

DATED

20 July

2018

(1) MEHDI JAFARIFAR

and

(2) STREET (UK) C.I.C.

and

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

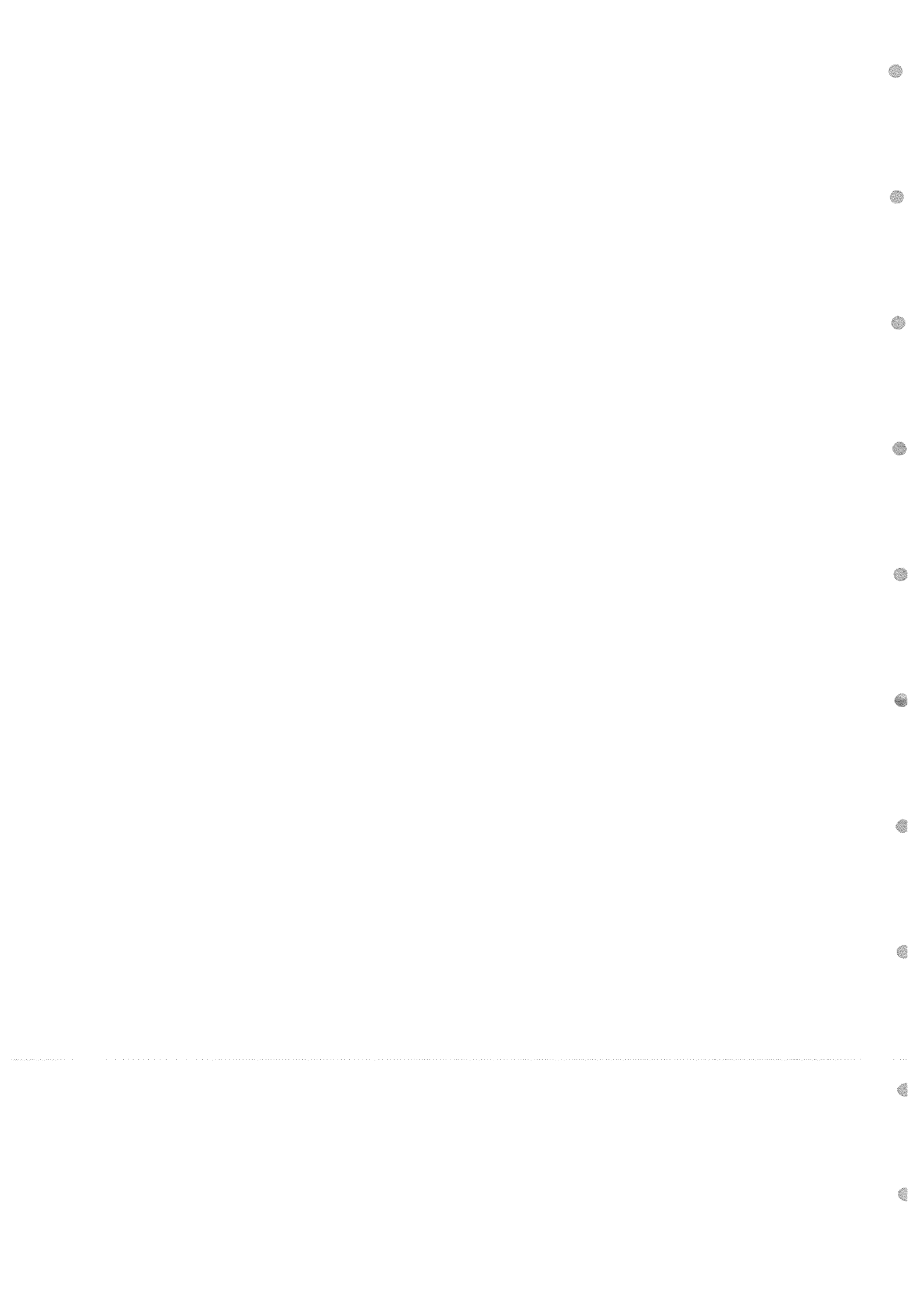
SECOND DEED OF VARIATION

Relating to the Agreement dated 4 March 2010
between the Mayor and the Burgesses of the London Borough of Camden,
Mehdi Jafarifar, Nicholas Hampton Lloyd and Carole Anne Postlewaite,
as varied by the First Deed of Variation dated 14 March 2014
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
SITE AT REAR OF 84-86 FORTUNE GREEN ROAD, LONDON, NW6 1DS

Andrew Maughan
Head of Legal Services
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 1918
Fax: 020 7974 2962

CLS/COM/ESA/1800.509
FINAL



THIS DEED is made on the 20th day of July 2018

BETWEEN

1. **MEHDI JAFARIFAR** of 62 Fortune Green Road, London, NW6 1DT (hereinafter called "the Owner") of the first part
2. **STREET (UK) C.I.C.** (Co. Regn. No. 3832332) of 50 Cliveland Street, Birmingham B10 3SH (hereinafter called "the Mortgagee") of the second part
3. **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

WHEREAS:

- 1.1 The Council, Mehdi Jafarifar, Nicholas Hampton Lloyd and Carole Anne Postlewaite entered into an Agreement dated 4 March 2010 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) (the "Original Agreement").
- 1.2 The Council, Mehdi Jafarifar, Nicholas Hampton Lloyd and Carole Anne Postlethwaite entered into an agreement dated 14 March 2014 pursuant to section 106A of the Town and Country Planning Act 1990 (as amended) to vary the terms of the Original Agreement (the "First Deed of Variation").
- 1.3 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number NGL979154 subject to a charge to the Mortgagee.
- 1.4 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.5 The Owner is registered at the Land Registry as the leasehold proprietor with Title absolute of the Properties under Title Numbers NGL908177, NGL969088 and NGL969089.
- 1.6 The Leaseholder is the leasehold owner of and is interested in the Property for the purposes of Section 106 of the Act.

- 1.7 The Council is the local planning authority for the purposes of the Act 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 Deed.
- 1.8 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL979154 and dated 15 December 2017 is willing to enter into this Agreement to give its consent to the same.
- 1.9 A new Planning Application in respect of the Property and to amend the Original Planning Permission was submitted to the Council by the Owner and validated on 18 October 2017 for which the Council resolved to grant permission conditionally under reference 2017/4844/P subject to the conclusion of this Deed.
- 1.10 This Deed of Variation is made by virtue of the Town and Country Planning Act 1990 Section 106A (as amended) and is a planning obligation for the purposes of that section.
- 1.11 Without prejudice to the terms of the other covenants contained in the Existing Agreement the parties hereto have agreed to vary the terms of the Existing Agreement as hereinafter provided.

2. **INTERPRETATION**

- 2.1 All words and phrases defined in the Existing Agreement shall have the same meaning in this Deed save where the context otherwise dictates and for the avoidance of any doubt the Existing Agreement shall remain in full force and effect save as varied by this Deed.
- 2.2 All reference in this Deed to clauses in the Existing Agreement are to clauses within the Existing Agreement.
- 2.3 Where in this Deed reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Agreement.

- 2.4 Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not be construed as part of this Agreement and shall not effect the construction of this Deed.
- 2.5 Unless the context otherwise requires references to the singular shall include the plural and vice versa.
- 2.6 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 Deed shall become binding upon the Owner upon the Implementation Date.
- 2.7 References in this Deed to the Owner and Mortgagee shall include their successors in title.
- 2.8 In this Deed the following expression shall unless the context otherwise states have the following meaning now allocated to it.

2.8.1 "Deed" this Deed of Variation made pursuant to Section 106A of the Act

2.8.2 "Existing Agreement" the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 4 March 2010 made between the Council Mehdi Jafarifar, Nicholas Hampton Lloyd and Carole Anne Postlewaite as amended by the First Deed of Variation dated 14 March 2014

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 4 March 2010 referenced 2008/1662/P and amended on 14 March 2015 referenced 2013/1045/P allowing the erection of a part 2/part 3 storey building fronting onto Rose Joan Mews with roof terraces at second floor level to provide 2 self-contained residential dwellinghouses and two ancillary single-storey

buildings in the rear garden (following demolition of two single-storey lock up garages) as shown on drawing numbers Site Location Plan; 0807/1001-E; 1002-E; 1003-E; 1004-E; 1005-E; 1006-E; 1007-E; Daylight Report and Contextual Drawing; Lifetime Homes Statement.

3. VARIATION TO THE EXISTING AGREEMENT

3.1 The following definitions contained in the Existing Agreement shall be varied as follows:

3.1.1 "Development" variation of condition 9 (approved drawings) of application ref: 2013/1045/P granted on 14/03/2014 (and subsequently amended on 20/09/2016 under ref: 2016/2802/P, and 09/03/2017 under ref: 2017/1288/P) for the erection of part 2/part 3-storey building to provide 2 self-contained residential dwellinghouses; namely, changes to ground levels following site level survey, increase in depth of first floor by 114mm, changes to footprint of boundary wall adjacent to no.82, erection of a single storey rear extension rather than a detached outbuilding and re-positioning of cycle and refuse storage to rear courtyard as shown on drawing numbers:-

Superseded plans

1604/1001-H; 1002-H; 1003-H; 1004-H; 1005-H; 1006-E; 1007-H.

Amended plans

501 rev.B, 502 rev.D, 503 rev.C, 504 rev.B, 505 rev.B, 506 rev.C, 507 rev.C.

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2017/4844/P granted by the Council in the form of the draft annexed hereto

3.1.3 "Planning Application" the application for Planning Permission in respect of the Property submitted on 18 October 2017 by the Owner and given reference number 2017/4844/P

3.2 All references in Clause 5 and Clause 6 of the Original Agreement to "Planning Permission reference 2013/1045/P" shall be replaced with "Planning Permission reference 2017/4844/P".

3.3 In all other respects the Original Agreement (as varied by this Deed) shall continue in full force and effect.

4. **COMMENCEMENT**

4.1 Without prejudice to the effect of Clause 3.5 in the Original Agreement the provisions in this Deed shall take effect on the Implementation of the Planning Permission referenced 2017/4844/P.

5 **PAYMENT OF THE COUNCIL'S LEGAL COSTS**

5.1 The Owner agrees to pay the Council (on or prior to completion of this Deed) its reasonable legal costs incurred in preparing this Deed

6. **REGISTRATION AS LOCAL LAND CHARGE**

6.1 This Deed shall be registered as a Local Land Charge

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

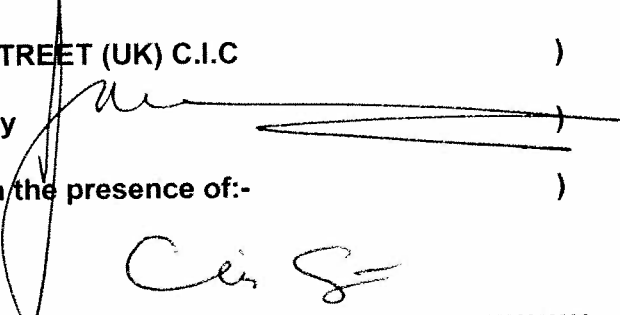
THIS IS A CONTINUATION OF THE DEED OF VARIATION IN RELATION TO
SITE AT REAR OF 84-86 FORTUNE GREEN ROAD, LONDON, NW6 1DS

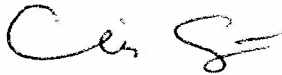
EXECUTED AS A DEED BY)
MEHDI JAFARIFAR)
in the presence of:)



.....
Witness Signature 

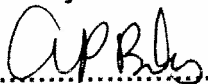
Witness Name MC. HASSAN REZAEI
Address 3 Abercorn Road London NW7
Occupation Director

EXECUTED AS A DEED BY)
STREET (UK) C.I.C)
By )
in the presence of:-)



.....
DR CHRISTOPHER STAKER
FLAT 75 CHARLBERT COURT, CHARLBERT STREET
LONDON NW8 7DB
BARRISTER

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



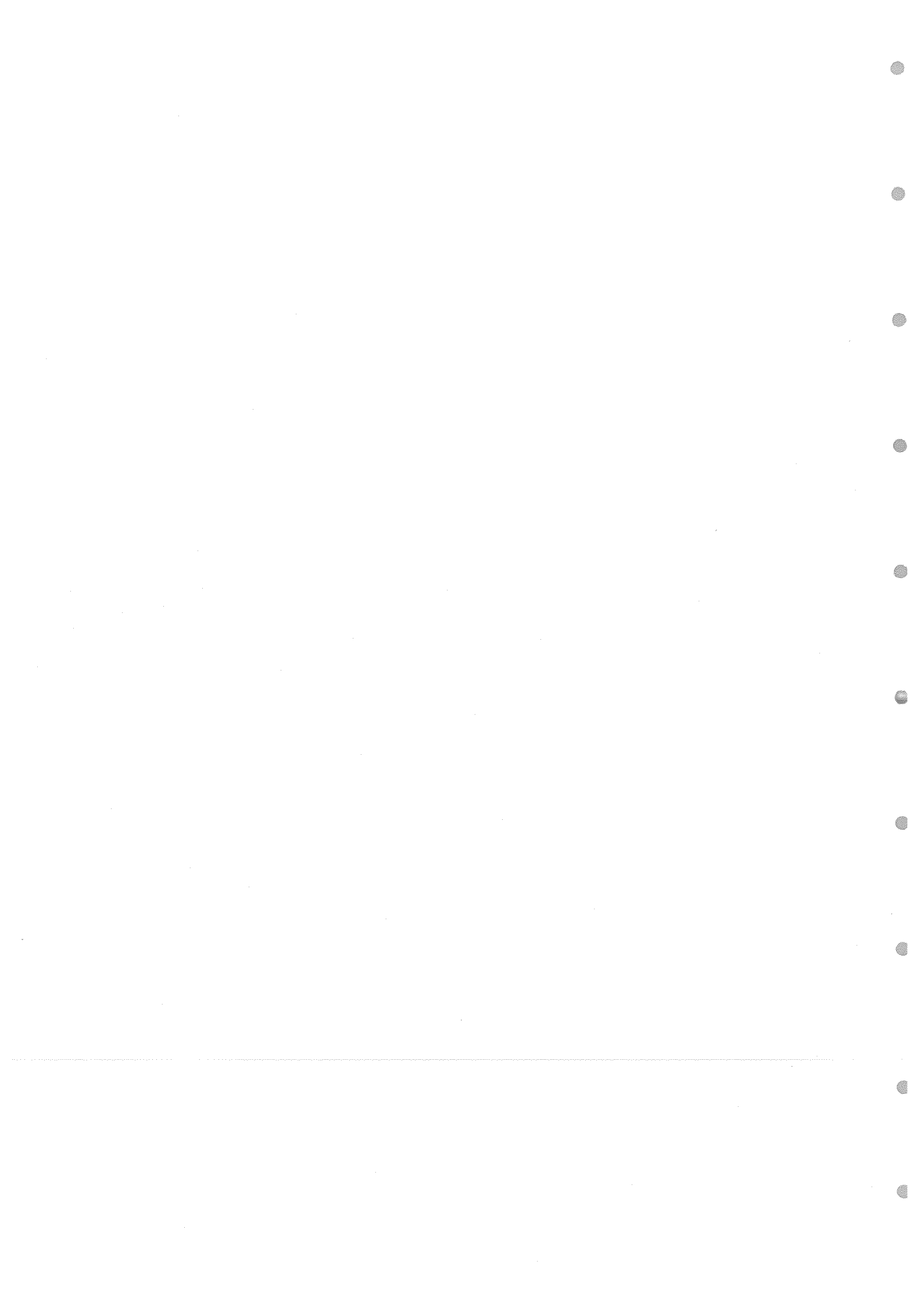
.....
Authorised Signatory



NORTHGATE SE GIS Print Template



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Keyythalli Design Ltd
115 Great Tattenhams
Epsom
KT18 5RBApplication Ref: **2017/4844/P**

21 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 AGREEMENTAddress:
Site at rear of 84-86 Fortune Green Road
London
NW6 1DS

Proposal:

DECISION

Variation of condition 9 (approved drawings) of application ref. 2013/1045/P granted on 14/03/2014 (and subsequently amended on 20/09/2016 under ref: 2016/2802/P, and 09/03/2017 under ref: 2017/1288/P) for the erection of part 2/part 3-storey building to provide 2 self-contained residential dwellinghouses; namely, changes to ground levels following site level survey, increase in depth of first floor by 114mm, changes to footprint of boundary wall adjacent to no.82, erection of a single storey rear extension rather than a detached outbuilding and re-positioning of cycle and refuse storage to rear courtyard.

Drawing Nos: Superseded plans

1604/1001-H; 1002-H; 1003-H; 1004-H; 1005-H; 1006-E; 1007-H.

Amended plans

501 rev.B, 502 rev.D, 503 rev.C, 504 rev.B, 505 rev.B, 506 rev.C, 507 rev.C.

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, 2013/1045/P dated 14/03/2014.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 Before the development commences, details of the proposed cycle storage area for 2 cycles shall be submitted to and approved by the Council. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and permanently maintained and retained as such thereafter.

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

- 3 A 1.7 metre high screen shall be erected prior to commencement of use of the roof terrace at the front elevation and shall be permanently retained and maintained thereafter.

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

- 4 The waste storage facilities shall be fully provided in accordance with the details hereby approved prior to the first occupation of any of the new units, and permanently maintained and retained as such thereafter.

Reason: To safeguard the amenities of the occupiers of the new accommodation and the area generally, in accordance with the requirements of policy A1 of the Camden Local Plan 2017.

- 5 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the (No. 2) (England) Order 2008 or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A-H) [and Part 2 (Classes A-C)] of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the local planning authority.

Reason: To safeguard the visual amenities of the area and to prevent over development of the site by controlling proposed extensions and alterations in order to ensure compliance with the requirements of policies G1, D1, and A1 of London Borough of Camden Local Plan 2017.

- 6 A sample panel of all facing materials, including window frames shall be provided on site and approved by the Council before the relevant parts of the works are commenced and the development shall be carried out in accordance with the approval given. The sample panel shall be retained on site until the work has been completed.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the Camden Local Plan 2017.

- 7 The bedroom windows at first floor level on the rear elevation shall be obscure glazed prior to the first beneficial occupation of either dwelling and thereafter permanently retained as such.

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

- 8 Both dwellings shall be designed and constructed in accordance with Building Regulations Part M4 (2). Evidence demonstrating compliance should be submitted to and approved by the Local Planning Authority prior to occupation.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy C6 of the Camden Local Plan 2017.

- 9 For the purposes of this decision, condition no.9 of planning permission 2013/1045/P, as amended by application references 2016/2802/P and 2017/1288/P shall be replaced with the following condition:

REPLACEMENT CONDITION 9

The development hereby permitted shall be carried out in accordance with the following approved plans: 501 rev.B, 502 rev.D, 503 rev.C, 504 rev.B, 505 rev.B, 506 rev.C, 507 rev.C.

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

Informative(s):

- 1 Reason for granting permission:

This application seeks permission for various amendments to the size and layout of the previously approved part 2/part 3-storey building (originally approved under reference 2008/1662/P and renewed under reference 2013/1045/P).

This application also seeks permission for the erection of a full width single storey rear extension as opposed to the detached outbuildings to the rear of the boundary previously approved. The extension would feature a pitched roof and would measure 3.4m high, decreasing to 2.7m at the eaves. The extension is considered sympathetic to the original design aesthetic of the proposed building and is acceptable. Although the extensions would introduce new rear windows on the buildings which would be closer to the rear windows of 84-86 Fortune Green Road; it would move the bulk of the development away from these properties. In addition, the rear boundary wall (3.15m high) would block views between these neighbouring windows as the previously proposed outbuildings would have done (which would have measured 2.65m high).

The proposed changes to the position of the rear boundary line would increase the distance between the rear wall and the rear elevations of 84-86 Fortune Green Road than that approved under a recent NMA application (reference 2016/2802/P granted on 20 September 2016).

The revisions also include changes to the south (side) elevation, so that the ground and first floor would be widened to run parallel with the southern boundary line. This would have limited impact on the appearance of the previously consented building, nor on neighbouring amenity. Although it would result in the displacement of the cycle and refuse stores into the rear courtyards, there would still be level access to the front of the property via the walkway to the side of the property which is considered acceptable.

Overall, the proposed amendments to the footprint, height and width of the proposed dwellinghouses are considered minor changes that would have limited design impact and would not harm the amenity of neighbouring residents in terms of outlook, privacy or daylight.

One objection has been received and duly taken into account prior to making this decision. The site's planning history and relevant appeal decisions were taken into account when coming to this decision.

The subject property is not a listed building, nor is it within the setting of a listed building or a conservation area.

As such, the proposed development is in general accordance with policy 2 of the Fortune Green and West Hampstead Neighbourhood Plan 2015, and policies A1, D1, G1, C6 and T1 of the Camden Local Plan 2017. The proposed development also accords with the London Plan 2016, and the National Planning Policy Framework 2012.

- 2 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which 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, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).

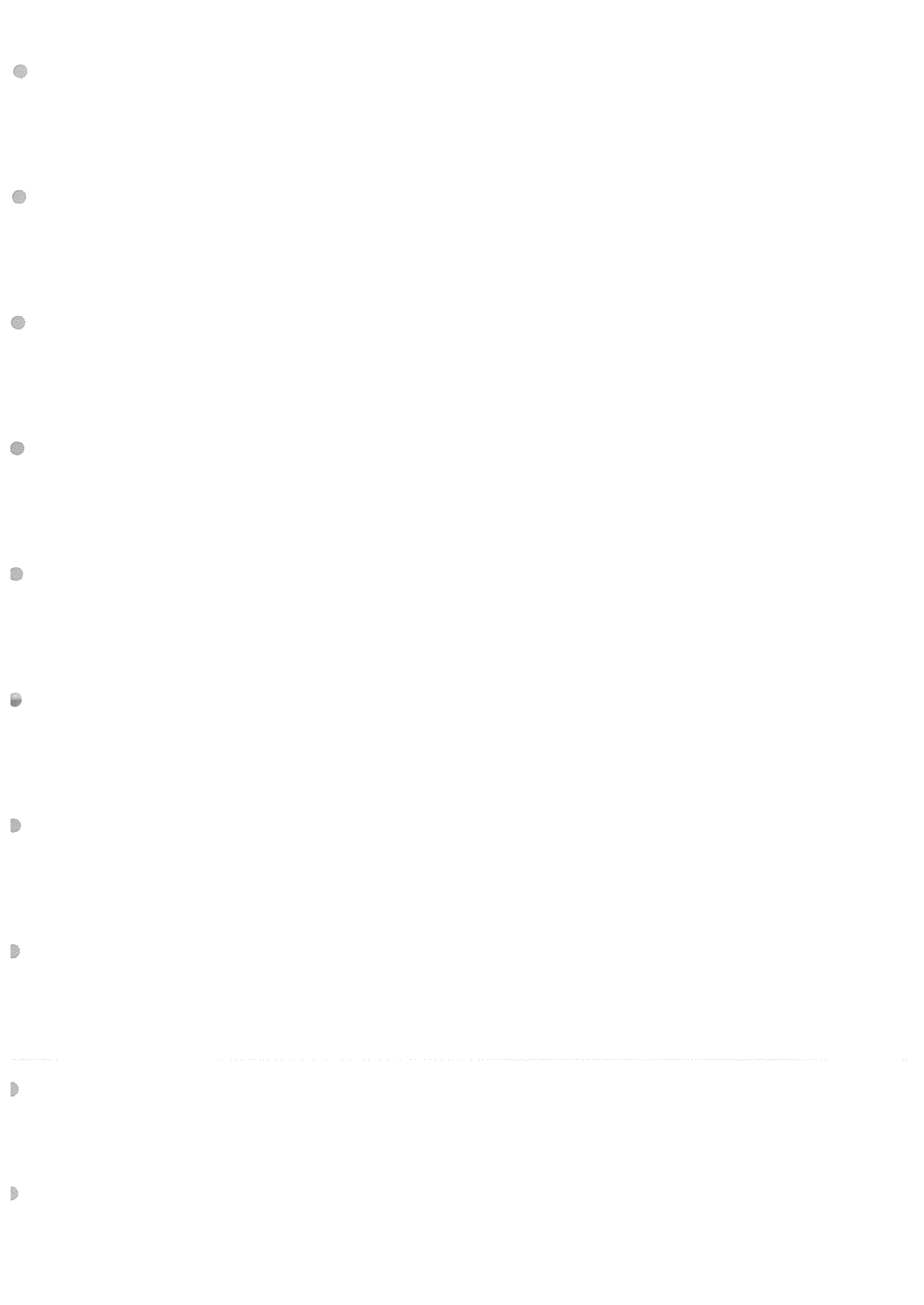
- 3 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> 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 With regard to condition no. 8 you are advised to look at Camden Planning Guidance for further information and if necessary consult the Access Officer, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 5124) to ensure that the internal layout of the building is acceptable with regards to accessibility by future occupiers and their changing needs over time.
- 5 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.
- 6 If a revision to the postal address becomes necessary as a result of this development, application under Part 2 of the London Building Acts (Amendment) Act 1939 should be made to the Council's Records and Information Team, Culture and Environment Directorate, Environment Department (Street Naming & Numbering) Camden Town Hall, Argyle Street, WC1H 8EQ (tel: 020-7974 5613).
- 7 You are advised that the Council will expect all new buildings and structures to be as energy efficient and sustainable as is reasonably practicable and welcomes the measures that have been indicated to date.
To this end, you are encouraged to introduce all possible measures that can practically be incorporated into the design of the new building and the subsequent operation of the use.
- 8 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.

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

DRAFT

DECISION



DATED

20 July

2018

(1) MEHDI JAFARIFAR

and

(2) STREET (UK) C.I.C.

and

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

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