

DATED 11th October

2018

(1) WITTON PROPERTIES LIMITED

and

(2) PUB & ROOMS (LB) LIMITED

and

(3) NatWest Markets plc (formerly known as The Royal Bank of Scotland plc)

and

UK SSP 2010818

(4) HSBC BANK PLC

and

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

A G R E E M E N T
relating to land known as
72 GRAFTON WAY, LONDON, W1T 5DU
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

Andrew Maughan
Head of Legal Services
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP
Tel: 020 7974 3229
Fax: 020 7974 2962

G:\case files\culture & env\planning\NS\s106 Agreements\72GraftonWay (CF)
CLS/COM/NS/1800.556



THIS AGREEMENT is made the 11th day of October 2018

BETWEEN:

- i. **WITTON PROPERTIES LIMITED** incorporated in England and Wales with Co. Regn. No.03455070) whose registered office is at Quadrant House, Floor 6, 4 Thomas More Square, London E1W 1YW and care of Structadene Limited, Third Floor, 9 White Lion Street, London N1 9PD (hereinafter called "the Freeholder") of the first part
- ii. **PUB & ROOMS LIMITED (LB) LIMITED** incorporated in England and Wales with Co. Regn. No. 10512059 whose registered office is at The Grafton Arms, 72 Grafton Way, London W1T 5DU (hereinafter called "the Leaseholder") of the second part
- iii. **NATWEST MARKETS plc (formerly known as The Royal Bank of Scotland plc)** (as security agent for the "Finance Parties" (as defined in a Facility Agreement dated 5th March 2018) ("Freehold Mortgagee")) of the third part
- iv. ^{UK} **HSBC BANK PLC** incorporated in England and Wales with Co. Regn. No. ~~44259~~ ⁰⁹⁹²⁸⁴¹² whose registered office is at ~~8 Canada Square, London, E14 5HQ~~ ^{1 CENTENARY SQUARE, BIRMINGHAM, B1 1HQ SSP 20/05/18} (hereinafter called "the Leasehold Mortgagee") and whose address for service is Securities Processing Centre, PO Box 6304, Coventry CV3 9JY of the fourth part
- v. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the fifth part

1. WHEREAS

- 1.1 The Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number 438636 subject to a change to the Freehold Mortgagee. (43)
- 1.2 The Freeholder is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.

- 1.3 The Leaseholder is registered at the Land Registry as the leasehold proprietor with Title absolute of the Property under Title Number NGL970713 subject to a charge to the Leasehold Mortgagee.
- 1.4 The Leaseholder is the leasehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.5 The Freeholder and the Leaseholder shall hereinafter be jointly referred to as "the Owner".
- 1.6 A Planning Application for the development of the Property was submitted to the Council and validated on 13th November 2017 and the Council resolved to grant permission conditionally under reference number 2017/6423/P subject to conclusion of this legal Agreement.
- 1.7 The Council is the local planning authority for the purposes of the Act 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.
- 1.8 As local highway authority the Council considers the Highways Works to be carried out pursuant to this section 278 Agreement to be in the public benefit.
- 1.9 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.10 The Freehold Mortgagee as Security Agent under a Security Agreement dated 5th March 2018 and made between (1) the Freeholder and (2) the Freehold Mortgagee registered under Title Number NGL970713 (hereinafter called "the Freehold Legal Charge") is willing to enter into this Agreement to give its consent to the same
- 1.11 The Leasehold Mortgagee as mortgagee under a legal charge registered under Title Number NGL970713 and dated 24 October 2017 (hereinafter called "the Leasehold Legal Charge") 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 a mansard roof extension to create additional shared accommodation at 4th floor level. as shown on drawing numbers:- Site location plan; site plan; EX. (01 to 11) ; P.01.A; P.02.A; P.03.B; P.04.B; P.05.B; P.06.B; Design & Access Statement dated 03/11/2017; Photos.
- 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 the Owner the Mortgagee and the Leaseholder
- 2.7 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 13th November 2017

for which a resolution to grant permission has been passed conditionally under reference number 2017/6423/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 72 Grafton Way, London, W1T 5DU the same as shown shaded grey on the plan annexed hereto

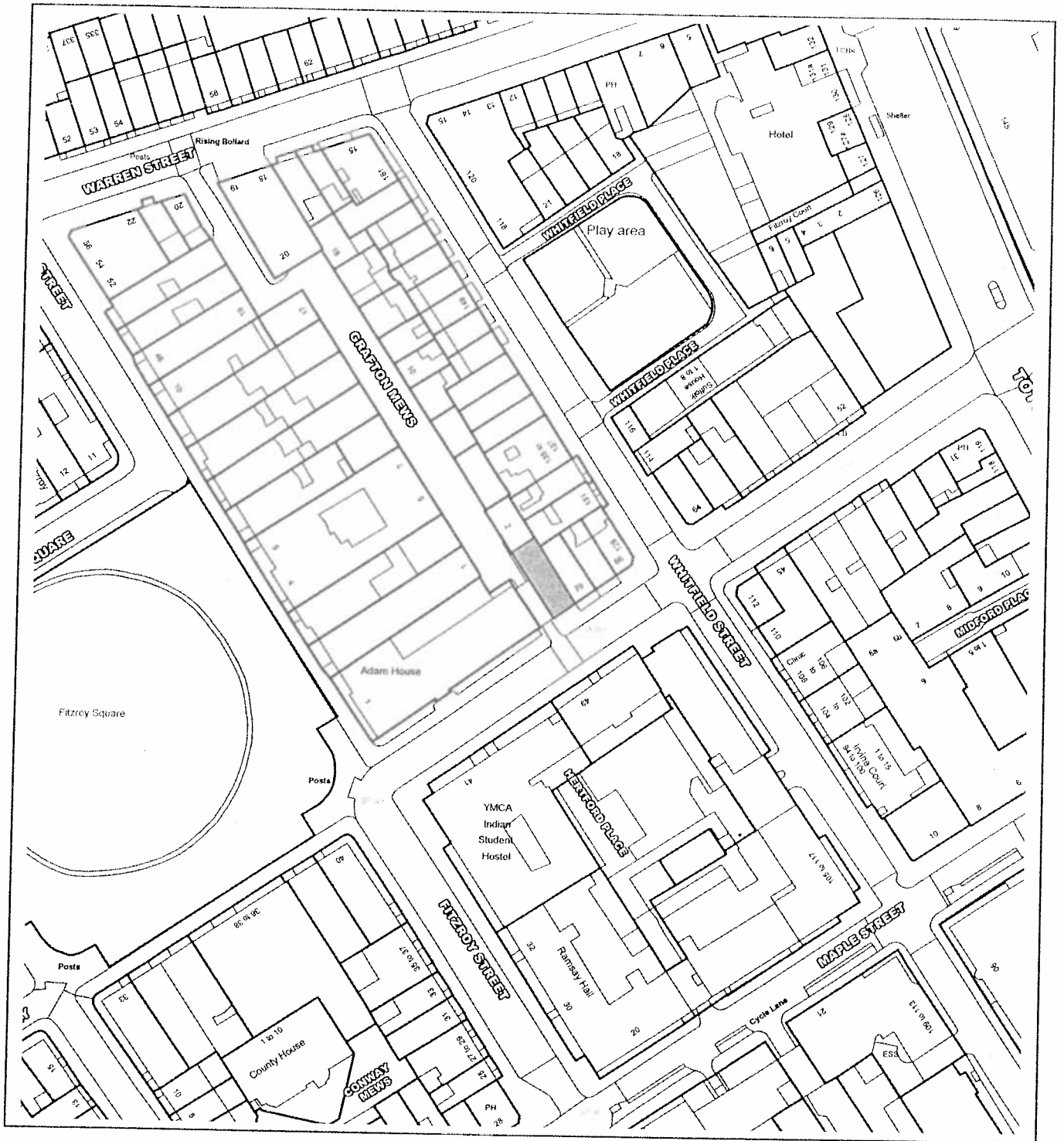
2.11 "Residents Parking Bay"

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

NORTHGATE SE GIS Print Template



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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 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 or 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 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:

- (i) be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay; and
- (ii) 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.

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 Planning Permission 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 Permission reference 2017/6423/P the date upon which the Development is 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 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 £1,000.00 (one thousand pounds) 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.
- 6.1 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 2017/6423/P.

6. **IT IS HEREBY AGREED AND DECLARED** by the Parties hereto that:-

- 6.2 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, 2nd Floor, 5 Pancras Square, London, N1C 4AJ quoting the Planning Permission reference number 2017/6423/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.
- 6.3 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 on written demand 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 Freehold Mortgagee or the Leasehold 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 Freehold Mortgagee and the Leasehold Mortgagee each hereby consent to the Owner entering into this Agreement and agree that the security of their respective charges over the Property shall take effect subject to this Agreement.
- 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. For the avoidance of doubt, the Freehold Mortgagee and the Leasehold Mortgagee shall only be liable for any breach of this Agreement if the Freehold Mortgagor or (as the case may be) the Leasehold Mortgagee caused the breach whilst in possession and shall in no circumstances be liable for any pre-existing breach.

8. **JOINT AND SEVERAL LIABILITY**

- 8.1 All Covenants made by the Owners the Freehold Mortgagee and the Leasehold Mortgagee in this Agreement are made jointly and severally and shall be enforceable as such.

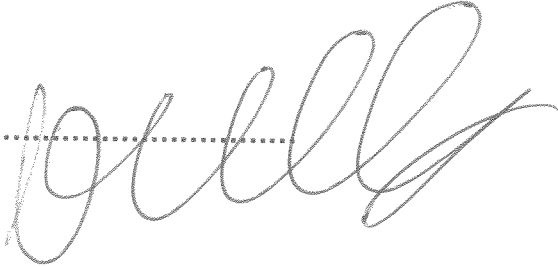
9. RIGHTS OF THIRD PARTIES

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)
WITTON PROPERTIES)
LIMITED acting by a Director and its)
Secretary or by two Directors)

.....
Director



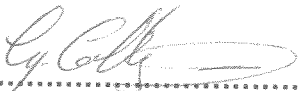
.....
Director/Secretary

THIS IS A CONTINUATION OF THE s106 AGREEMENT IN RELATION TO THE LAND KNOWN AS 72 GRAFTON WAY

EXECUTED AS A DEED BY)
PUB & ROOMS (LB) LIMITED)
acting by MITCHELL TILLMAN)
its sole Director)
in the presence of)



.....
Witness' signature



.....
Witness' name

E. CALLAGHAN

.....
Witness' address

17 EXFIELD RD, MIDDLETOWN, CO. DUBLIN 15



EXECUTED as a Deed ^{SSP 2010/18})
By HSBC BANK PLC)
by W. Roberts

^{UK SSP 2010/18}
as Attorney of HSBC BANK PLC
in the presence of:-

SAATIA PATEL (Full name of witness)

[Signature] (Signature of witness)

17 WORSWAIN COURT Address

WELLESLEY ROAD

CROZALE

CORPORATE ANALYST Occupation

[Executed and delivered as a deed by
National Westminster Bank Plc by
its' duly authorised Attorney PEIGL NASH
acting as agent for NatWest Markets Plc
(formerly known as The Royal Bank of Scotland plc)

P. E. Nash
Attorney

in the presence of:-

Signature of witness:

[Signature]

Name of witness:

CHRIS STALLAND

Address:

250 BISHOPSGATE
LONDON
EC2M 4AA



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



[Handwritten signature]
.....
Authorised Signatory



Hasan Arikoglu RIBA Architect
39 Chepstow Road
London
W2 5BPApplication Ref: **2017/6423/P**

07 March 2018

Dear Sir/Madam

DRAFT

FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION
Town and Country Planning Act 1990 (as amended)

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENTAddress:
72 Grafton Way
London
W1T 5DUProposal:
Erection of a mansard roof extension to create additional shared accommodation at 4th floor level.

Drawing Nos: Site location plan; site plan; EX. (01 to 11) ; P.01.A; P.02.A; P.03.B; P.04.B; P.05.B; P.06.B; Design & Access Statement dated 03/11/2017; Photos.

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 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 and D2 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; Site location plan; site plan; EX. (01 to 11) ; P.01.A; P.02.A; P.03.B; P.04.B; P.05.B; P.06.B; Design & Access Statement dated 03/11/2017; Photos.

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

Informative(s):

- 1 Reasons for granting permission.

The property is a 4storey terraced property plus basement. The basement and ground floors are used as a public house and the upper floors consist of 8 rooms identified by the applicant as ancillary to the pub. The proposal involves the erection of a roof extension to provide three additional residential rooms with shared facilities. The Local Plan policy T2 seeks to limit the availability of parking and requires all new developments in the borough to be car-free. The additional rooms, which would provide new residential accommodation would be secured as car free via a S106 legal agreement. Whilst there would be a requirement to provide three cycle spaces, constraints of the existing building are such this would not be possible within the building or in a secure or/and covered location. The location is highly accessible, therefore in this instant the lack of provision is acceptable.

The design of the proposed mansard roof extension would be of a traditional 70 degree roof design, would not appear excessively tall and aligns with the height of adjacent property at No. 70 Grafton Way but below adjoining property at No. 1 Grafton Square Gardens. It is therefore in accordance with Camden's Design Guidance (CPG: 1).

The proposal includes the installation of three dormers to the front and rear elevations, which align with the fenestration on the lower floors of the building. The proposal would therefore be subordinate to the host building and would enhance the character and appearance of the Fitzroy Square Conservation Area.

Due to the varied roofscape, the location and position of the proposed roof extension with dormers would not impact on amenities of neighbouring properties in terms of outlook, privacy or loss of light.

No comments have been received prior to the determination of this application. The site's planning history was taken into account when coming to this decision.

The proposal is in general accordance with policies D1, D2 and T2 of the Camden Local Plan 2017 and accords with the London Plan 2016 and National Planning Policy Framework 2012.

- 2 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).
- 3 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's 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.
- 4 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.

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

11th October

2018

(1) SEARCHGRADE LIMITED

and

(2) PUB & ROOMS (LB) LIMITED

and

^{UK} (3) HSBC BANK PLC *SSP 20/09/18*

and

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

AGREEMENT

relating to land known as
72 GRAFTON WAY, LONDON, W1T 5DU
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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