

DATED 21st June 2018

(1) PENELOPE MAXINE MORGAN and JAMES PHILIP MORGAN

and

(2) CIRCLE EAST LTD

and

(3) HYDE PARK FINANCE LIMITED

and

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

A G R E E M E N T

relating to land known as

35A BROADHURST GARDENS, LONDON, NW6 3QT

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

CLS/COM/NS/1800.698

FINAL

CONFIDENTIAL

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THIS AGREEMENT is made the 21st day of JUNE 2018

BETWEEN:

- A. **PENELOPE MAXINE MORGAN** of 56D King Henry's Road, London, NW3 and **JAMES PHILIP MORGAN** of 27 Oppidans Road, London NW3 hereinafter called ("the Freeholder") of the first part
- B. **CIRCLE EAST LIMITED** (Co. Regn. No. 9946674) whose registered office is at 788-790 Finchley Road, London NW11 7TJ (hereinafter called "the Leaseholder") of the second part
- C. **HYDE PARK FINANCE LIMITED** of Broughtonhall, Broughton, Eccleshall, Stafford ST21 6NS (hereinafter called "the Mortgagee") of the third part
- D. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the fourth part

1. **WHEREAS**

- 1.1 The Freeholder is registered at the Land Registry as the Freehold proprietor with Title absolute of the Property under Title Number NGL362943.
- 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 Leaseholder is registered at the Land Registry as the Leasehold proprietor with Title absolute of the Property under Title Number NGL598858 subject to a charge to the Mortgagee.
- 1.4 The Leaseholder is the Leasehold owner of and is interested in the Property for the purposes of Section 106 of the Act.

- 1.5 The Freeholder and Leaseholder shall hereinafter be jointly referred to as "the Owner."
- 1.6 The Application for Prior Approval in relation to the Development of the Property pursuant to the Town and Country Planning (General Permitted Development) Order 2015 (as amended) was submitted to the Council and validated on 26th April 2018 and the Council resolved to grant approval under reference number 2018/1961/P subject to conclusion of this legal Agreement.
- 1.7 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.
- 1.8 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.9 The Mortgagee as mortgagee under a legal charge registered under Title Number 2018/1961/P and dated 31st May 2017 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"	change of use from a recording studio (B1c light industrial use) to residential (C3 use) comprising 1x2 bedroom flat with off-street parking pursuant to Class PA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) as shown on drawing numbers:-

		007.001.E REV 00, 007.100.E REV 06, 007.100.P1 REV 04, Statement of Use, Letter from P Walton, Transport Statement PLAP/18/4188/TS01 REV B, Desk Study Contamination Report LDM/MS/J13567, Drainage & Water Usage Report, Cover letter
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	"Occupation Date"	the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
2.6	"the Parties"	mean the Council, Owner and the Mortgagee
2.7	"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
2.8	"the Prior Approval"	a prior approval granted for the Development substantially in the draft form annexed hereto
2.9	"the Prior Approval Application"	an application for prior approval in relation to the Development of the Property submitted to the Council and validated on 31 st May 2018 for which a resolution to grant approval has been passed under reference number 2018/1961/P subject to conclusion of this Agreement
2.10	"the Property"	the land known as 35A Broadhurst Gardens, London, NW6 3QT the same as shown shaded grey on the plan annexed hereto
2.11	"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
2.12	"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 donating 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 Prior Approval 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.

4. **OBLIGATIONS OF THE OWNER**

4.1 To ensure that prior to occupying any residential unit (being part of the Development) each new occupier of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to:

- (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) any residential unit (being part of the Development) at any time during which the occupier of the residential 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 Property 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 those residential units that in the Owner's opinion are 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.

5.1.1 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 2018/1961/P the date upon which the Development will be ready for Occupation.

5.2 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.

5.3 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 2018/1961/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 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 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.

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.

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
PENELOPE MAXINE MORGAN
in the presence of:**

)
) *Peny Morgan*
)

Jenifer Sims
.....

Witness Signature

Witness Name JENIFER SIMS

Address 89 PUTNAM ST SAN FRANCISCO CA 94110

Occupation ARTIST

THIS IS A CONTINUATION OF THE s106 AGREEMENT IN RELATION TO THE LAND KNOW AS
35A BROADHURST GARDENS

EXECUTED AS A DEED BY
JAMES PHILIP MORGAN
in the presence of:

James Morgan

Jenifer Sims

Witness Signature

Witness Name JENIFER SIMS

Address 89 PUTNAM ST SAN FRANCISCO CA 94110

Occupation ARTIST

EXECUTED AS A DEED BY)
CIRCLE EAST LIMITED)
acting by a Director and its Secretary)
or by two Directors)

[Signature]

Director

[Signature]

Director/Secretary

EXECUTED AS A DEED BY)
HYDE PARK FINANCE LIMITED)
by)
in the presence of: -)

[Signature]

Jeffrey Shapiro

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



R. Alexander

Authorised Signatory

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 20____.

Notary Public in and for the State of California
My Commission Expires _____

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

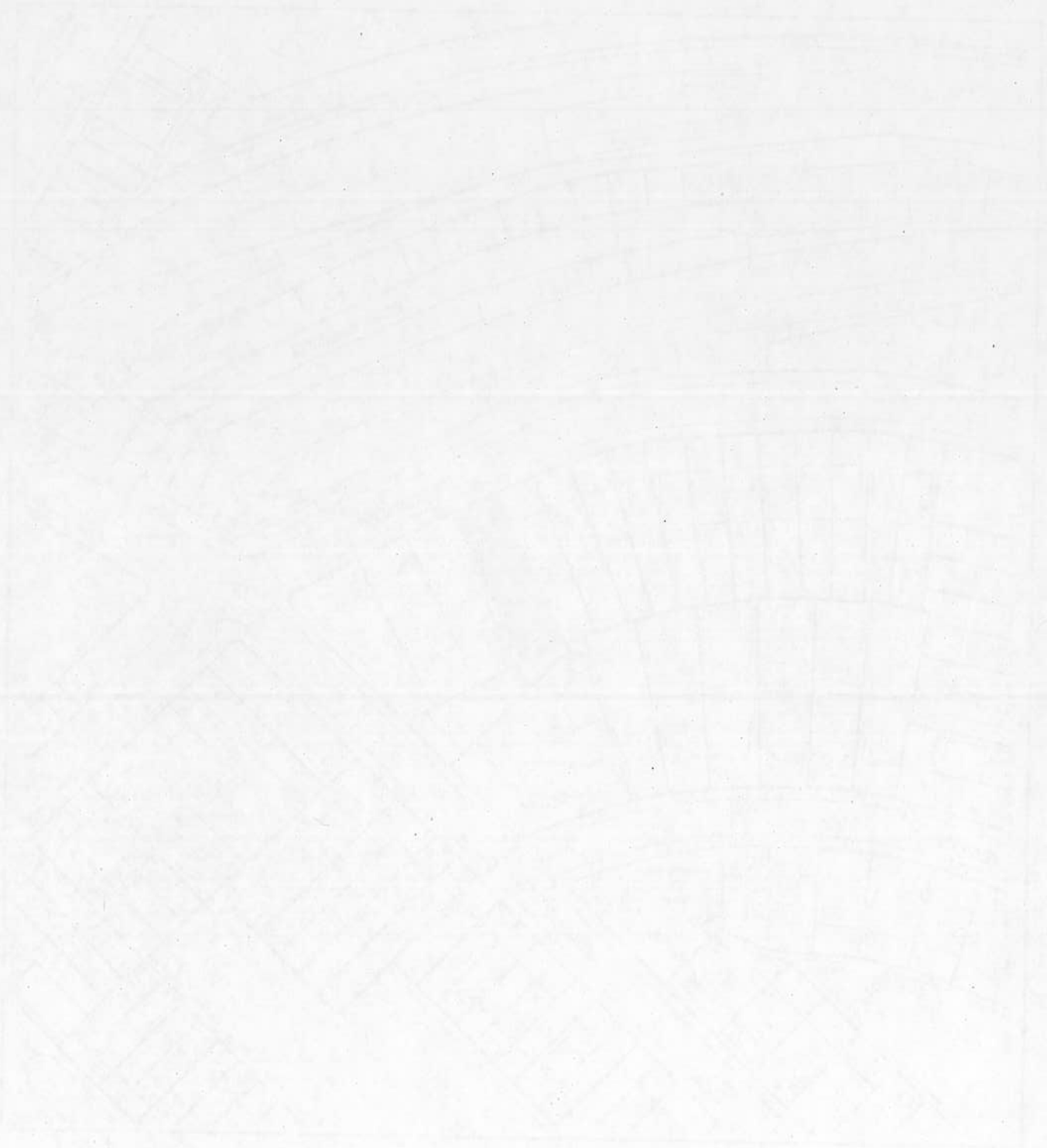
NORTHGATE SE GIS Print Template



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[Handwritten signatures and initials]
Penny Morgan
James York
B. Alexander

INSTITUTIONAL SETTING FOR RESEARCH



RESEARCH DESIGN AND DATA COLLECTION

RESEARCHER

Katie Turvey
Planning Potential
Magdalen House
148 Tooley Street
London
SE1 2TU

Application Ref: **2018/1961/P**
Please ask for: **Robert Lester**
Telephone: 020 7974 2188

12 June 2018

Dear Sir/Madam

DRAFT
DECISION

In accordance with section 60 (2B) and (2C) of the Town and Country Planning Act 1990
(as amended by section 4(1) of the Growth and Infrastructure Act 2013)

Process set out by condition PA.2 of Schedule 2 Part 3 Class PA of the Town and Country
Planning (General Permitted Development) Order 2015 (as amended 2016)

Certificate of Lawfulness (Proposed) Prior Approval granted

The Council, as local planning authority, hereby confirm that their **prior approval is granted** for the proposed development at the address shown below, as described by the description shown below, and in accordance with the information that the developer provided to the local planning authority:

Address of the proposed development:

**35A Broadhurst Gardens
London
NW6 3QT**

Description of the proposed development:

Change of use from a recording studio (B1c light industrial use) to residential (C3 use) comprising 1x2 bedroom flat with off-street parking.

Details approved by the local planning authority:

Drawing Nos: 007.001.E REV 00, 007.100.E REV 06, 007.100.P1 REV 04, Statement of

Executive Director Supporting Communities

Use (Planning Potential). Letter from P Walton, Transport Statement (RGP PLAP/18/4188/TS01 April 2018), Desk Study Contamination Report (Southern Testing LDM/MS/J13567 April 2018), Drainage & Water Usage Report (RJ Fillingham & Associates April 2018).

Reason for approval:

The change of use from a recording studio (Class B1c) to residential use (Class C3) at ground floor level to provide 1x2 bedroom flat with off-street parking is permitted under Schedule 2 Part 3 Class PA of the Town and Country Planning (General Permitted Development) Order 2015 (As amended 2016).

Conditions:

- 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 Class PA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2016.

- 2 Details of secure and covered cycle storage for 2 cycles shall be submitted to and approved by the local planning authority prior to the first occupation of the flat. The approved facility shall thereafter be provided in its entirety prior to the first occupation of the flat, and permanently retained thereafter.

Reason: To support a pattern of development which facilitates the use of sustainable modes of transport in accordance with the provisions of the NPPF (2012) and Class PA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2016.

- 3 At least 28 days before the development commences:
 - (a) a written programme of ground investigation for the presence of soil and groundwater contamination and landfill gas shall be submitted to and approved by the local planning authority; and
 - (b) following the approval detailed in paragraph (a), an investigation shall be carried out in accordance with the approved programme and the results and a written scheme of remediation measures [if necessary] shall be submitted to and approved by the local planning authority.

The remediation measures shall be implemented strictly in accordance with the approved scheme and a written report detailing the remediation shall be submitted to and approved by the local planning authority prior to occupation.

Reason: To protect future occupiers of the development from the possible presence of ground contamination arising in connection with the previous industrial/storage use of the site in accordance with the provisions of the NPPF (2012) and Class PA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2016.

- 4 A pre-refurbishment Asbestos Survey shall be submitted to and approved in writing by the local planning authority prior to the commencement of any site works. The survey shall be written by a suitably qualified person, shall identify the potential sources of asbestos contamination and detail removal or mitigation appropriate to control risks to the proposed end users. The necessary mitigation measures as approved shall be implemented on site prior to the commencement of the development.

Reason: To protect future occupiers of the development from the possible presence of contamination in accordance with the provisions of the NPPF (2012) and Class PA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2016.

- 5 Prior to the first occupation of the development, full details to demonstrate:

- a) the proposed internal water efficiency and/or water recycling equipment to ensure that the development will pose no additional strain on adjoining sites or the existing drainage infrastructure; and
b) the proposed internal measures to ensure the development has been designed to cope with potential flooding;

shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation/use of the development.

Reason: To ensure that the development will pose no additional strain on adjoining sites or the existing drainage infrastructure and to ensure the development has been designed to cope with potential flooding in accordance with the provisions of the NPPF (2012) and Class PA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2016.

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 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.

You can find advice about your rights of appeal at:

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

Yours faithfully

Director of Regeneration and Planning

It's easy to make, pay for, track and comment on planning applications on line. Just go to www.camden.gov.uk/planning.

DRAFT

It is important to us to find out what our customers think about the service we provide. To help us in this respect, we would be very grateful if you could take a few moments to complete our online survey at the following website address: www.camden.gov.uk/dmfeedback. We will use the information you give us to help improve our services.

DECISION

DATE: 12/15/2001

TO: THE BOARD OF DIRECTORS

FROM: [Name]

SUBJECT: [Subject]

FOR THE BOARD AND MEMBERS

RESOLUTION

WHEREAS [Text]

AND WHEREAS [Text]

IT IS HEREBY RESOLVED

DATED 21ST JUNE

2018

(1) PENELOPE MAXINE MORGAN and JAMES PHILIP MORGAN

and

(2) CIRCLE EAST LTD

and

(3) HYDE PARK FINANCE LIMITED

and

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

A G R E E M E N T

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