

DATED 12 September

2018

(1) KINGSTONE PROPERTY KENTISH TOWN LIMITED

and

(2) ANDREW COSTAS EFSTRATIOU

and

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

A G R E E M E N T

relating to land known as

387 KENTISH TOWN ROAD, LONDON NW5 2TJ

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; and
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

Tel: 020 7974 3300

CLS/COM/LN/1800.701
S106 FINAL



THIS AGREEMENT is made the 12th day of September 2018

B E T W E E N:

- A. **KINGSTONE PROPERTY KENTISH TOWN LIMITED** (Co. Regn. No. 10728440) whose registered office is at 201 Lordship Lane, London SE22 8HA (hereinafter called "the Owner") of the first part
- B. **ANDREW COSTAS EFSTRATIOU** of 171 Chase Side, London N14 5HE (hereinafter called "the Mortgagee") of the third part
- C. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the fourth 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 LN94738 subject to a charge to the Mortgagee.
- 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 13 April 2018 and the Council resolved to grant permission conditionally under reference number 2018/0204/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 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.

1.6 The Mortgagee as mortgagee under a legal charge registered under Title Number LN94738 and dated 4 May 2018 is willing to enter into this Agreement to give its consent to the same.

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 rear extension to ground floor shop (A1); replacement of front and rear windows with timber framed replacements; erection of mansard roof extension with rear dormer window to facilitate change of use of first and second floors from beauty salon (sui generis) to 1 x 3 bed flat (C3). as shown on drawing numbers:- KT_PL_001; KT_PL_002 Rev. B; KT_PL_003 Rev. B; KT_PL_004 Rev. E; KT_PL_005 Rev. C; KT_PL_006 Rev. C; KT_PL_008 Rev. B; KT_PL_009 Rev. B; KT_PL_010 Rev. A; Air Quality Assessment Rev. B (dated 02/07/2018, prepared by DustScan AQ); Design & Access Statement (dated July 2018, prepared by Great Wall Building Services)
2.4	"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
2.5	"Occupation Date"	the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
2.6	"the Parties"	mean the Council and the Owner and the Mortgagee

2.7	"the Planning Application"	a planning application in respect of the development of the Property submitted to the Council and validated on 13 April 2018 for which a resolution to grant permission has been passed conditionally under reference number 2018/0204/P subject to conclusion of this Agreement
2.8	"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
2.9	"the Planning Permission"	a planning permission granted for the Development substantially in the draft form annexed hereto
2.10	"the Property"	the land known as 387 Kentish Town Road, London, NW5 2TJ the same as shown shaded grey on the plan annexed hereto
2.11	"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
2.12	"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

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 and 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, 8 and 9 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**

- 4.1 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.
- 4.2 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).

4.3 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1 and 4.2 in this Agreement shall continue to have effect in perpetuity.

4.4 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 and 4.2 of this Agreement.

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 planning reference 2018/0204/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.

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, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 2018/0204/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 or the Mortgagee 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. **MORTGAGEE EXEMPTION**

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

7.2 The Parties agree that the obligations contained in this Agreement shall not be enforceable against any mortgagee or chargee of the whole or any part of the Property unless it takes possession of the Property in which case it will be bound by the obligations as a person deriving title from the Owner.

8. **JOINT AND SEVERAL LIABILITY**

8.1 All Covenants made by the Owner(s) and the Mortgagee in this Agreement are made jointly and severally and shall be enforceable as such.

9. RIGHTS OF THIRD PARTIES

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

EXECUTED AS A DEED BY)
KINGSTONE PROPERTY KENTISH)
TOWN LIMITED)
acting by a Director and its Secretary)
or by two Directors)

.....
Director

.....
Director/Secretary

EXECUTED AS A DEED BY)
ANDREW COSTAS EFSTRATIOU)
in the presence of:-)

.....
Witness Signature C. Efstratiou

Witness Name: COSTAS EFSTRATIOU.

Address: 199 B WHITTINGTON RD
N22 8YP.

Occupation:

RETIRED.

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

.....
Authorised Signatory



NORTHGATE SE GIS Print Template



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[Handwritten signatures and initials]



15 Fernhead Road
London
W9 3EU

Application Ref: **2018/0204/P**

17 August 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:
387 Kentish Town Road
London
NW5 2TJ

DECISION
Proposal:

Erection of rear extension to ground floor shop (A1); replacement of front and rear windows with timber framed replacements; erection of mansard roof extension with rear dormer window to facilitate change of use of first and second floors from beauty salon (sui generis) to 1 x 3 bed flat (C3).

Drawing Nos: KT_PL_001; KT_PL_002 Rev. B; KT_PL_003 Rev. B; KT_PL_004 Rev. E; KT_PL_005 Rev. C; KT_PL_006 Rev. C; KT_PL_008 Rev. B; KT_PL_009 Rev. B; KT_PL_010 Rev. A; Air Quality Assessment Rev. B (dated 02/07/2018, prepared by DustScan AQ); Design & Access Statement (dated July 2018, prepared by Great Wall Building Services).

The Council has considered your application and decided to grant permission subject to the conditions and informatives (if applicable) listed below **AND** subject to the successful conclusion of a Section 106 Legal Agreement.

The matter has been referred to the Council's Legal Department and you will be contacted shortly. If you wish to discuss the matter please contact **Aidan Brookes** in the Legal Department on **020 7 974 1947**.

Once the Legal Agreement has been concluded, the formal decision letter will be sent to you.

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

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

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

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

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans KT_PL_001; KT_PL_002 Rev. B; KT_PL_003 Rev. B; KT_PL_004 Rev. E; KT_PL_005 Rev. C; KT_PL_006 Rev. C; KT_PL_008 Rev. B; KT_PL_009 Rev. B; KT_PL_010 Rev. A; Air Quality Assessment Rev. B (dated 02/07/2018, prepared by DustScan AQ); Design & Access Statement (dated July 2018, prepared by Great Wall Building Services).

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

- 4 Prior to commencement of development (excluding demolition and site preparation works), full details of the mechanical ventilation system, including air inlet locations and sealed windows, shall be submitted to and approved by the local planning authority in writing. Air inlet locations should be located away from busy roads and the boiler stack and as close to roof level and the rear façade as possible, to protect internal air quality. Details of suitable measures to provide adequate purge ventilation in respect of indoor air quality should be included for the spaces with sealed windows. The development shall thereafter be constructed and maintained in accordance with the approved details.

Reason: To protect the amenity of residents in accordance with the requirements of policy CC4 of the London Borough of Camden Local Plan 2017 and policy 7.14 of the London Plan 2016.

- 5 Prior to occupation evidence that an appropriate NO₂ scrubbing system on the mechanical ventilation intake has been installed and a detailed mechanism to secure maintenance of this system should be submitted to the Local Planning Authority and approved in writing.

Reason: To protect the amenity of residents in accordance with the requirements of policy CC4 of the London Borough of Camden Local Plan 2017 and policy 7.14 of the London Plan 2016.

- 6 Prior to commencement of construction works, a Construction Method Statement shall be submitted to and approved by the local planning authority in writing for a management scheme whose purpose shall be to control and minimise emissions of pollutants from and attributable to the construction of the development.

The Construction Method Statement should include a risk assessment and a method statement in accordance with the 'Mayor's Control of Dust and Emissions during Construction and Demolition' SPG. The Statement shall set out the secure measures which will be put in place.

The details and measures contained in the approved and Construction Method Statement must be fully implemented to the Council's satisfaction.

Reason: To safeguard the amenity of adjoining premises and the area generally in accordance with the requirements of policies A1 and CC4 of the London Borough of Camden Local Plan 2017.

- 7 Prior to occupation of the hereby approved residential unit, details of secure and covered cycle storage area for 2 cycles shall be submitted to and approved by the local planning authority. The approved facility shall thereafter be provided in its entirety prior to the first occupation of the new unit, and permanently retained thereafter.

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

Informative(s):

- 1 Reasons for granting permission

Policy H1 aims to maximise Camden's capacity for housing. The proposal would result in the increase of 1 x 3 bed unit in place of the existing sui generis unit at first and second floor levels. Policy H7 identifies 3 bed market housing units as high priority, and the proposal would not result in the change of use of the existing ground floor A1 retail unit and would not therefore affect the provision and function of the retail offer within the Town Centre in accordance with policy TC2. As such, the principle of providing additional residential accommodation at the site and maximising the supply of additional homes in the borough is considered appropriate.

The development would provide a good standard of accommodation with adequate internal living space. The flat would be a 3 bed/5 person unit with a floorspace of 108sqm (99sqm required). It would have a good internal layout in other respects and would be dual aspect, which would ensure that the flat receives an adequate amount of daylight and natural ventilation, and suitable outlook. Whilst the only private outdoor amenity space proposed is the existing 2.1sqm rear roof terrace at first floor level, this is considered acceptable given the constraints of the site and the proximity of the site to Hampstead Heath.

As the site is located within a poor air quality area, two conditions would be added requiring the submission of full details of mechanical ventilation and an NO2 scrubbing system for the new dwelling, in order to protect indoor air quality. A further condition requiring the submission of a construction method statement would be to control and minimise the emissions of pollutants from and attributable to the construction of the development.

The proposed mansard roof would match the height of the existing roof extension at the adjacent neighbouring property No. 385 Kentish Town Road, but would be set back further behind the front parapet wall and would retain the rear butterfly roofline. The proposal would therefore not break an unaltered roofline and would not appear as an incongruous addition when viewed from Kentish Town Road. The front rooflights would be set below the parapet wall and would not be visible from the street, and the rear dormer window would be aligned with the openings on the lower floors. All new windows would be timber framed, and the replacement windows would match the design of the existing windows.

The proposed single storey rear extension would replace the existing single storey rear extensions and increase the floorspace of the extension from 40.2sqm to 48.3sqm, by infilling the rear side gap. It would not extend beyond the existing rear building line and would be constructed in London stock brick to match the host building. The proposed rear extension has been revised to be reduced in depth so that 27sqm of the rear courtyard is retained, which is considered acceptable given the character and pattern of development of the terrace.

The proposal would not give rise to any adverse impact on the amenity of neighbouring occupiers in terms of loss of sunlight, daylight or outlook.

The site has a PTAL rating of 6a (excellent). The new residential unit will be required to be car-free and no parking permits will be allowed for future residents of the unit, in order to comply with policy T2. This will be secured by a s106 legal agreement. 2 x cycle parking spaces are required to be provided for the new dwelling. Whilst no spaces are proposed, there would be space in the hallway at ground floor level. This is considered to be acceptable in this instance, given the constraints of the site, and no conditions with regards to the cycle storage are required.

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

- 2 As such, the proposed development is in general accordance with policies H1, H6, H7, CC4, A1, D1, T1, T2, TC2 and TC4 of the Camden Local Plan 2017 and policy D3 of the Kentish Town Neighbourhood Plan 2016. The proposed development also accords with the London Plan 2016; and the National Planning Policy Framework 2018.
- 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 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.
- 5 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.
- 6 This proposal may be liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL. Both CILs are collected by Camden Council after a liable scheme has started, and could be subject to surcharges for failure to assume liability or submit a commencement notice PRIOR to commencement. We issue formal CIL liability notices setting out how much you may have to pay once a liable party has been established. CIL payments will be subject to indexation in line with construction costs index. You can visit our planning website at www.camden.gov.uk/cil for more information, including guidance on your liability, charges, how to pay and who to contact for more advice.
- 7 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.
- 8 The submitted Construction Method Statement shall include details of:
 - o Site hoarding
 - o Wheel washing
 - o Dust suppression methods and kit to be used
 - o Bonfire policy
 - o Site plan identifying location of site entrance, exit, wheel washing, hard standing hoarding (distinguishing between solid hoarding and other barriers such as heras and monarflex sheeting), stock piles, dust suppression, location of water supplies and location of nearest neighbouring receptors.

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

Yours faithfully

DRAFT

DECISION



DATED

12 September

2018

(1) KINGSTONE PROPERTY KENTISH TOWN LIMITED

and

(2) ANDREW COSTAS EFSTRATIOU

and

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

A G R E E M E N T

relating to land known as

387 KENTISH TOWN ROAD, LONDON NW5 2TJ

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; and

Section 1(1) of the Localism Act 2011

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