

DATED

7 August 2018

2018

**(1) REROUGH LIMITED**

and

**(2) INVESTEC BANK**

and

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

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**DEED OF VARIATION**

Relating to the Agreement dated 17 May 2017  
Between the Mayor and the Burgesses of the  
London Borough of Camden, Renough Limited and  
Investec Bank  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
**41 Frogna London NW3 6YD**

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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/1800.678  
FINAL



THIS DEED is made on the 7<sup>th</sup> day of August 2018

**BETWEEN**

1. **RENOUGH LIMITED** (incorporated in Isle of Man) of Clinch's House, Lord Street, Douglas, Isle of Man, IM99 1RZ as Trustee for the Loretta Trust and whose address for service in the United Kingdom is 41 Frognal London NW3 6YD (hereinafter called "the Owner") of the first part
2. **INVESTEC BANK (CHANNEL ISLANDS) LIMITED** (incorporated in Channel Islands) of La Vieille Cour, La Plaiderie, St Peter Port, Guernsey, GY1 3LP, Channel Islands (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, Renough Limited and Investec Bank (Channel Islands) Limited entered into an Agreement dated 17 May 2017 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number NGL630652 under title number 108284 subject to a charge to the Mortgagee.
- 1.3 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.4 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.
- 1.5 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 19

September 2017 for which the Council resolved to grant permission conditionally under reference 2017/5234/P subject to the conclusion of this Deed.

1.6 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.

1.7 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 17 May 2017 made between the Council Renough Limited and Investec Bank (Channel Islands) Limited

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 17 May 2017 referenced 2016/4558/P allowing the Partial demolition and new build behind retained façade comprising a lower ground floor extension; ground, first and second floor extensions to the front, side and rear; first and second floor rear terraces to provide a 7-bedroom single dwellinghouse. as shown on drawing numbers (Prefix 14044-) P001; X100; X110; 315; 316; 317; 318; P090; P100; P101; P110; P120; P130; P202; P310; P311; P312; P313; P800; P801.

Reports: Transport Statement prepared by Motion dated 01/08/2016; Structural Engineering Report and Subterranean Construction Method Statement prepared by ElliottWood dated July 2016; Design & Access Statement prepared by KSR Architects LLP dated August 2016; Construction Management Plan pro-forma; Desk Study and Basement Impact Assessment Report prepared by BTP Group dated 14 March 2016;

Heritage Statement prepared by KM Heritage dated August 2016; Arboricultural Method Statement prepared by Landmark Trees dated 29th July 2016; Arboricultural Impact Assessment Report prepared by Landmark Trees dated 29th July 2016. Affordable Housing Statement prepared by DS2 dated August 2016; Ecological Walkover Survey prepared by Peak Ecology Ltd dated 11th November 2016.

### **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 3 (approved plans) of planning permission dated 17.5.17 ref 2016/4558/P (for Partial demolition and new build behind retained façade comprising a lower ground floor extension; ground, first and second floor extensions to the front, side and rear; first and second floor rear terraces to provide a 7-bedroom single dwellinghouse), namely to vary approved materials and fenestration on all elevations and to extend 1st floor brick front parapet over northern side wing. as shown on drawings:- (Prefix 14044-) P001; X100; X110; 315; 316; 317; 318; P090E; P100E; P101E; P110F; P120E; P130E; P202E; P310E; P311F; P312E; P313E; P800; P801; MMA application document dated September 2017 by KSR architects.

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2017/5234/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 19 September 2017 by the Owner and given reference number 2017/5234/P
- 3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2016/4558/P" shall be replaced with "Planning Permission reference 2017/5234/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 2017/5234/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 SECTION 106 AGREEMENT IN RELATION TO  
41 FROGNAL LONDON NW3 6YD

EXECUTED AS A DEED BY )  
RENOUGH LIMITED )

acting by a Director and its Secretary )  
or by two Directors )

*[Handwritten Signature]*  
.....

Director

*[Handwritten Signature]*  
.....

Director/Secretary

EXECUTED as a Deed )  
By INVESTEC BANK )  
By Geoff Reid and Stephen Henry )  
in the presence of: - *Authorised Signatory and* )  
*director* )

STUART ROSSON  
.....

*[Handwritten Signatures]*

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

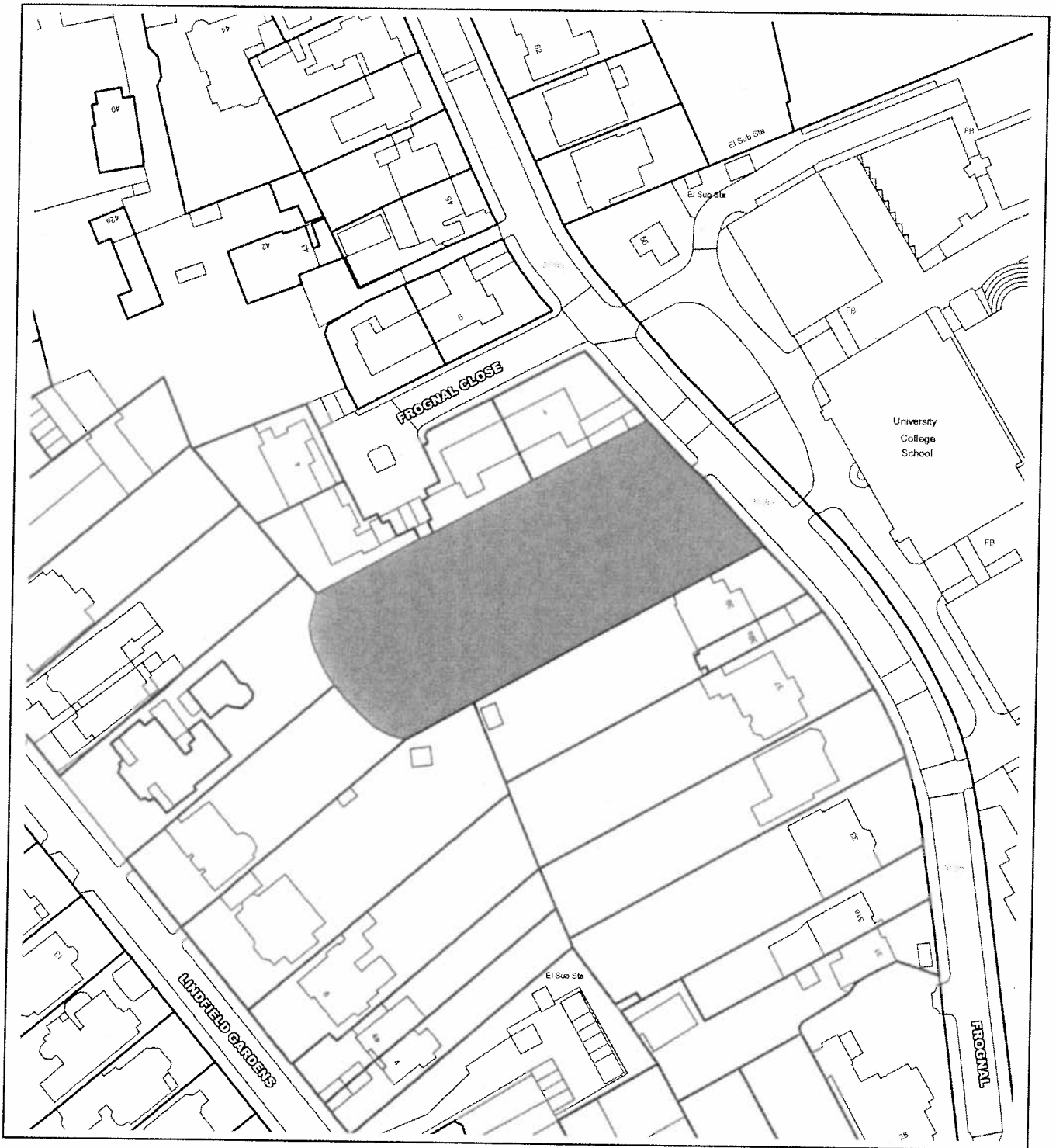
*[Handwritten Signature]*  
.....

Authorised Signatory





# NORTHGATE SE GIS Print Template



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*UAMR*  
*R. Alexander*



DP9 Ltd  
100 Pall Mall  
London  
SW1Y 5NQApplication Ref: **2017/5234/P**

13 July 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:  
**41 Frognal**  
**London**  
**NW3 6YD**

## Proposal:

**DECISION**

Variation of condition 3 (approved plans) of planning permission dated 17.5.17 ref 2016/4558/P (for Partial demolition and new build behind retained façade comprising a lower ground floor extension; ground, first and second floor extensions to the front, side and rear; first and second floor rear terraces to provide a 7-bedroom single dwellinghouse), namely to vary approved materials and fenestration on all elevations and to extend 1st floor brick front parapet over northern side wing.

Drawing Nos: (Prefix 14044-) P001; X100; X110; 315; 316; 317; 318; P090E; P100E; P101E; P110F; P120E; P130E; P202E; P310E; P311F; P312E; P313E; P800; P801; MMA application document dated September 2017 by KSR architects.

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 planning permission ref 2016/4558/P dated 17.5.17.

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans- (Prefix 14044-) P001; X100; X110; 315; 316; 317; 318; P090E; P100E; P101E; P110F; P120E; P130E; P202E; P310E; P311F; P312E; P313E; P800; P801; MMA application document dated September 2017 by KSR architects.

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

- 3 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies D1 and D2 of the London Borough of Camden Local Plan 2017.

- 4 Before the relevant part of the work is begun, detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority:

- a) Details including sections at 1:10 of all new windows on the front elevation at ground, 1st and 2nd floors (including jambs, head and cill);
- b) Manufacturer's specification details of the new zinc cladding (to be submitted to the local planning authority) and samples of those materials (to be provided on site).

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies D1 and D2 of the London Borough of Camden Local Plan 2017.

- 5 All hard and soft landscaping works shall be carried out in accordance with the approved landscape details by not later than the end of the planting season following completion of the development or any phase of the development. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a high quality of visual amenity in the scheme in accordance with the requirements of policies A2, A3, D1 and D2 of the London Borough of Camden Local Plan 2017.

- 6 Full details in respect of the green roof in the area indicated on the approved roof plan shall be submitted to and approved by the local planning authority before the relevant part of the development commences. The buildings shall not be occupied until the approved details have been implemented and these works shall be permanently retained and maintained thereafter.

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, D1, D2 and A3 of the London Borough of Camden Local Plan 2017.

- 7 For the duration of the development, details of all Tree Protection Monitoring and site supervision visits (where arboricultural expertise is required, as detailed in the Arboricultural Method Statement, prepared by Adam Hollis of Landmark Trees, ref: AKN/41F/AMS/01a, dated 29th July 2016) shall be submitted to and approved in writing by the Local Planning Authority. Tree protection measures shall be installed in accordance with approved drawings (Tree Protection Plan dated Jan 2015) and shall remain in place for the duration of works on site, unless otherwise agreed in writing by the local authority.

Reason: To ensure that the Council may be satisfied that the development will not have an adverse effect on existing trees and in order to maintain the character and amenities of the area in accordance with the requirements of policies A2 and A3 of the London Borough of Camden Local Plan 2017.

- 8 All works to trees, hedgerows, shrubs, scrub or removal of tall herbaceous vegetation shall be undertaken between September and February inclusive. If this is not possible then a suitably qualified ecologist shall check the areas concerned immediately prior to the clearance works to ensure that no nesting or nest-building birds are present. If any nesting birds are present then the vegetation shall not be removed until the fledglings have left the nest.

Reason: All wild birds, their nests and young are protected during the nesting period under The Wildlife and Countryside Act 1981 (as amended) and in order to conserve wildlife habitats within the development, in accordance with the requirements of policies A3 and CC2 of the London Borough of Camden Local Plan 2017.

- 9 The development hereby approved shall achieve a maximum internal water use of 105 litres/person/day, allowing 5 litres/person/day for external water use. Prior to occupation, evidence demonstrating that this has been achieved shall be submitted and approved by the Local Planning Authority.

Reason: To ensure the development contributes to minimising the need for further water infrastructure in an area of water stress in accordance with policies CC1, CC2, CC3 of the London Borough of Camden Local Plan 2017.

- 10 Prior to the commencement of the relevant part of the development, detailed plans showing the location and extent of photovoltaic cells to be installed on the building shall have been submitted to and approved by the Local Planning Authority in writing. The measures shall include the installation of a meter to monitor the energy output from the approved renewable energy systems. The cells shall be installed in full accordance with the details approved by the Local Planning Authority and permanently retained and maintained thereafter.

Reason: To ensure the development provides adequate on-site renewable energy facilities in accordance with the requirements of policies CC1 and CC2 of the London Borough of Camden Local Plan 2017.

Informative(s):

1 Reason for granting permission-

The revisions involve various changes to window openings on all elevations, an extension of the parapet to overhang the recessed 1st floor section on the north side, matching brickwork on the 1st floor parapet instead of timber cladding, brick instead of render on the northern flank wall, and zinc instead of copper cladding on the 2nd floor and roof. There will be no increase in height, mass or footprint nor any new windows proposed. Although the 1st floor parapet is lower as a narrower band of brickwork so that the 2nd floor appears higher on the front facade, the overall building height does not increase.

The variations are considered acceptable in design terms and to be appropriate and sympathetic to this building and conservation area. The northern overhang and changes in materials do not materially increase the visual bulk of the house as seen from front or side elevations. The change from timber to brick materials on the front parapet creates a more cohesive and uniform façade design. The proposed zinc will match the colour and finish of the pre-patinated copper, so that it does not look visually different from the approved materials.

The proposal is considered to preserve the character and appearance of the conservation area as well as the setting of the adjoining listed buildings in Frogmal Close. Special attention has been paid to the desirability of preserving the setting of listed buildings and of preserving or enhancing the character or appearance of the Conservation Area, under s.66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

The proposals are not considered to cause any adverse impacts on the amenity of adjoining residential occupiers.

One objection has been received prior to making this decision. This and the planning history of the site has been taken into account when coming to this decision.

The full impact of the proposed development has already been assessed by the previous permission. No other aspects of this scheme have changed and thus the permission will be subject to the same conditions and S106 obligations as before. In addition details of the design of the new windows and materials of the new zinc cladding will be secured by condition to ensure they are acceptable.

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 2012.

- 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 You are advised that this proposal will be liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL as the additional floorspace exceeds 100sqm GIA or one unit of residential accommodation.  
  
Both CIL's will be collected by Camden after the scheme has started and could be subject to surcharges for failure to assume liability or submit a commencement notice PRIOR to commencement and/or for late payment. We will issue a formal liability notice once the liable party has been established. CIL payments will also be subject to indexation in line with the construction costs index.
- 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 In relation to condition 1 above, you are advised for the sake of clarity that the date on which the originally approved development started on site here was 1st September 2016.

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

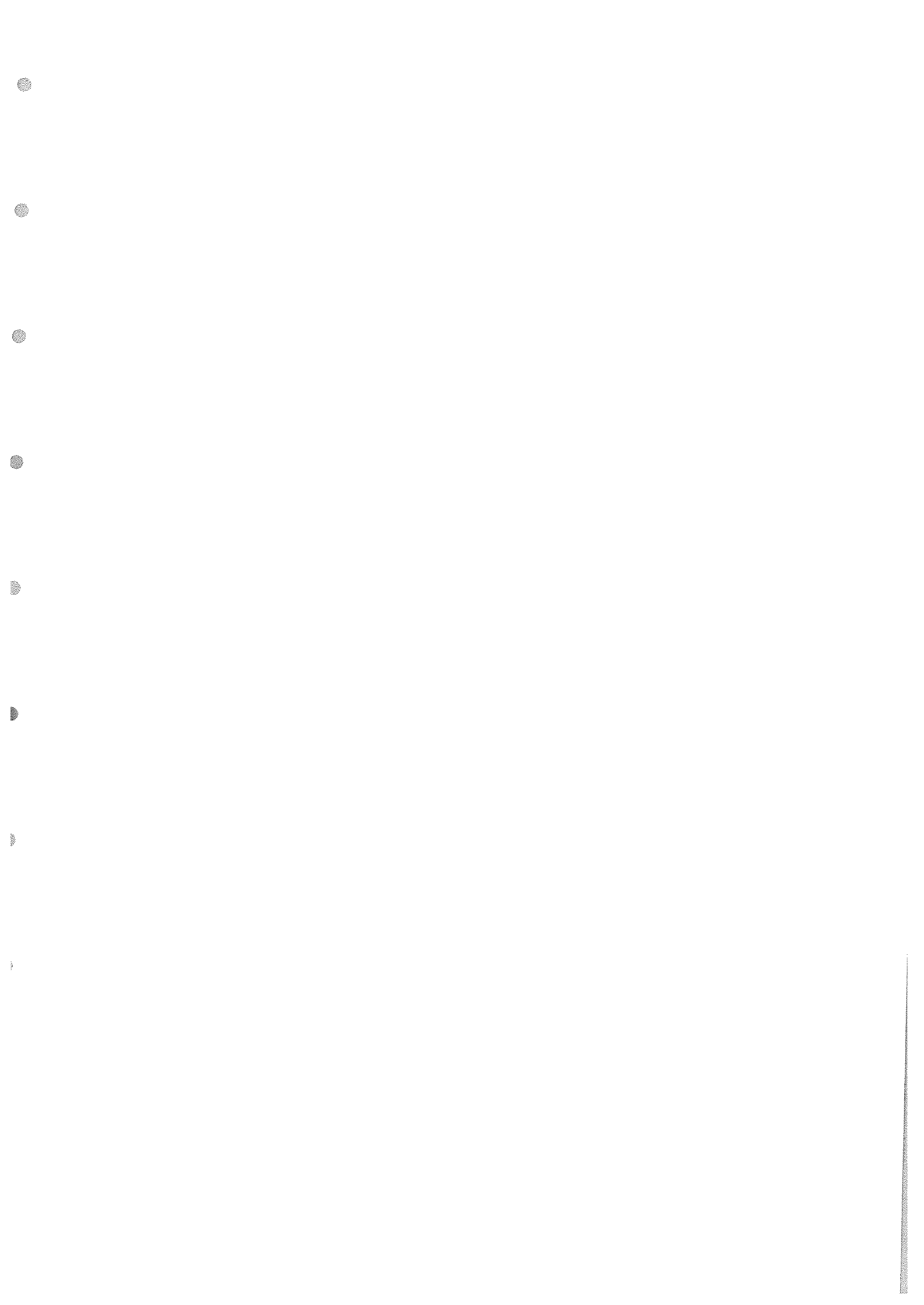
Yours faithfully

Supporting Communities Directorate

**DRAFT**

**DECISION**





DATED

7 August

2018

(1) RENOUGH LIMITED

and

(2) INVESTEC BANK

and

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

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