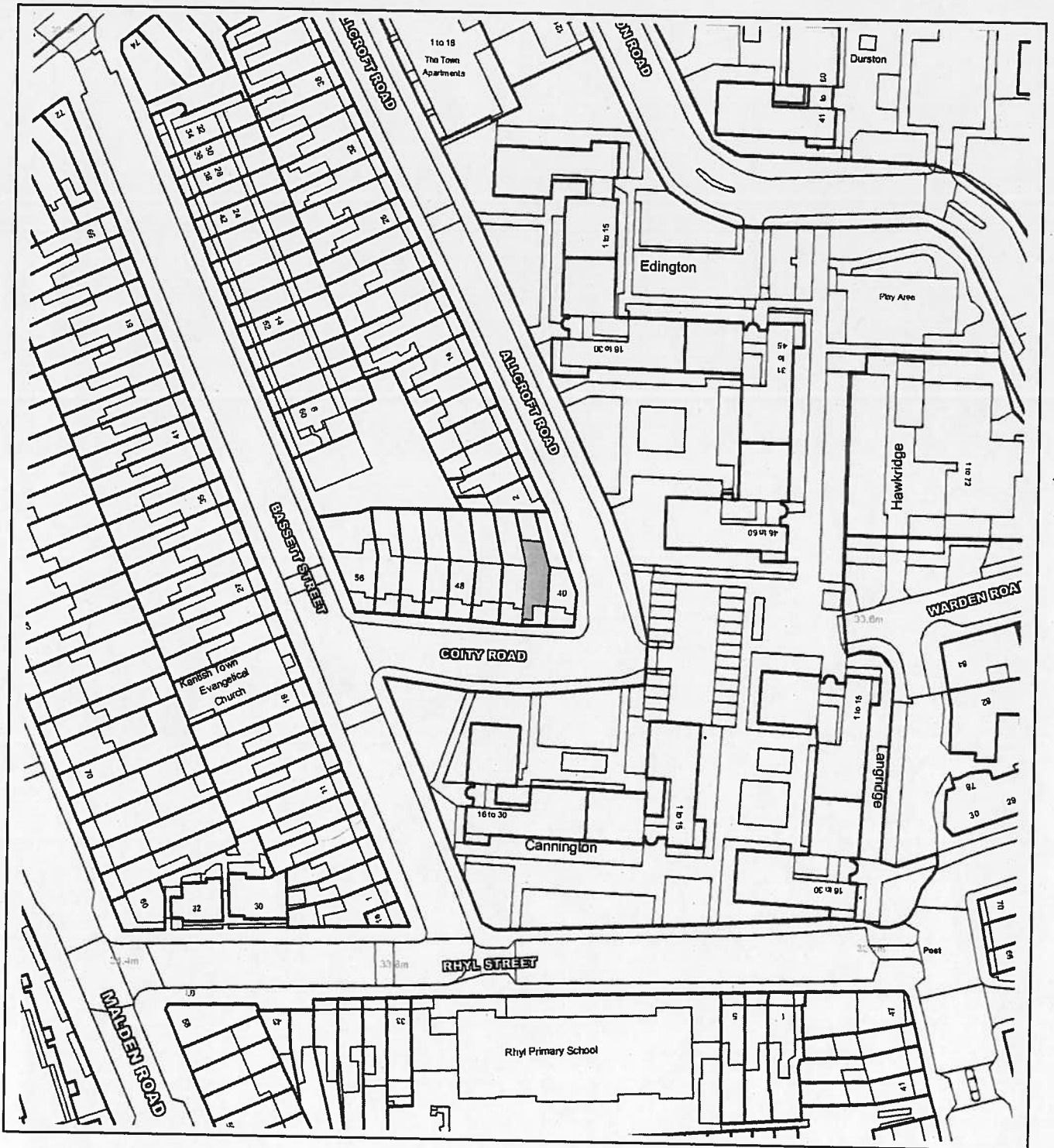
witness signature
C McKeown
witness name
Charlotte McKeown
occupation - customer service
adviser

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

[Signature]
.....
Authorised Signatory



NORTHGATE SE GIS Print Template



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FOR THE RECORD

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THE ABOVE IS A SUMMARY OF THE RECORD FOR THE YEAR 1941 TO 2025. THE TOTAL AMOUNT IS \$100.00.

Mr Alexander Abbey
Flat A , 42, Coity Road
London
NW5 4RY

Application Ref: 2017/6260/P

20 April 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:
Flat A
42
Coity Road
London
NW5 4RY

Proposal:

DECISION
Erection of single storey rear extension at lower ground floor level with roof terrace above and infill conservatory to the side; lowering of front vault floor level by 500mm and replacement front door.

Drawing Nos: _P_100 rev 01, _P_00 rev 02, _P_01, _P_Rf, _P_10 rev 01, _P_200, _P_11, _P_20 rev 01, and design and access statement dated 6 November 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 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 policies 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: _P_100 rev 01, _P_00 rev 02, _P_01, _P_Rf, _P_10 rev 01, _P_200, _P_11, _P_20 rev 01, and design and access statement dated 6 November 2017.

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

- 4 A 1.8 metre high screen, details of which shall have been submitted to and approved in writing by the local planning authority, shall be erected to the rear terrace prior to commencement of use of the roof terrace and shall be permanently retained as such.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policies A1 and D1 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Reasons for granting permission.

The proposed single storey rear extension at lower ground floor level is considered acceptable by virtue of its size, location, design and materials. The extension would be relatively modest, measuring approximately 14sqm, and constructed of matching materials to the host building. Due to its location at lower ground floor level, it would only be visible from the rear windows of neighbouring properties and is considered to have limited impact on the character and appearance of the wider conservation area.

Rear extensions such as that proposed are a common feature along the terrace, and it would be in keeping with the scale of surrounding development. The proposed infill conservatory would sit lower and stepped back from the rear building line of the proposed rear extension. The use of glazing and the setback would differentiate the lightweight addition from the main bulk of the extension and ensure the overall development was subordinate to the host building.

The proposed rear extensions would sit lower than the existing boundary walls which would prevent any harm to neighbouring amenity in terms of overlooking, loss of daylight, or outlook. The proposal includes the creation of a roof terrace above the extension, adjacent to the boundary with no.44; however, a privacy screen would prevent views between the terrace and the neighbouring windows and garden. The screen itself is unlikely to impact neighbouring daylight/sunlight due to its positioning to the east of no.44. There may be a minor impact to morning light levels; but this is not considered to be so harmful as to warrant refusal of the application.

The proposals include the lowering of the floor level of the existing front vault to enable the installation of a small bathroom. The excavations would not exceed more than 500mm in depth and therefore do not require the submission of a basement impact assessment. The Council's Highways department have confirmed they have no objection to the works, subject to an Approval in Principle being secured by S106 agreement.

The replacement front door is a minor change that would have limited impact on the character and appearance of the property, due to its location within the front lightwell where it is not highly visible.

No objections were received prior to the determination of this application. The planning history of the site and surrounding area were 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 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act [ERR] 2013.

As such, the proposed development is in general accordance with policies A1, D1, and D2 of the Camden Local Plan. The proposed development also accords with The London Plan March 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.
- 5 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.

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

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DATED

31 May

2018

(1) ALEXANDER JASPER EDMUND ABBEY and KATHRYN HELEN DENT

and

**(2) THE CO-OPERATIVE 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
42A COITY ROAD, LONDON NW5 4RY
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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Borough Solicitor
London Borough of Camden
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