

DATED

27 June

2018

(1) MARK ANDREW BROWN

and

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

A G R E E M E N T
relating to land known as
87 FROGNAL LONDON NW3 6XX

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, 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

CLS/COM/ESA/1800.676
FINAL

COUDNOL

COUDNOL

COUDNOL

COUDNOL

COUDNOL

COUDNOL

COUDNOL

THIS AGREEMENT is made the 27th day of June 2018

B E T W E E N:

- i. **MARK ANDREW BROWN** of 87 Frognal, London NW3 6XX (hereinafter called "the Owner") of the first part
- ii. **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

1. WHEREAS

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number 289826.
- 1.2 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 The Planning Application for the development of the Property was submitted to the Council and validated on 26 February 2018 and the Council resolved to grant permission conditionally under reference number 2018/0470/P subject to the conclusion of this Agreement.
- 1.4 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.
- 1.5 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 Certificate of Practical Completion" | the certificate issued by the Owner's contractor architect or project manager certifying that the Development has been completed |
| 2.4 | "Construction Management Plan" | <p>a plan setting out the measures that the Owner will adopt in undertaking the construction of the Development using good site practices in accordance with the Council's Considerate Contractor Manual and in the form of the Council's Pro Forma Construction Management Plan as set out in the First Schedule hereto to ensure the Construction Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network including (but not limited to):</p> <p>(i) a statement to be submitted to the Council giving details of the environmental protection highways safety and community liaison measures proposed to be adopted by the Owner in order to mitigate and offset potential or likely effects and impacts arising from</p> |

the demolition of part of the structures on the Property and the building out of the Development;

- (ii) proposals to ensure the protection and preservation of the listed building during the Construction Phase;
- (iii) proposals to ensure there are no adverse effects on the Conservation Area features
- (iv) amelioration and monitoring effects on the health and amenity of local residences site construction workers local businesses and adjoining developments undergoing construction;
- (v) amelioration and monitoring measures over construction traffic including procedures for notifying the owners and or occupiers of the residences and businesses in the locality in advance of major operations delivery schedules and amendments to normal traffic arrangements (if any);
- (vi) the inclusion of a waste management strategy for handling and disposing of construction waste; and
- (vii) identifying means of ensuring the provision of information to the Council and provision of a mechanism for monitoring and reviewing as required from time to time

- 2.5 "the Construction Management Plan Implementation Support Contribution" the sum of £3,136.00 (three thousand one hundred and thirty six 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 review and approval of the draft Construction Management Plan and verification of the proper operation of the approved Construction Management Plan during the Construction Phase
- 2.6 "the Construction Phase" the whole period between
- (i) the Implementation Date and
 - (ii) the date of issue of the Certificate of Practical Completion
- 2.7 "the Council's Considerate Contractor Manual" the document produced by the Council from time to time entitled "Guide for Contractors Working in Camden" relating to the good practice for developers engaged in building activities in the London Borough of Camden
- 2.8 "the Development" external alterations to existing dwelling (Class C3) including enlargement of main roof and installation of three dormers to provide an additional storey, incorporation of rear first floor terrace into habitable floor space and erection of ground floor rear extensions on north and west elevations. as shown on drawing numbers AP-00; S-01; S-02; S-03; S-04; S-05; S-06; AP-01 (Rev A); AP-02 (Rev D); AP-03 (Rev C); AP-04 (Rev C); AP-05 (Rev B); AP-06 (Rev B); AP-07 (Rev B); Planning, Design, Access and Significance Appraisal prepared by Michael Burroughs Associates (dated January 2018)

- 2.9 "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
- 2.10 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.11 "the Parties" mean the Council and the Owner
- 2.12 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 26 February 2018 for which a resolution to grant permission has been passed conditionally under reference number 2018/0470/P subject to conclusion of this Agreement
- 2.13 "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
- 2.14 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.15 "the Property" the land known as 87 Frogna London NW3 6XX the same as shown shaded grey on the plan annexed hereto

3. **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. This Agreement 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 and 6 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 **Construction Management Plan**

4.1.1 On or prior to the Implementation Date to:

- (i) pay to the Council the Construction Management Plan Implementation Support Contribution in full; and
- (ii) submit to the Council for approval a draft Construction Management Plan.

4.1.2 Not to Implement nor allow Implementation of the Development until such time as the Council has:

- (i) received the Construction Management Plan Implementation Support Contribution in full; and
- (ii) approved the Construction Management Plan as demonstrated by written notice to that effect.

4.1.3 The Owner acknowledges and agrees that the Council will not approve the Construction Management Plan unless it demonstrates to the Council's reasonable satisfaction that the Construction Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network having regard to the location of the Property.

4.1.4 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the Construction Management Plan and not to permit the carrying out of any works comprised in demolition or building out the Development at any time when the requirements of the Construction Management Plan are not being complied with and in the event of non-compliance with this sub-clause the Owner shall forthwith take any steps required to remedy such non-compliance.

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 place 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 the planning reference 2018/0470/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 Head of Legal Services 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 2018/0470/P.

5.7 Payment of the Construction Management Plan Implementation Support 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 2018/0470/P. The electronic transfer is to be made directly to the National Westminster Bank of Hampstead Village, Enfield Customer Service Centre, PO Box 145 Baird Road, Middlesex, EN1 1FN 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 Office for National Statistics 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 Permission reference number 2018/0470/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 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. **RIGHTS OF THIRD PARTIES**

7.1 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 have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY
MARK ANDREW BROWN
in the presence of:

)
) *Mark Brown*
)

[Handwritten Signature]
.....
Witness Signature

Witness Name < DAVID PHILLIPS
Address < WARDLOTE, DORNEY WOOD ROAD
BIDWITHAM, BUCKS SL18ES
Occupation < SOLICITOR

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

[Handwritten Signature]
.....
Authorised Signatory



THE FIRST SCHEDULE
Pro Forma
Construction Management Plan

The Council has produced a pro-forma Construction Management Plan that can be used to prepare and submit a Construction Management Plan to meet technical highway and environmental health requirements. This document should be prepared, submitted and receive approval from the Council well in advance of works starting.

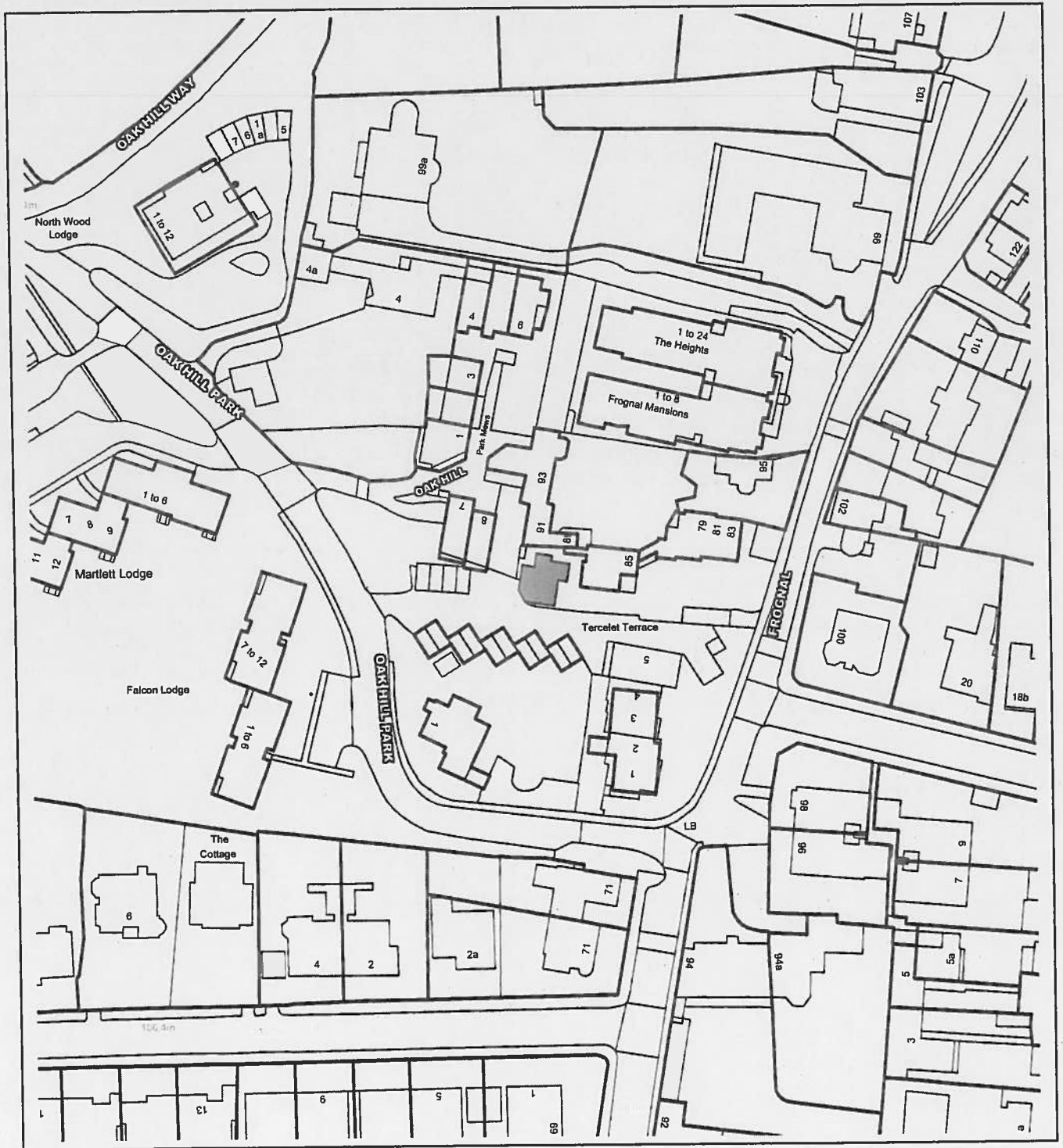
The pro-forma Construction Management Plan can be found on the Council's website at:-

<https://www.camden.gov.uk/ccm/content/environment/planning-and-built-environment/two/planning-applications/making-an-application/supporting-documentation/planning-obligations-section-106/>

Please use the Minimum Requirements (also available at the link above) as guidance for what is required in the CMP and then download the Construction Management Plan

It should be noted that any agreed Construction Management Plan does not prejudice further agreement that may be required for things such as road closures or hoarding licences

NORTHGATE SE GIS Print Template



This material has been reproduced from Ordnance Survey digital map data with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright.

REPORT OF THE BOARD OF DIRECTORS

Item	Description	Amount	Percentage
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

Total amount: ...

Michael Burroughs Associates
93 Hampton Road
Hampton Hill
TW12 1JQ

Application Ref: **2018/0470/P**

6 June 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:
**87 Frognal
London
NW3 6XX**

DECISION

Proposal:

External alterations to existing dwelling (Class C3) including enlargement of main roof and installation of three dormers to provide an additional storey, incorporation of rear first floor terrace into habitable floor space and erection of ground floor rear extensions on north and west elevations.

Drawing Nos: AP-00; S-01; S-02; S-03; S-04; S-05; S-06; AP-01 (Rev A); AP-02 (Rev D); AP-03 (Rev C); AP-04 (Rev C); AP-05 (Rev B); AP-06 (Rev B); AP-07 (Rev B); Planning, Design, Access and Significance Appraisal prepared by Michael Burroughs Associates (dated January 2018)

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 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: AP-00; S-01; S-02; S-03; S-04; S-05; S-06; AP-01 (Rev A); AP-02 (Rev D); AP-03 (Rev C); AP-04 (Rev C); AP-05 (Rev B); AP-06 (Rev B); AP-07 (Rev B); Planning, Design, Access and Significance Appraisal prepared by Michael Burroughs Associates (dated January 2018)

Reason:

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

- 4 The first floor rear window facing No.8 Oak Hill Park Mews hereby approved, shall be obscure glazed and non-opening below a height of 1.7m from finished floor level. The window shall be permanently retained as such thereafter.

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

Informative(s):

- 1 Reasons for granting permission.

The proposal would increase the height of the roof and make the pitch slightly steeper than it is currently in order to facilitate a loft conversion. The hipped roof form would generally be retained albeit with an addition of massing to the rear where an existing terrace would be incorporated into habitable floorspace. Three dormer windows would be installed on the north, east and south facing roof slopes. Although the roof extension would change the character of the property, giving it more status compared to the more cottage like proportions of the existing building, it is not considered this would be harmful to the property or this part of the conservation area. Given the significant set back of the property from Frognal, and it largely being concealed behind two neighbouring properties, the roof extension would have little prominence from the public realm, and would be visible in limited long views from Oak Hill Park and more private views from Tercelet Terrace immediately to the rear.

The proposed dormers would be set a sufficient distance in from the edges of the main roof, in compliance with Camden design guidance. The proposed front dormer would appear as a proportionate addition within the front roof slope and would align with the windows below, ensuring a rational fenestration pattern is retained. The proposed extension over the existing first floor terrace area would involve alterations to the rear fenestration of the property which would rationalise the existing arrangement and is considered an improvement to the building when viewed from the west.

The size, scale and design of the two single storey extensions proposed at ground floor level on the north and west elevations, which would infill areas between the host property and boundary walls of the site, are considered to represent subordinate additions that would not detract from the character of the host property. The ground floor extensions would have very limited visibility from the public realm and would not cause harm to the appearance of the surrounding conservation area.

The increased roof massing and ground floor level extensions would be located a sufficient distance away from neighbouring properties to ensure no loss of light or outlook would occur as a result of the development. A new first floor window would be installed on the rear elevation at a distance of 8m from the living room window of No.8 Oak Hill Park Mews. Whilst this would not exacerbate current levels of overlooking, given it would be replacing an existing amenity terrace area, the window would be obscure glazed and non-openable to prevent any increased sense of overlooking to neighbouring properties, which would be secured by condition. The proposal is therefore not considered to cause any adverse impacts on the amenity of adjoining residential occupiers in terms of loss of privacy.

Due to the scale of construction works involved and in order to minimise disturbance to nearby occupiers during the construction phase, a CMP will be secured via a legal agreement.

One objection was received and subsequently withdrawn following statutory consultation. 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 Conservation Area, under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

As such, the proposed development is in general accordance with policies A1, D1 and D2 of the Camden Local Plan 2017. The proposed development also accords with the London Plan 2016 and the National Planning Policy Framework.

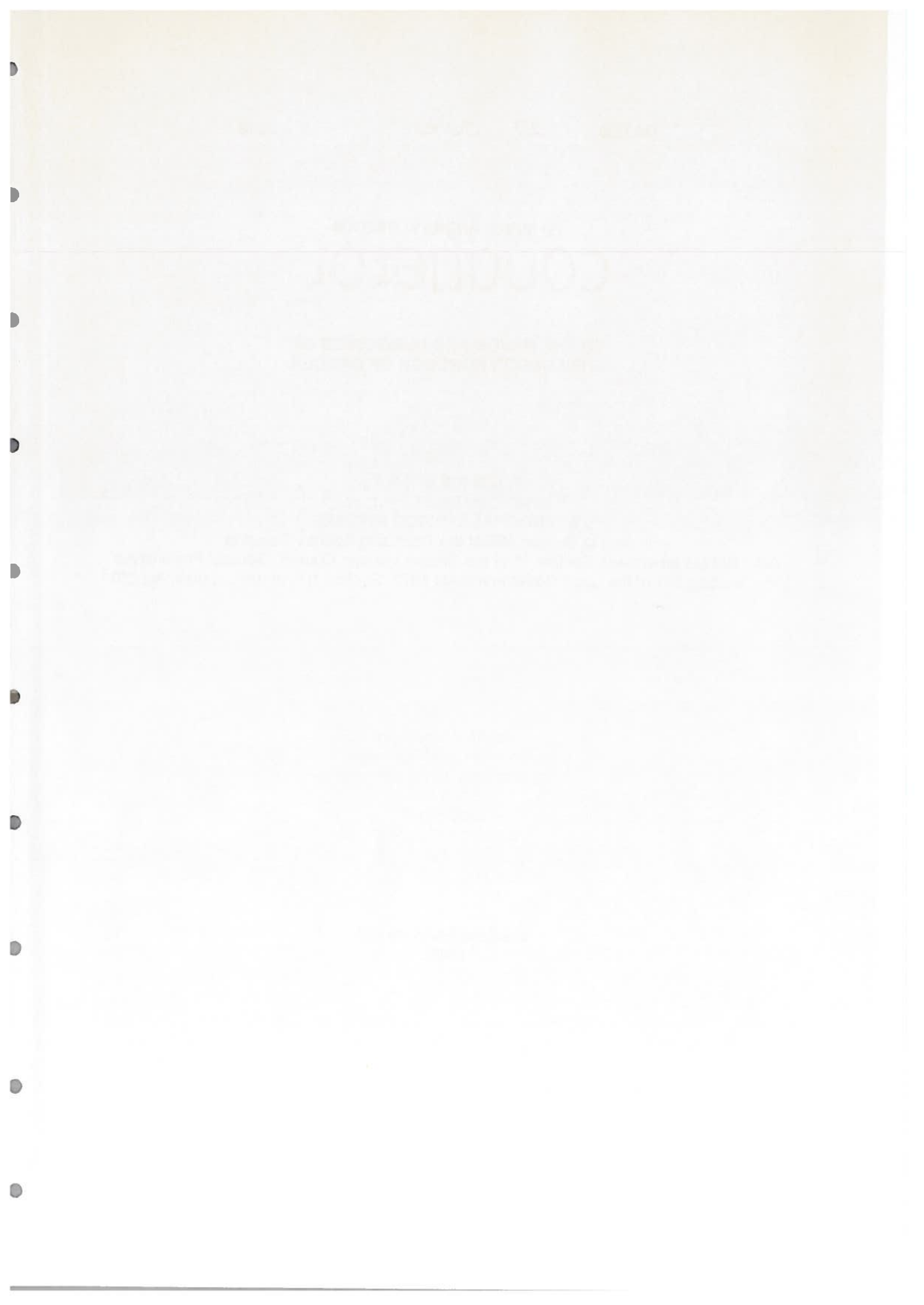
- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays 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.
- 3 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).
- 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.

Yours faithfully

Supporting Communities Directorate

DECISION



DATED

27 June

2018

(1) MARK ANDREW BROWN

and

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

A G R E E M E N T

relating to land known as

87 FROGNAL LONDON NW3 6XX

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, 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

CLS/COM/ESA/1800.676
FINAL