

DATED

10 August

2018

**(1) JAMES MICHAEL MACDONAGH, RORY NICHOLAS  
MACDONAGH and NICHOLAS CALLUM MACDONAGH**

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**

**28 King's Mews London WC1N 2JB**

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/1800.514  
FINAL



THIS AGREEMENT is made the 10<sup>th</sup> day of August 2018

**BETWEEN:**

- i. **JAMES MICHAEL MACDONAGH, RORY NICHOLAS MACDONAGH and NICHOLAS CALLUM MACDONAGH** of 30 Great James Street, London WC1N 3EY (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 NGL922574.
- 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 A Planning Application for the development of the Property was submitted to the Council and validated on 11 August 2017 and the Council resolved to grant permission conditionally under reference number 2017/4562/P subject to the conclusion of this legal 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 Development" erection of a four storey plus basement dwelling, as shown on drawing numbers:- Site Location Plan 200\_03\_100; 200\_03\_101; 200\_03\_01; 200\_03\_02; 200\_03\_03; 200\_03\_04; 200\_03\_05; 200\_03\_06; 200\_03\_20 Rev P2; 200\_03\_21 Rev P2; 200\_03\_22 Rev P2; 200\_03\_23 Rev P2; 200\_03\_24 Rev P2; 200\_03\_25 Rev P2; Design and Access Statement by FT Architects dated August 2017; Daylight Sunlight Report by Waldrams Ltd dated 26/01/2017
- 2.4 "the Energy Efficiency and Renewable Energy Plan" a strategy setting out a package of measures to be adopted by the Owner in the management of the Development with a view to reducing carbon energy emissions through (but not be limited to) the following:-
- a) The incorporation of the measures to achieve a 19% reduction in CO2 emissions beyond the Part L 2013 baseline
  - b) further details (including detailed drawings, any necessary surveys and system

specifications) of how the Owner will reduce the Development's carbon emissions from renewable energy technologies located on the Property ensuring the Owner will target a reduction of at least 20% in carbon emissions in relation to the Property using a combination of complementary low and zero carbon technologies where possible;

- c) separate metering of all low and zero carbon technologies to enable the monitoring of energy and carbon emissions and savings;
- d) a building management system being an electronic system to monitor the Development's heating cooling and the hours of use of plant;
- e) measures to enable future connection to a local energy network that has been designed in accordance with the "CIBSE heat networks; code of practice for the UK" at the boundary of the Property including:
  - safeguarded space for a future heat exchanger;
  - provisions made in the building fabric/ design (such as soft-points in the building plant room walls) to allow pipes to be routed through from the outside to a later date;
  - the provision of domestic hot water isolation valves to facilitate the connection of an interfacing heat exchanger;

- provision for external buried pipework routes to be safeguarded to a nearby road or similar where connection to the DHN would be made.
  - Provision of contact details of the person(s) responsible for the development's energy provision for the purpose of engagement over future connection to a network.
- f) include a pre-Implementation design-stage review by an appropriately qualified and recognised independent professional in respect of the Property including Full Design stage SAP (for residential) calculations certifying that the measures incorporated in the Energy Efficiency and Renewable Energy Plan are achievable in the Development and satisfy the aims and objectives of the Council's strategic policies on the reduction of carbon emissions contained within its Development Plan;
- g) measures to secure a post construction review of the Development by an appropriately qualified and recognised independent professional in respect of the Property (including but not limited to photographs, installation contracts and full As-Built SAP (for residential) and/or NCM (for non-residential) calculations) certifying that the measures incorporated in the Energy Efficiency and Renewable Energy Plan have been achieved in the Development and will be maintainable in the

Development's future management and occupation; and

- h) identifying means of ensuring the provision of information to the Council and provision of a mechanism for review and update as required from time to time

- 2.5 "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
- 2.6 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.7 "the Parties" mean the Council and the Owner
- 2.8 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 11 August 2017 for which a resolution to grant permission has been passed conditionally under reference number 2017/4562/P subject to conclusion of this Agreement
- 2.9 "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

- 2.10 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.11 "the Property" the land known as 28 King's Mews London WC1N 2JB the same as shown outlined red on the plan annexed hereto
- 2.12 "Residents Parking Bay" a parking place designated by the Council by an order under the Road Traffic Regulation Act 1984 or other relevant legislation for use by residents of the locality in which the Development is situated
- 2.13 "Residents Parking Permit" a parking permit issued by the Council under section 45(2) of the Road Traffic Regulation Act 1984 allowing a vehicle to park in Residents Parking Bays
- 2.14 "the Sustainability Plan" a plan including a post construction review securing the incorporation of sustainability measures in the carrying out of the Development in its fabric and in its subsequent management and occupation which shall:-
- (a) achieve the targets and sustainable design measures and climate change adaptation measures in line with policies contained in the Council's Local Plan Policy CC1 (Climate Change Mitigation);
  - (b) achieve a maximum internal water use of 105 litres/person/day, allowing 5 litres/person/day for external water use



- (c) include a pre-Implementation review by an appropriately qualified recognised and independent professional in respect of the Property certifying that the measures incorporated in the Sustainability Plan are achievable in the Development and satisfy the aims and objectives of the Council's strategic policies on sustainability contained within its Development Plan;
- (d) details of maintenance and management relative to sustainability measures included in the Sustainability Plan;
- (e) measures to secure a post construction review of the Development by an appropriately qualified recognised and independent professional in respect of the Property (including a written report, photographs and installation contracts) certifying that the measures incorporated in the Sustainability Plan have been achieved in the Development and will be maintainable in the Development's future management and occupation; and
- (f) identifying means of ensuring the provision of information to the Council and provision of a mechanism for review and update as required from time to time

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, 6, 7 and 8 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Implementation Date.
- 3.6 The Council hereby agrees to grant the Planning Permission on the date hereof.
- 3.7 The Parties save where the context states otherwise shall include their successors in title.
- 3.8 The Parties acknowledge that the Development shall be treated as being permanently designated as "car free" housing in accordance with Clause 4.1 and 4.2 for all relevant purposes.

#### 4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

##### 4.1 **CAR FREE**

- 4.1.1 To ensure that prior to occupying any residential unit (being part of the Development) each new occupier of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to:
- (a) be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay; and
  - (b) buy a contract to park within any car park owned, controlled or licensed by the Council.
- 4.1.2 Not to occupy or use (or permit the occupation or use of) any residential unit (being part of the Development) at any time during which the occupier of the residential unit holds a Residents Parking Permit to park a vehicle in a Residents Parking Bay or is permitted to park a vehicle in any car park owned, controlled or licensed by the Council unless the occupier is the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970.
- 4.1.3 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1.1 and 4.1.2 in this Agreement shall continue to have effect in perpetuity.
- 4.1.4 On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the residential units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those residential units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.1.1 and 4.1.2 of this Agreement.

## 4.2 ENERGY EFFICIENCY AND RENEWABLE ENERGY PLAN

- 4.2.1 On or prior to the Implementation Date to submit to the Council for approval the Energy Efficiency and Renewable Energy Plan.
- 4.2.2 Not to Implement nor permit Implementation until such time as the Council has approved the Energy Efficiency and Renewable Energy Plan as demonstrated by written notice to that effect.

- 4.2.3 Not to Occupy or permit Occupation of the Property until a satisfactory post-completion review has been submitted to and approved by the Council in writing confirming that the measures incorporated in the Energy Efficiency and Renewable Energy Plan as approved by the Council have been incorporated into the Property.
- 4.2.4 Following the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Energy Efficiency and Renewable Energy Plan as approved by the Council from time to time and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Energy Efficiency and Renewable Energy Plan.

#### 4.3 **SUSTAINABILITY PLAN**

- 4.3.1 On or prior to the Implementation Date to submit to the Council for approval the Sustainability Plan.
- 4.3.2 Not to Implement nor permit Implementation until such time as the Council has approved the Sustainability Plan as demonstrated by written notice to that effect.
- 4.3.3 Not to Occupy or permit Occupation of the Property until a satisfactory post-completion review has been submitted to and approved by the Council in writing confirming that the measures incorporated in Sustainability Plan as approved by the Council have been incorporated into the Property.
- 4.3.4 Following the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Sustainability Plan as approved by the Council from time to time and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Sustainability Plan.

#### 5. **NOTICE TO THE COUNCIL/OTHER MATTERS**

- 5.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken or is about to take place.

- 5.2 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 2017/4562/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 2017/4562/P.

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, 2<sup>nd</sup> Floor, 5 Pancras Square, London N1C 4AJ and sent to planning obligations on [PlanningObligations@camden.gov.uk](mailto:PlanningObligations@camden.gov.uk) quoting the Planning Permission reference number 2017/4562/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. JOINT AND SEVERAL LIABILITY


7.1 All Covenants made by the Owner in this Agreement are made jointly and severally and shall be enforceable as such.


8. RIGHTS OF THIRD PARTIES

8.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

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

EXECUTED AS A DEED BY  
JAMES MICHAEL MACDONAGH,  
in the presence of:

)   
) SIMON MACDONAGH AS  
ATTORNEY FOR  
JAMES MICHAEL MACDONAGH

  
.....  
Witness Signature

Witness Name H. MARTIN

Address 48 KISH WALK, HENSTRIDGE SOMERSET BA8 0QA

Occupation HOUSE KEEPER .

THIS IS A CONTINUATION OF THE SECTION 106 AGREEMENT  
IN RELATION TO 28 KINGS MEWS LONDON WC1N 2JB

EXECUTED AS A DEED BY  
RORY NICHOLAS MACDONAGH  
in the presence of:

*W. Martin*

Witness Signature

Witness Name H. MARTIN

Address 48 ASH WALK, HENSTRIDGE SOMERSET BA8 0QA.

Occupation HOUSE KEEPER

)  
)  
) *Simon Macdonagh*  
) SIMON MACDONAGH  
) AS ATTORNEY FOR  
) RORY NICHOLAS  
) MACDONAGH

EXECUTED AS A DEED BY  
NICHOLAS CALLUM MACDONAGH  
in the presence of:

*W. Martin*

Witness Signature

Witness Name H. MARTIN

Address 48 ASH WALK, HENSTRIDGE SOMERSET BA8 0QA.

Occupation HOUSE KEEPER

)  
)  
) *Simon Macdonagh*  
) SIMON MACDONAGH  
) AS ATTORNEY FOR  
) NICHOLAS CALLUM  
) MACDONAGH

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

*Alexander*

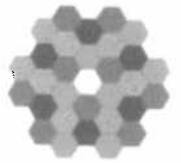
Authorised Signatory



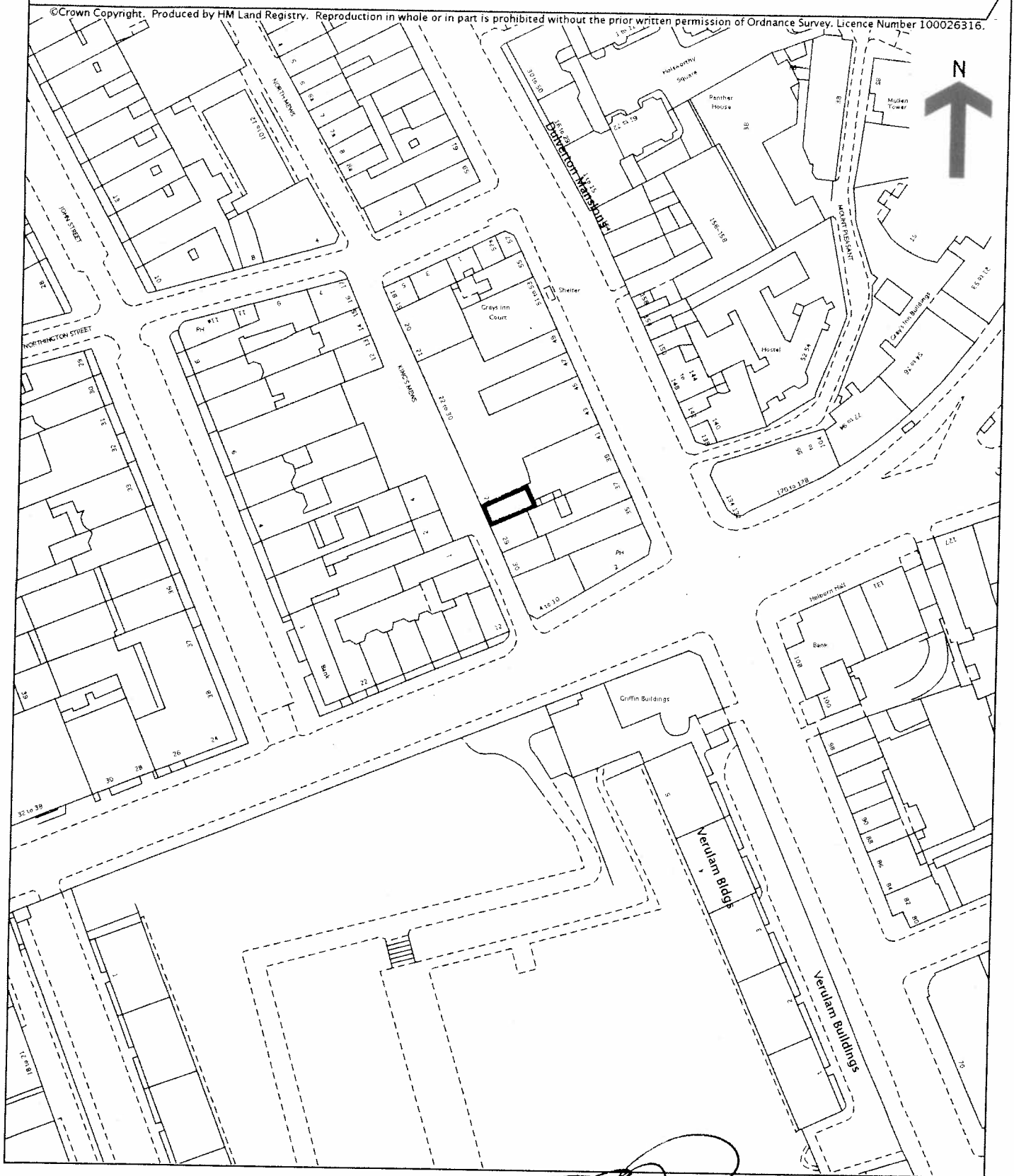


HM Land Registry  
Official copy of  
title plan

Title number **NGL922574**  
Ordnance Survey map reference **TQ3081NE**  
Scale **1:1250**  
Administrative area **Camden**



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*[Handwritten signature]*  
SINDY MACDONALD  
AS A TORNEY FOR  
THE OWNERS



FT Architects Ltd  
Hamilton House  
London  
WC1H 9BBApplication Ref: **2017/4562/P**

20 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:

**28 King's Mews  
LONDON  
WC1N 2JB**

Proposal:

Erection of a four storey plus basement dwelling.

Drawing Nos: Site Location Plan 200\_03\_100; 200\_03\_101; 200\_03\_01; 200\_03\_02;  
200\_03\_03; 200\_03\_04; 200\_03\_05; 200\_03\_06; 200\_03\_20 Rev P2; 200\_03\_21 Rev  
P2; 200\_03\_22 Rev P2; 200\_03\_23 Rev P2; 200\_03\_24 Rev P2; 200\_03\_25 Rev P2;  
Design and Access Statement by FT Architects dated August 2017; Daylight Sunlight  
Report by Waldrams Ltd dated 26/01/2017

**DECISION**

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 The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 200\_03\_100; 200\_03\_101; 200\_03\_01; 200\_03\_02; 200\_03\_03; 200\_03\_04; 200\_03\_05; 200\_03\_06; 200\_03\_20 Rev P2; 200\_03\_21 Rev P2; 200\_03\_22 Rev P2; 200\_03\_23 Rev P2; 200\_03\_24 Rev P2; 200\_03\_25 Rev P2; Design and Access Statement by FT Architects dated August 2017; Daylight Sunlight Report by Waldrams Ltd dated 26/01/2017.

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

- 3 The details of the facing materials to be used on the building shall not be otherwise than as those submitted to and approved by the Council before any work is commenced on the relevant part of the development. 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 policies D1 and D2 of the London Borough of Camden Local Plan 2017.

- 4 The first, second and third floor windows to the rear elevation facing Gray's Inn Road are to be obscure glazed and permanently retained as such thereafter.

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

- 5 Prior to first occupation of the building, detailed plans showing the location and extent of solar water heaters to be installed on the building shall have been submitted to and approved by the Local Planning Authority in writing. The equipment 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 G1, CC1 and CC2 of the London Borough of Camden Local Plan 2017.

- 6 Prior to commencement of development, full details in respect of the living roof in the area indicated on the approved roof plan shall be submitted to and approved by the local planning authority. The details shall include
  - i. a detailed scheme of maintenance
  - ii. sections at a scale of 1:20 with manufacturers details demonstrating the construction and materials used
  - iii. full details of planting species and density

The living roof shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies G1, CC1, CC2, CC3, D1, D2 and A3 of the London Borough of Camden Local Plan 2017.

- 7 The development hereby approved shall achieve a maximum internal water use of 110litres/person/day. The dwelling/s shall not be occupied until the Building Regulation optional requirement has been complied with.

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.

- 8 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, D2 and A1 of London Borough of Camden Local Plan 2017.

- 9 The development shall not be occupied until an archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation, and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.

Reason: Important archaeological remains may exist on this site. Accordingly the Council wishes to secure the provision of archaeological investigation and the subsequent recording of the remains prior to development in accordance with the requirements of policy D2 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).

2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Noise and Licensing Enforcement Team, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (Tel. No. 020 7974 4444 or search for 'environmental health' on the Camden website or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.

3 Reasons for granting permission (part 1)

The former commercial building on site has been demolished and the applicant is in the process of implementing a scheme for a three storey plus basement dwelling (ref 2013/4839/P). The application is for the erection of a four storey plus basement dwelling, and the proposed scheme is effectively an amalgamation of two previously consented schemes.

The first permission (ref 2013/4839/P), which is currently being implemented, was for a three storey dwelling, which accepted the loss of commercial floorspace to a solely residential scheme. The second permission, for the erection of a four storey plus basement building comprising a B1 use at ground and basement levels and a maisonette above (ref 2013/1368/P) was won on appeal and established the height, bulk and mass, and overall design, of the proposed building. The principle difference between this scheme and the proposed scheme is that the second scheme comprised a commercial element whereas the proposed scheme is solely residential.

The eastern side of Kings Mews was traditionally in office, storage and light industrial uses. These uses have disappeared over the years and permissions for separate residential uses have been granted for the entire eastern side of the mews. The previous permissions have established that the loss of commercial floorspace was acceptable and a basic typology in terms of height, bulk and design.

The former B1/B8 use ceased over ten years ago and the building was empty until its demolition this year. The poor state of the building, and the surplus of similar stock elsewhere, justified the loss of commercial floorspace in the previous schemes. The proposed building would provide a good standard of accommodation and comply with the DCLG standards for floorspace.

The design has taken its cue from other schemes in the mews and is considered to enhance the character and appearance of the conservation area. It was considered important to retain a semi-industrial feel and avoid overt domesticity. The addition of a 4th storey, set back from the main elevation, was initially refused by the Council, but on appeal the Inspector considered that the scheme would represent a high standard of design and noted that the Council had previously approved a larger comprehensive scheme of similar height. The proposed is identical to the approved four storey scheme, the only elevational difference in the proposed scheme is that the top floor would be clad in zinc rather than the bronze of the approved scheme. The change in materials would match the approved top floor of no 27 and would enhance the building's appearance within the street scene. Details of the facing materials were recently approved.

In terms of amenity, the appeal decision established that there would be no adverse impact on the amenity of adjoining occupiers in terms of loss of light or loss of privacy from a four storey building. The daylight sunlight report was considered to sufficiently demonstrate no harm to neighbours and that differing heights of floorplates would ameliorate overlooking across the mews and obscure glazing, which is to be conditioned, would prevent overlooking to the rear.

#### 4 Reasons for granting permission (part 2)

The new development would be required to be car free in line with policy T2 which will be secured by legal agreement. Cycle storage for 1x cycle is indicated at ground floor level. This is below the required 2x spaces, but due to the constraints of the site the shortfall is considered acceptable in this instance. The Inspector did not consider it necessary to require the storage to be secured by condition. The previous scheme required a highways contribution to repair any damage and create a new footpath in front of the new residential units. This has already been paid so no highways contribution will be required for the new scheme.

The proposal includes a basement floor, as did the approved schemes. The basement has already been constructed in line with the permissions so there is no requirement for a new BIA. The site is within an archaeological priority area and whilst part of the previous archaeological condition has been discharged, there is still a requirement for a site investigation and post investigation assessment. Development is under way to construct a three storey plus basement dwelling, rather than a four storey plus basement one. It is not considered that the addition of a fourth storey would create a significant increase in vehicle movements or duration, but a revised Construction Management Plan will be required via a section 106 agreement.

The proposed scheme would feature a green roof and rooftop solar water heaters. Details of these will be secured by condition. The approved residential scheme was designed to meet Code for Sustainable Homes targets, the new proposed scheme will be required to submit a renewable energy/energy efficiency plan demonstrating how sustainable design principles and climate change adaptation measures have been incorporated into the design and construction of the development as part of the section 106 agreement.

As a residential use is currently being implemented, the proposal would not add an additional unit, so an affordable housing contribution would not be required. The uplift in floorspace would be 34sqm (GIA) so the proposal would not be liable for CIL.

Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under section 72 of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

No objections have been received prior to making this decision. The planning history of the site has been taken into account when coming to this decision.

As such, the proposed development is in general accordance with policies G1, H1, H6, E2, A1, A3, D1, D2, CC1, CC2, CC3, T1 and T2 of the London Borough of Camden Local Plan 2017. The proposed development also accords with the London Plan 2016 and the National Planning Policy Framework.

- 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 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

Supporting Communities Directorate





DATED

10 August

2018

**(1) JAMES MICHAEL MACDONAGH, RORY NICHOLAS  
MACDONAGH and NICHOLAS CALLUM MACDONAGH**

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

**28 King's Mews London WC1N 2JB**

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  
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CLS/COM/ESA/1800.514  
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