

DATED

27<sup>th</sup> July

2018

(1) 65 HOLMES ROAD LIMITED

-and-

(2) EFG PRIVATE BANK LIMITED

-and-

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

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**THIRD DEED OF VARIATION**

Relating to the S106 Agreement dated 6 March 2014 and  
First Deed of Variation dated 27<sup>th</sup> May 2016 and  
Second Deed of Variation dated 3<sup>rd</sup> May 2017

Between the Mayor and the Burgesses of the  
London Borough of Camden,  
65 Holmes Road Limited and EFG Private Bank Limited

under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as

**Magnet 65-69 Holmes Road London NW5 3AN**

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

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CLS/COM/PM/1800.740  
Third DoV – FINAL - 210618



THIS DEED is made on the 27<sup>th</sup> day of July 2018

**BETWEEN**

1. **65 HOLMES ROAD LIMITED** (Co. Regn. No. 6403136) whose registered office is at 46 Great Marlborough Street London W1F 7JW (hereinafter called "the Owner") of the first part
2. **EFG PRIVATE BANK LIMITED** (Co. Regn. No. 2321802) whose registered office is at Leconfield House Curzon Street London W1J 5JB (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, the Owner and the Mortgagee entered into a Section 106 agreement dated 6<sup>th</sup> March 2014 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 Following the receipt of the Application for First Material Amendments the Council, the Owner and the Mortgagee entered into a Section 106 agreement First Deed of Variation dated 27<sup>th</sup> May 2016 pursuant to Section 106 and 106A of the Town and Country Planning Act 1990 (as amended) to vary the terms of the Existing Agreement.
- 1.3 Thereafter following the receipt of the Application for Second Material Amendments the Council, the Owner and the Mortgagee entered into a Section 106 agreement Second Deed of Variation dated 3<sup>rd</sup> May 2017 pursuant to Section 106 and S106A of the Town and Country Planning Act 1990 (as amended) to further vary the terms of the Existing Agreement.
- 1.4 An Application for the Third Material Amendments to amend the Original Planning Permission was submitted to the Council by the Owner and validated on 7<sup>th</sup> December 2017 for which the Council resolved to grant permission conditionally under reference 2017/6786/P and subject to the conclusion of this Deed.

- 1.5 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute of the Property under title number NGL211408 subject to a charge to the Mortgagee.
- 1.6 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL211408 and dated 20 December 2007 is willing to enter into this Deed to give its consent to the same.
- 1.7 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.8 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.
- 1.9 This Deed 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.
- 1.10 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.

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 Deed.

- 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 Deed 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	"Act"	the Town and Country Planning Act 1990 (as amended)
2.8.2	"Application for First Material Amendments"	the application for planning permission for the First Material Amendments in respect of the Property granted conditionally by the Council proposed by planning application 2015/5435/P granted planning permission on the 27 <sup>th</sup> May 2016 subject to the First Deed of Variation
2.8.3	"Application for Second Material Amendments"	the application for planning permission for Second Material Amendments in respect of the Property granted conditionally by the Council (under reference number 2016/4664/P) dated 3 <sup>rd</sup> May 2017 subject to the Second Deed of Variation
2.8.4	"Application for Third Material Amendment"	the application for planning permission for Third Material Amendments in respect of the Property to be granted conditionally by the Council under reference number 2017/6786/P subject to the conclusion of this Deed

2.8.5	"the Deed"	this third deed of variation to the Existing Agreement made pursuant to Section 106 and Section 106A of the Act
2.8.7	"the Existing Agreement"	the Section 106 agreement under the Town and Country Planning Act 1990 (as amended) dated 6 <sup>th</sup> March 2014 made between the Council, the Owner and the Mortgagee
2.8.6	"the First Deed of Variation"	the Section 106 agreement deed of variation under s106A of the Town and Country Planning Act 1990 (as amended) in respect of the Property dated 27 <sup>th</sup> May 2016 made between the Council, the Owner and the Mortgagee
2.8.8	"the Original Planning Permission"	means the planning permission granted by the Council on 6th March 2014 referenced 2013/7130/P allowing the erection of part seven, part three storey building above two basement levels to provide student accommodation comprising 273 units (337 rooms and 439 bed spaces) with ancillary facilities (sui generis), warehouse (Class B8) at basement and ground floor levels and coffee shop (Class A1) at ground floor level following demolition of existing B8 buildings as shown on drawing numbers EX00; EX01; EX02; EX03; EX04; 131050 A(GA) -P080 B; -P090 A; -P100 C; -P110 B; -P120 B; -P130 B; -P140 B; -P150 B; -P160 B; -P170 A; -P300 A; -P301 A; -P302 A; -P303 A; -P400 B; -P401 A; P402A; -P403 A; 131050 A(VIS) P001; -P002; Sustainability Statement, Oct 2013, prepared by Hodkinson Consultancy; Sunlight and Daylight, 22 Oct 2013, prepared by BMT Fluid Mechanics Ltd; Basement Impact Assessment, Oct 2013, prepared by Pringuer-James Consulting Engineers; Design & Access Statement, Nov 2013 rev A, prepared by Contemporary Design Solutions; Planning Statement, Oct 2013,

		prepared by KR Planning; Energy Statement, Oct 2013, prepared by Hodkinson Consultancy; Transport Statement, Oct 2013, prepared by URS; Construction Traffic Management Plan, Oct 2013, prepared by URS; Workplace Travel Plan, Oct 2013, prepared by URS; Student Travel Plan, Oct 2013, prepared by URS; email from KR Planning dated 7 Feb 2014, entitled Holmes Road; revised room schedule, submitted 11 Feb 2014
2.8.9	"the Second Deed of Variation"	the Section 106 agreement deed of variation under s106A of the Town and Country Planning Act 1990 (as amended) in respect of the Property dated 3rd May 2017 made between the Council, the Owner and the Mortgagee

### 3. VARIATION TO THE EXISTING AGREEMENT

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

3.1 The following definitions shall be **added** to the Existing Agreement:

3.1.1	"Existing Agreement"	the Section 106 agreement under the Town and Country Planning Act 1990 (as amended) dated 6 <sup>th</sup> March 2014 made between the Council, the Owner and the Mortgagee
3.1.3	"the First Material Amendments"	Variation of Condition 20 (approved plans) of planning permission 2013/7130/P dated 06/03/2014 (for the erection of a part seven, part three storey building above two basement levels to provide student accommodation comprising 273 units (337 rooms and 439 bed

		spaces) with ancillary facilities (sui generis), warehouse (B8) at basement and ground floor levels and a coffee shop (A1) at ground floor level following the demolition of existing B8 buildings); changes are to extend the lower basement level to relocate part of the warehouse (B8) use from the mezzanine floor, internal reconfigurations, introduction of social space and study rooms on the mezzanine level, changes between double and twin rooms, lift overrun, new rooflights and lightwells
3.1.5	"the First Planning Permission"	The planning permission granted pursuant to the Application for First Material Amendments remaining subject to the First Deed of Variation
3.1.2	"Parties"	the Council, the Owner and the Mortgagee being the parties to this Deed and shall include their successors in title, transferees and assigns
3.1.4	"the Second Material Amendments"	Variation of Condition 20 (approved plans) of planning permission 2013/7130/P dated 06/03/2014 (as varied by 2015/5435/P dated 27/05/2016) for a 3-7 storey building (with 2 basement levels) to provide 273 units (337 rooms and 439 bed spaces) of student accommodation with ancillary facilities (sui generis), warehouse and a coffee shop following demolition of existing building; CHANGES ARE to configure the warehouse levels and ground floor areas to provide an enlarged social area for the student accommodation use; additional row of windows on Holmes Road elevation; additional rooflights into basement and changes to positioning of windows.
3.1.6	"the Second Planning Permission"	The planning permission granted pursuant to the Application for Second Material



		Amendment and remaining subject to the Second Deed of Variation
3.1.7	"the Third Material Amendments"	<p>a decision under section 73 of the Act having reference number 2017/6786/P substantially in a form found attached to this Deed amending the Original Planning Permission (as already varied) to permit:</p> <p>Variation of condition 20 (approved plans) of 2013/7130/P dated 06/03/2014 (as varied by 2015/5435/P dated 27/05/2016 and 2016/4664/P dated 03/05/2017) for a of a 3-7 storey building (with 2 basement levels) to provide 273 units (341 rooms and 439 bedspaces) of student accommodation with ancillary facilities (sui generis), warehouse space and a coffee shop following demolition of the existing building; CHANGES ARE to lower the basement level by 950mm, internal changes, the increase in area and volume of warehouse space and the reduction of ancillary student space (including the gym facility) as shown on (131050 A(GA))080; 090; P080 Rev G; P090 Rev F; P100 Rev G; P110 Rev G; P120 Rev G; P130 Rev G; P140 Rev G; P150 Rev G; P160 Rev G; P170 Rev D; P300 Rev E; P301 Rev F; P302 Rev F; P303 Rev E; P304 Rev D; P400 Rev E; P401 Rev E; P402 Rev C; P403 Rev E, Basement Impact Assessment Rev A dated February 2018 and D &amp; A Statement - s73 update dated February 2018.</p>
3.1.8	"the Third Planning Permission"	the planning permission granted pursuant to the Application for Third Material Amendment with reference number 2017/6786/P (substantially in a form found attached) and subject to this Deed

3.1.9	"the Original Planning Permission"	means the planning permission granted by the Council on 6th March 2014 referenced 2013/7130/P allowing the erection of part seven, part three storey building above two basement levels to provide student accommodation comprising 273 units (337 rooms and 439 bed spaces) with ancillary facilities (sui generis), warehouse (Class B8) at basement and ground floor levels and coffee shop (Class A1) at ground floor level following demolition of existing B8 buildings as shown on drawing numbers EX00; EX01; EX02; EX03; EX04; 131050 A(GA) -P080 B; -P090 A; -P100 C; -P110 B; -P120 B; -P130 B; -P140 B; -P150 B; -P160 B; -P170 A; -P300 A; -P301 A; -P302 A; -P303 A; -P400 B; -P401 A; P402A; -P403 A; 131050 A(VIS) P001; -P002; Sustainability Statement, Oct 2013, prepared by Hodkinson Consultancy; Sunlight and Daylight, 22 Oct 2013, prepared by BMT Fluid Mechanics Ltd; Basement Impact Assessment, Oct 2013, prepared by Pringuer-James Consulting Engineers; Design & Access Statement, Nov 2013 rev A, prepared by Contemporary Design Solutions; Planning Statement, Oct 2013, prepared by KR Planning; Energy Statement, Oct 2013, prepared by Hodkinson Consultancy; Transport Statement, Oct 2013, prepared by URS; Construction Traffic Management Plan, Oct 2013, prepared by URS; Workplace Travel Plan, Oct 2013, prepared by URS; Student Travel Plan, Oct 2013, prepared by URS; email from KR Planning dated 7 Feb 2014, entitled Holmes Road; revised room schedule, submitted 11 Feb 2014
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3.2 The definition at clause 2.8 shall be **varied** to the following:

3.2.1 "Development"

Erection of part seven, part three storey building above two basement levels to provide student accommodation comprising 273 units (337 rooms and 439 bed spaces) with ancillary facilities (sui generis), warehouse (Class B8) at basement and ground floor levels and coffee shop (Class A1) at ground floor level following demolition of existing B8 buildings as shown on EX00; EX01; EX02; EX03; EX04; 131050 A(GA) -P080 A; -P090 A; -P100 B; -P110 B; -P120 B; -P130 B; -P140 B; -P150 B; -P160 B; -P170 A; -P300 A; -P301 A; -P302 A; -P303 A; -P400 B; -P401 A; P402A; -P403 A; 131050 A(VIS) P001; -P002; Sustainability Statement, Oct 2013, prepared by Hodkinson Consultancy; Sunlight and Daylight, 22 Oct 2013, prepared by BMT Fluid Mechanics Ltd; Basement Impact Assessment, Oct 2013, prepared by Pringuer-James Consulting Engineers; Design & Access Statement, Nov 2013 rev A, prepared by Contemporary Design Solutions; Planning Statement, Oct 2013, prepared by KR Planning; Energy Statement, Oct 2013, prepared by Hodkinson Consultancy; Transport Statement, Oct 2013, prepared by URS; Construction Traffic Management Plan, Oct 2013, prepared by URS; Workplace Travel Plan, Oct 2013, prepared by URS; Student Travel Plan, Oct 2013, prepared by URS; email from KR Planning dated 7 Feb 2014, entitled Holmes Road; revised room schedule, submitted 11 Feb 2014 as varied by the First Material Amendments, Second Material Amendments and Third Material Amendments

3.4 The definition at clause 2.20 shall be **varied** to the following:

3.4.1 “the Planning Application” the application for the Original Planning Permission in respect of the development of the Property validated on the 12 December 2013 which a resolution to grant permission was passed conditionally under reference number 2013/7130/P subject to the conclusion of the Existing Agreement

3.5 The definition at clause 2.22 shall be **varied** to the following:

3.5.1 “Planning Permission” the Original Planning Permission as varied by the First Material Amendments (following the grant of the First Planning Permission) and varied by the Second Material Amendments (following grant of the Second Planning Permission) and further varied by the Third Material Amendments approved under the Third Planning Permission (reference number 2017/6786/P)

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to “Planning Permission reference 2013/7130/P or 2015/5435/P or 2016/4664/P” shall be replaced with “Planning Permission reference 2013/7130/P as varied by 2015/5435/P or 2016/4664/P or 2017/6786/P”.

3.3 In all other respects the Existing 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 Existing Agreement the provisions in this Deed shall take effect on the Implementation of the Planning Permission referenced 2017/6786/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

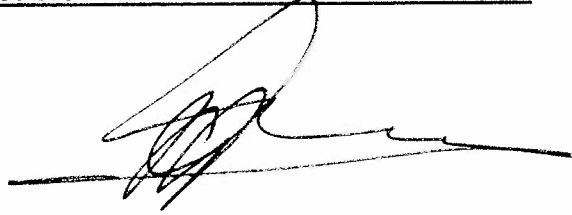
**7 MORTGAGEE CONSENT**

- 7.1 The Mortgagee hereby consents to the completion of this Deed and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 in the Existing Agreement 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.

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

**CONTINUATION OF THE THIRD DEED OF VARIATION OF THE S106 AGREEMENT  
DATED 6 MARCH 2014 FOR MAGNET 65-69 HOLMES ROAD LONDON NW5 3AN**

EXECUTED AS A DEED BY  
65 HOLMES ROAD LIMITED  
acting by a Director

)  
)  
) 

Director Name: (CAPITALS)

) .....NABIL GATTAL.....

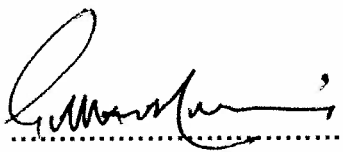
Director Signature:

) .....

in the presence of:

)

Witness Signature:

)   
) .....

Witness Name: (CAPITALS)

) .....GEOFFREY LEVINE.....

Address:

) .....46 Great Marlborough Street.....

) .....London W1F 7JW.....

Occupation:

) .....Lawyer.....

EXECUTED AS A DEED BY  
EFG PRIVATE BANK LIMITED  
acting by a Director and its Secretary  
or by two Directors

)  
)  
)  
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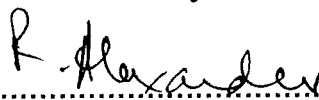
.....  
Director

.....  
Director/Secretary

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

)  
)  
)  
)

.....  
Duly Authorised Officer





KR Planning  
183 Seafield Road  
Boumemouth BH6 5LJ

Application Ref: **2017/6786/P**

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:  
**65-67 Holmes Road**  
**London**  
**NW5 3AN**

Proposal:

**DECISION**  
Variation of condition 20 (approved plans) of 2013/7130/P dated 06/03/2014 (as varied by 2015/5435/P dated 27/05/2016 and 2016/4664/P dated 03/05/2017) for a of a 3-7 storey building (with 2 basement levels) to provide 273 units (341 rooms and 439 bedspaces) of student accommodation with ancillary facilities (sui generis), warehouse space and a coffee shop following demolition of the existing building; CHANGES ARE to lower the basement level by 950mm, internal changes, the increase in area and volume of warehouse space and the reduction of ancillary student space (including the gym facility)

Drawing Nos: (131050 A(GA))080; 090; P080 Rev G; P090 Rev F; P100 Rev G; P110 Rev G; P120 Rev G; P130 Rev G; P140 Rev G; P150 Rev G; P160 Rev G; P170 Rev D; P300 Rev E; P301 Rev F; P302 Rev F; P303 Rev E; P304 Rev D; P400 Rev E; P401 Rev E; P402 Rev C; P403 Rev E, Basement Impact Assessment Rev A dated February 2018 and D & A Statement - s73 update dated February 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 details of the layout, sections, elevations at scale 1:100, plus larger scale details at 1:20 scale of windows and door framing shall be provided in accordance with the details approved under 2016/5496/P dated 30/12/2016. Details of the roof plant equipment are required prior to that element of works, the plant details need to be submitted to and approved by the Council. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

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.

- 2 A Sample panel of all approved facing materials demonstrating the proposed colour, texture, face-bond and pointing 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 approved 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.

- 3 The development should be implemented in accordance with the submitted programme of ground investigation and remediation measures approved under 2016/5269/P dated 03/03/2017. All approved remediation measures shall be implemented strictly in accordance with the approved details.

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 policy A1 of the Camden Local Plan 2017.

- 4 The development shall take place in accordance with the landscaping details approved under 2016/5269/P dated 03/03/2017. The works shall not be carried out otherwise than in accordance with the details thus approved and shall be implemented prior to the first occupation of any of the new units and permanently retained thereafter.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area in accordance with the requirements of policy D1 of the Camden Local Plan 2017.



- 5 The development should be undertaken in accordance with the details of the location, design and method of waste storage and removal (including recycled materials) approved under 2016/5269/P dated 03/03/2017. The approved facility shall therefore be provided prior to the first occupation of any of the new units and permanently retained thereafter.

Reason: To ensure that sufficient provision for the storage and collection of waste has been made in accordance with the requirements of policy CC5 of the Camden Local Plan 2017.

- 6 284 cycles shall be provided in accordance with the details shown on drawing numbers 131050 A(GA)080 and 090. The approved facility shall be provided in its entirety prior to the first occupation of any of the new units, and thereafter permanently retained 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.

- 7 The areas of external amenity space hereby permitted shall not be used after 22.00 or before 08.00 Mondays to Sundays (including Bank Holidays).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy A1 of the Camden Local Plan 2017.

- 8 The flat roofs of the buildings shall not be used as amenity terraces.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy A1 of the Camden Local Plan 2017.

- 9 The proposed Combined Cooling Heat and Power technology shall be provided in accordance with the details approved under 2016/5269/P dated 03/03/2017. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units and permanently retained thereafter.

Reason: In order to secure the optimum energy and resource efficiency measures and on-site renewable energy generation in accordance with policies CC1, CC2 and A1 of the Camden Local Plan 2017.

- 10 The student accommodation hereby approved shall only be occupied as part of the overall use of this part of the building as "Sui Generis" student accommodation, and it shall not be used as independent and separate self contained dwellings within the meaning of Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: In the interests of certainty to ensure an acceptable standard of accommodation for future occupants, in accordance with the requirements of policies A1 and D1 of the Camden Local Plan 2017.

- 11 Prior to the first occupation of the building a plan showing details of the green roof including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long term viability of the green roof, and a programme for an initial maintenance scheme for a period of 5 years shall be submitted to and approved in writing by the local planning authority. The green roof shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained.

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

- 12 Prior to the occupation of the building, details of an artificial bat roost within the application site should be submitted to and approved by the Council and subsequently incorporated in the development in accordance with the approved details and thereafter retained.

Reason: In order to conserve and enhance the biodiversity of the site in accordance with Policy A3 of the Camden Local Plan 2017.

- 13 Basement works on site shall be undertaken in accordance with the detailed design, structural calculations and method statement for the foundation design and all new groundworks approved under 2016/6245/P dated 03/03/2017. The development shall only take place in accordance with the detailed scheme approved agreed pursuant to this condition.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policy A5 of the Camden Local Plan 2017.

- 14 The internal access routes to the refuse storage area, including accessible routes, and details of the external ramped entrance to the restaurant, shall be provided in accordance with the details approved under 2016/5269/P dated 03/03/2017. The approved facility shall be provided in its entirety prior to the first occupation of any of the new units and permanently retained thereafter.

Reason: To ensure that sufficient provision for the storage and collection of waste has been made and to ensure full accessibility in accordance with the requirements of policies CC5 and A1 of the Camden Local Plan 2017.

- 15 The Sustainable Drainage System (SUDS), including green or brown roofs, pervious paving and collection of rain water for reuse, shall be provided in accordance with the details approved under 2016/5269/P dated 03/03/2017. The approved details shall be implemented prior to first occupation and retained in the development.

Reason: To reduce the rate of surface water run-off from the buildings and limit the impact on the storm-water drainage system in accordance with policies CC1, CC2 and CC3 of the Camden Local Plan 2017.

- 16 Noise levels arising from external sources audible within all habitable rooms during the night period (23:00 - 07:00) shall not exceed 30dB LAeq (8 hours) nor 45dB L<sub>Amax</sub> (fast). Similarly, noise levels in habitable rooms shall not exceed 35 dB LAeq (16 hours) during the day time (07:00 - 23:00). Details of sound insulation measures for the student windows fronting Cathcart Street shall be submitted to and approved in writing by the Local Planning Authority. The approved sound insulation measures shall be installed prior to occupation of any of the student units, and retained thereafter.

Reason: To safeguard the amenities of future occupants, the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the Camden Local Plan 2017.

- 17 Before the relevant uses commence, plans and acoustic information of any extract ventilating system/air-conditioning plant shall be submitted to the Council for approval, this shall include details of any acoustic isolation and sound attenuation. Noise levels at a point 1 metre external to sensitive facades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A). The equipment and any noise control measures shall thereafter be retained.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the Camden Local Plan 2017.

- 18 Ductborne noise arising from the café ventilation equipment, when measured inside student bedrooms shall not exceed Noise Rating Curve 25 LAeq (NR25).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the Camden Local Plan 2017.

- 19 The development hereby permitted shall be carried out in accordance with the following approved plans, except in respect of the windows in the elevation of the proposed building facing towards adjoining No 61 and 63 Holmes Road, which shall be deleted and fresh details of this element of the scheme shall be submitted: EX00; EX01; EX02; EX03; EX04, 131050 A(GA))080; 090; P080 Rev G; P090 Rev F; P100 Rev G; P110 Rev G; P120 Rev G; P130 Rev G; P140 Rev G; P150 Rev G; P160 Rev G; P170 Rev D; P300 Rev E; P301 Rev F; P302 Rev F; P303 Rev E; P304 Rev D; P400 Rev E; P401 Rev E; P402 Rev C; P403 Rev E, (131050-A(VIS))P001 and P002; Sustainability Statement, Oct 2013, prepared by Hodkinson Consultancy; Sunlight and Daylight, 22 Oct 2013, prepared by BMT Fluid Mechanics Ltd; Basement Impact Assessment, Oct 2013, prepared by Pringuer-James Consulting Engineers; Design & Access Statement, Nov 2013 rev A, prepared by Contemporary Design Solutions; Planning Statement, Oct 2013, prepared by KR Planning; Energy Statement, Oct 2013, prepared by Hodkinson Consultancy; Transport Statement, Oct 2013, prepared by URS; Construction Traffic Management Plan, Oct 2013, prepared by URS; Workplace Travel Plan, Oct 2013, prepared by URS; Student Travel Plan, Oct 2013, prepared by URS; email from KR Planning dated 7 Feb 2014, entitled Holmes Road; D & A Statement - s73 Update (Addendum to Approved scheme D&A Statement - 2015/5435/P) dated July 2016, Basement Impact Assessment Rev A dated February 2018 and D & A Statement - s73 update dated February 2018.

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

- 20 "Notwithstanding the provisions S96A of the Town and Country Planning Act 1990 or any Order revoking and re-enacting that Order, no increase in student bedspaces shall be carried out without the grant of planning permission having first been obtained from the local planning authority.

Reason: To prevent over development of the site by controlling increases in bedspaces and student numbers on the site in accordance with policies H9, D1 and A1 of the Camden Local Plan 2017.

- 21 The development shall be undertaken with a suitably qualified chartered engineer as approved under 2016/6245/P dated 03/03/2017. Any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policies A1 and A5 of the Camden Local Plan 2017.

Informative(s):

- 1 Reasons for granting permission.

The proposed changes include the lowering of the basement by 950mm, an increase to the size of the warehouse space (in area and volume) and the reduction of ancillary student space. The original permission has been subject to minor-material amendments approved under 2015/5435/P and 2016/4664/P. These approvals included the reconfiguration to warehouse levels and ground floor areas to provide an enlarged social area for the student accommodation use and several minor external changes. The development has commenced with a number of conditions and legal obligations discharged.

#### Land use

Due to site constraints with adjoining properties and construction limitations, the overall net site area has reduced. This has resulted in the reconfiguring of the lower basement plan to achieve similar levels of warehouse area as per the approved scheme. The lower basement slab level would be lowered to create additional height to enhance the spatial volume to both the warehouse and student areas. To protect the level and quality of employment space offered, there would be a gain of 105sqm (GIA) warehouse space in addition to the benefits of extra volume created through greater internal floor heights. The proposal has resulted in the loss of 280sqm (GIA) ancillary student floorspace, which is considered acceptable on balance due to the gains in employment use and the unavoidable site constraints.

#### Basement

The proposed basement extensions were approved under 2015/5435/P and the subject application would lower the floor level by 950mm. Due to the material changes to the approved basement, a revised Basement Impact Assessment (BIA) was submitted. The BIA was independently reviewed by Campbell Reith, an engineer regularly used by the Council to verify basement works, who confirmed that the proposal adheres to policy requirements. Their report notes that the BIA engineers hold the necessary qualifications, much of the basement construction has already been approved and undertaken satisfactorily, SuDs would reduce run off in accordance with the London Plan, the proposal is unlikely to impact on ground water and there are no slope stability or flooding concerns. Furthermore, the application has already discharged detailed design, structural calculations and a method statement for the foundation design and all new groundworks. These were subject to independent verification in order to discharge conditions 14 and 22 of the extant permission.

#### Design, character and appearance

The only external changes to the proposal would be the deepening of an already large lightwell. It is not considered that this would harm the character or appearance of the site or surroundings compared to the extant permission.

#### Residential amenity

The approved building would not be increased in size, there would be no new windows that could overlook surrounding occupiers and student numbers would not be altered. It is therefore considered that the proposed development would not result in an undue loss of sunlight, outlook, privacy, or that it would increase levels of noise and general disturbance over the approved scheme.

#### Transport

Details of cycle parking have been submitted and deemed acceptable by the Council's Transport Officer. There are no other transport matters relevant to the proposal.

#### Consultation

No objections have been received from surrounding occupiers or third parties. The site's planning history and relevant appeal decisions were taken into account when coming to this decision.

#### Conclusion

As such, the proposed amendments are in general accordance with policies G1, H9, E1, E2, A1, A5, D1, T1 and DM1. The proposed development also accords with the London Plan 2016 and the National Planning Policy Framework.

- 2 This approval under Section 73 of the 1990 Act effectively varying the relevant condition of the previous planning permission is subject otherwise to the same terms, drawings, conditions (and obligations where applicable) as attached to the previous planning permission. This includes condition 1 providing for a 3 year time period for implementation which for the avoidance of doubt commences with the date of the original decision (and not this variation).
- 3 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.
- 4 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).
- 5 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.
- 6 The Mayor of London introduced a Community Infrastructure Levy (CIL) to help pay for Crossrail on 1st April 2012. Any permission granted after this time which adds more than 100sqm of new floorspace or a new dwelling will need to pay this CIL. It will be collected by Camden on behalf of the Mayor of London. Camden will be sending out liability notices setting out how much CIL will need to be paid if an affected planning application is implemented and who will be liable.

The proposed charge in Camden will be £50 per sqm on all uses except affordable housing, education, healthcare, and development by charities for their charitable purposes. You will be expected to advise us when planning permissions are implemented. Please use the forms at the link below to advise who will be paying the CIL and when the development is to commence. You can also access forms to allow you to provide us with more information which can be taken into account in your CIL calculation and to apply for relief from CIL.

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

We will then issue a CIL demand notice setting out what monies needs to paid when and how to pay. Failure to notify Camden of the commencement of development will result in a surcharge of £2500 or 20% being added to the CIL payment. Other surcharges may also apply for failure to assume liability and late payment. Payments will also be subject to indexation in line with the construction costs index.

Please send CIL related documents or correspondence to [CIL@Camden.gov.uk](mailto:CIL@Camden.gov.uk)

- 7 Your attention is drawn to the need for compliance with the requirements of the Environmental Health regulations, Compliance and Enforcement team, [Regulatory Services] Camden Town Hall, Argyle Street, WC1H 8EQ, (tel: 020 7974 4444) particularly in respect of arrangements for ventilation and the extraction of cooking fumes and smells.

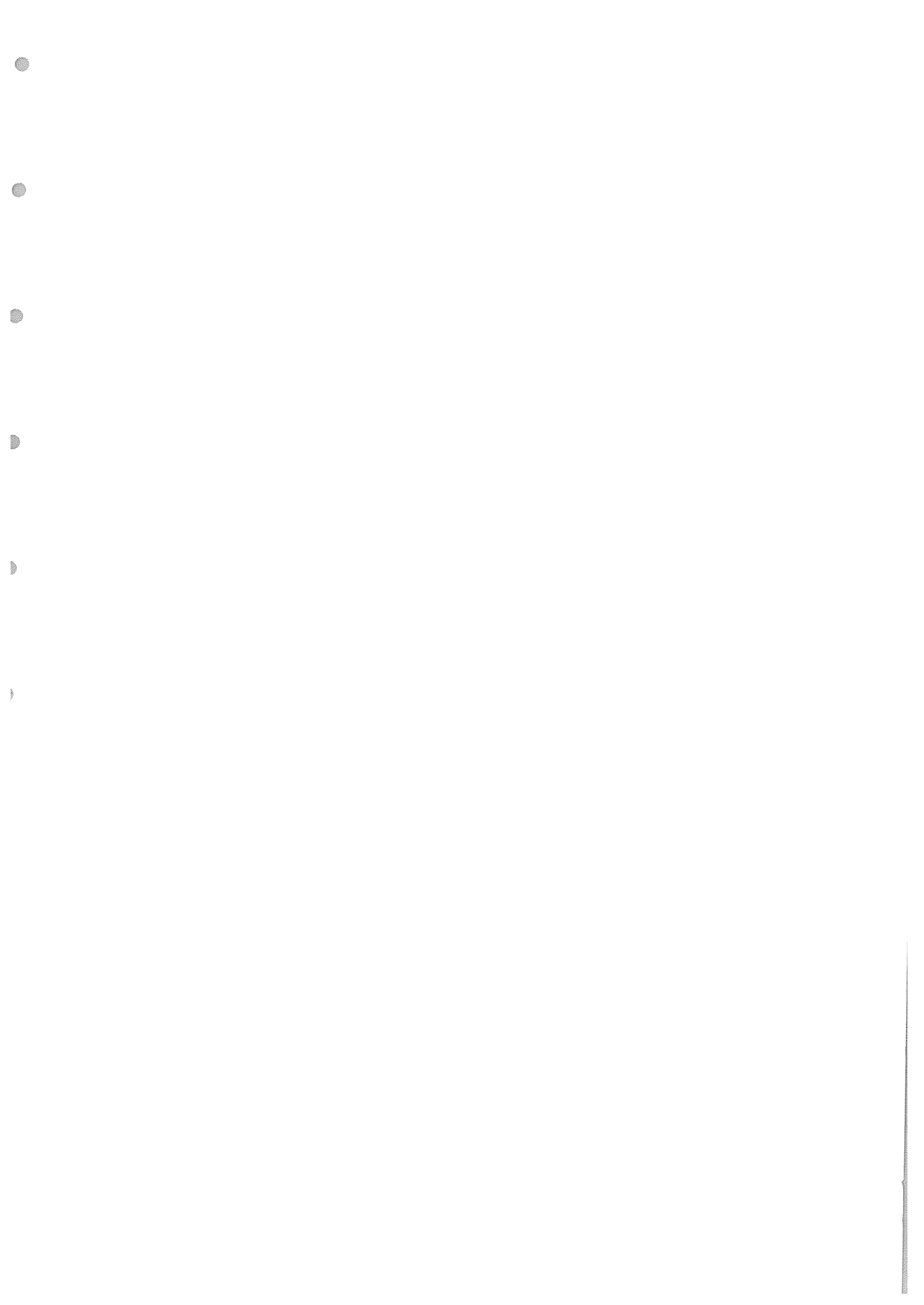
In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Supporting Communities Directorate







DATED

27<sup>th</sup> July

2018

**(1) 65 HOLMES ROAD LIMITED**

-and-

**(2) EFG PRIVATE BANK LIMITED**

-and-

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

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**THIRD DEED OF VARIATION**

Relating to the S106 agreement dated 6 March 2014 and  
First Deed of Variation dated 27<sup>th</sup> May 2016 and  
Second Deed of Variation dated 3<sup>rd</sup> May 2017

Between the Mayor and the Burgesses of the  
London Borough of Camden,  
65 Holmes Road Limited and EFG Private Bank Limited

under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as

**Magnet 65-69 Holmes Road London NW5 3AN**

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