

DATED

31 May

2018

**(1) DESTRIER PROPERTY LIMITED**

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

125 Clerkenwell Road, London EC1R 5DB

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 1918

G:\case files\culture & env\planning\s106 Agreement (2017/3924/P)

CLS/COM/1800.656

s106

THIS AGREEMENT is made the 31<sup>st</sup> day of May 2018

**BETWEEN:**

A. **DESTRIER PROPERTY LIMITED** (Co. Regn. No. 10169574) of 47 Marylebone Lane, London W1U 2NT (hereinafter called "the Owner") of the first part

B. **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 LN244409 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 11 September 2017 and the Council resolved to grant permission conditionally under reference number 2017/3924/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 | "Construction Management Plan"   | a version (updated (so far as necessary) and submitted to the Council for approval pursuant to clause 4.1 of this Agreement so as to bind the Development) of the construction management plan submitted to and approved by the Council pursuant to the section 106 agreement dated 12 May 2017 relating to the Demolition and Rebuild Development   |
| 2.4 | "the Construction Management Plan Implementation Support Contribution" | the sum of £1,140 (one thousand one hundred and forty pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt for the review and approval of the draft Construction Management Plan and verification of the proper operation of the approved Construction Management Plan during the Construction Phase |
| 2.5 | "the Construction Phase"   | the whole period between:<br>i. the Implementation Date and<br>ii. the date of issue of the Certificate of Practical Completion<br>and for the avoidance of doubt includes demolition of the Existing Buildings  |
| 2.6 | "the Council's Considerate"  | the document produced by the Council from time to time entitled "Guide for Contractors Working in Camden" relating   |

|      |  |  |
|------|--|--|
|      | Contractor Manual"                       | to the good practice for developers engaged in building activities in the London Borough of Camden   |
| 2.7  | "the Demolition and Rebuild Development" | Demolition of first and second floor, roof and rear wall (front facade retained). Rebuilding first and second floors with additional third floor mansard extension along the Clerkenwell Road facade and fourth floor roof extension, new front gates and new lift and stair core extension at rear; and change of use from ancillary public house accommodation (Class A4) to 8x self-contained flats (3x 1-beds and 5x 2-beds) (Class C3) for which planning permission was granted by the Council on 12 May 2017 under planning application reference number 2015/6751/P or other development at the Property involving demolition and rebuilding |
| 2.8  | "the Development"                        | part-demolition of existing front façade above arched entranceway to provide enlarged access route to the rear of the site and reinstatement of the façade once works approved under ref: 2015/6751/P granted 12/05/2017 have been completed as shown on drawing numbers:- 25CR/P/PD01, 125CR/P/PD02 A, Monahan Blythen Hopkins Architects Heritage Statements dated October 2017.   |
| 2.9  | "the Existing Buildings"                 | the buildings existing on the Property as at the date of this Agreement  |
| 2.10 | "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  |
| 2.11 | "Occupation Date"                        | the date when any part of the Property is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly  |

|      |   |  |
|------|---|--|
|      |   |  |
| 2.12 | "the Parties"                             | mean the Council and the Owner   |
| 2.13 | "the Planning Application"                | a planning application in respect of the development of the Property submitted to the Council and validated on 11 September 2017 for which a resolution to grant permission has been passed conditionally under reference number 2017/3924/P subject to conclusion of this Agreement |
| 2.14 | "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  |
| 2.15 | "the Planning Permission"                 | a planning permission granted for the Development substantially in the draft form annexed hereto   |
| 2.16 | "the Property"                            | the land and buildings known as 125 Clerkenwell Road, London EC1R 5DB the location of which is shown edged red on the plan annexed hereto  |

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 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 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.

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

The Owner hereby covenants with the Council as follows:-

##### 4.1 **CONSTRUCTION MANAGEMENT PLAN**

###### 4.1.1 On or prior to the Implementation Date to:

- (i) pay to the Council the Construction Management Plan Implementation Support Contribution in full; and
- (ii) submit to the Council for approval a draft Construction Management Plan.

###### 4.1.2 Not to Implement nor allow Implementation of the Development until such time as the Council has:

- (i) received the Construction Management Plan Implementation Support Contribution in full; and



- (ii) approved the Construction Management Plan as demonstrated by written notice to that effect.

4.1.3 The Owner acknowledges and agrees that the Council will not approve the Construction Management Plan unless it demonstrates to the Council's reasonable satisfaction that the Construction Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network.

4.1.4 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the Construction Management Plan and not to permit the carrying out of any works comprised in demolition or building out the Development at any time when the requirements of the Construction Management Plan are not being complied with and in the event of non compliance with this sub-clause the Owner shall forthwith take any steps required to remedy such non-compliance.

#### **4.2 REINSTATEMENT OF FAÇADE**

4.2.1 The Owner shall ensure that the façade of the Property is fully reinstated in strict accordance with the Planning Permission to the satisfaction of the Council (as evidenced by notice in writing to that effect) prior to the Occupation of the Property following the Demolition and Rebuild Development.

4.2.2 The Owner shall not Occupy or permit Occupation following the Demolition and Rebuild Development unless/until the façade of the Property has been fully reinstated in strict accordance with the Planning Permission to the satisfaction of the Council as evidence by notice in writing to that effect.

#### **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 2017/3924/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 2017/3924/P.
- 5.7 Payment of the ~~Highway~~ *Construction Management Implementation Support* Contribution pursuant to Clause ~~4.3~~ *4.1* of this Agreement shall be made by the Owner to the Council sending the full amount via electronic



transfer (where practicable) The owner shall notify the Planning Obligations Monitoring Officer that payment has been made referring to names date and Parties to this Agreement and citing the specific clause of this Agreement to which such contribution relates quoting the planning reference 2017/3924/P. Electronic Transfer be made directly to National Westminster Bank of Hampstead Village, Enfield Customer Service Centre, PO Box 145 Baird Road Middlesex EN1 1FN quoting Sort Code 50-30-03 and London Borough of Camden General Account no. 24299480.

5.8 All consideration given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable in respect thereof and all parties other than the Council shall pay and indemnify the Council against any such value added tax properly payable on any sums paid to the Council under this Agreement upon presentation of an appropriate value added tax invoice addressed to the Owner.

5.9 Any sums referred to in this Agreement as payable or to be applied by any party other than the Council under this Agreement shall be paid or applied TOGETHER WITH if such payment or application is made more than three months from the date of this Agreement a further sum ("A") being equal to the original sum payable ("B") multiplied by a figure being a fraction of which the All Items of Retail Prices ("the AIIRP") figure last published by the Office for National Statistics at the date hereof is the denominator ("X") and the last AIIRP figure published before the date such payment or application is made ("Y") less the last published AIIRP figure at the date hereof ("X") is the numerator so that

$$A = B \times \frac{(Y-X)}{X}$$

5.10 All costs and expenses payable to the Council under this Agreement shall bear interest at the rate of 4% above the Base Rate of the National Westminster Bank plc from time to time being charged from the date such payment is due until payment is made.

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 reference number 2017/3924/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 its 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. **RIGHTS OF THIRD PARTIES**

7.1 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 has executed this instrument as a Deed the day and year first before written

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


  
.....

Director

  
.....

Director/Secretary

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

  
.....

Authorised Signatory



University of Georgia  
Athens, Georgia  
1967

Monahan Blythen Hopkins Architects  
166 Clerkenwell Road  
London  
EC1R 5DE

Application Ref: **2017/3924/P**

Dear Sir/Madam

**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:  
**125 Clerkenwell Road**  
**London**  
**EC1R 5DB**

**Proposal:**

Part-demolition of existing front façade above arched entranceway to provide enlarged access route to the rear of the site and reinstatement of the façade once works approved under ref: 2015/6751/P granted 12/05/2017 have been completed.

Drawing Nos: 125CR/P/PD01, 125CR/P/PD02 A, Monahan Blythen Hopkins Architects  
Heritage Statements dated October 2017.

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: 125CR/P/PD01, 125CR/P/PD02 A, Monahan Blythen Hopkins Architects Heritage Statements dated October 2017.

Reason:

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

- 4 Prior to the commencement of any works on site, detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority:

a) Detailed photographic record of the front façade section to be demolished;

b) Detailed plans, sections and elevations at 1:10 of all window and door openings (including jambs, head and sill);

c) Elevation and section drawings of the front parapet cornice and decorative string course above the ground floor opening;

d) Details of all facing materials (to be submitted to the Local Planning Authority) and samples of those materials (to be provided on site).

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

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

Informative(s):

- 1 Reasons for granting permission.

The current application proposes to demolish the eastern section of the existing front façade at the application site (located above the arched entrance) to provide improved access to the rear of the site whilst the extant permission to build 8 new residential units (ref: 2015/6751/P) is implemented. The façade would be reinstated in its entirety following completion of the approved works.

Within their supporting submissions the applicant has demonstrated that the aforementioned façade dates from the mid 20th century and reads as a separate addition to the late Victorian façade which occupies the remainder of 125 Clerkenwell Road and is to remain intact.

The Council's conservation officer has reviewed the supporting heritage documents submitted with the application and is satisfied that the section of the existing façade the current proposal seeks to demolish, is a later addition with limited historic value and its temporary removal would not harm the special interest of the neighbouring listed building to which it adjoins (123 Clerkenwell Road). Therefore, no objection is raised to the façade's demolition provided it is thoroughly recorded and documented prior to its removal so that it can be restored sensitively and accurately following completion of the approved development at the site (ref: 2015/6751/P).

The partial demolition of the existing façade is a temporary measure whilst the approved works are implemented at the site, and its reinstatement following completion would ensure no harm is caused to the character of the host building, adjoining listed building and surrounding conservation area.

The proposed demolition works would cause no harm to the amenity of neighbouring residents in terms of loss of light, outlook or privacy.

Special regard has been attached to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, under s.66 of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013. Special regard has been attached to the desirability of preserving or enhancing the conservation area, under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

As such, the proposal is in general accordance with policies A1, D1 and D2 of the Camden Local Plan 2017. The proposed development also accords with the policies of the London Plan 2016 and National Planning Policy Framework 2012.

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

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

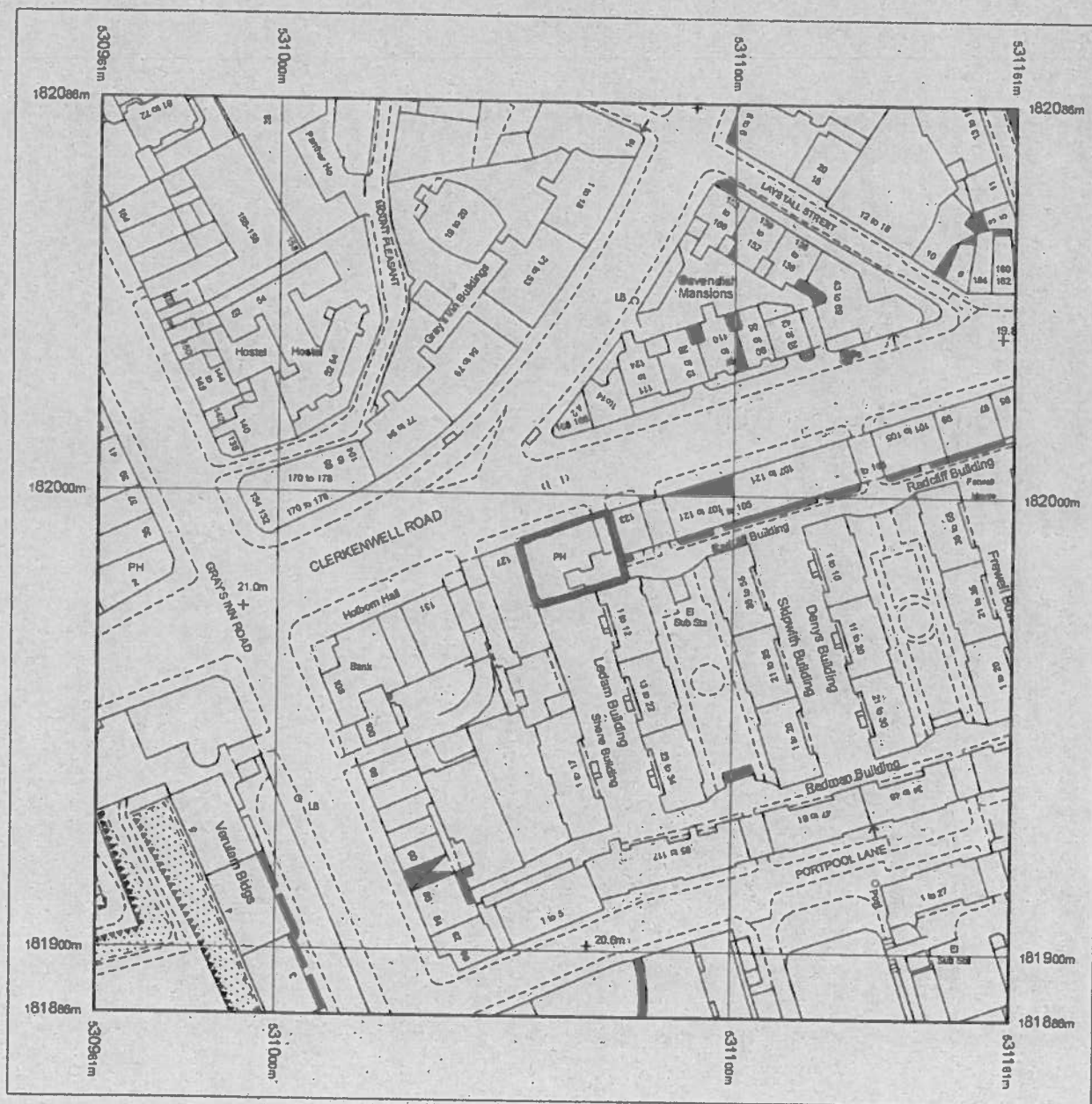
In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Supporting Communities Directorate

**DRAFT**

**DECISION**



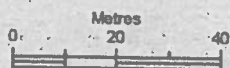
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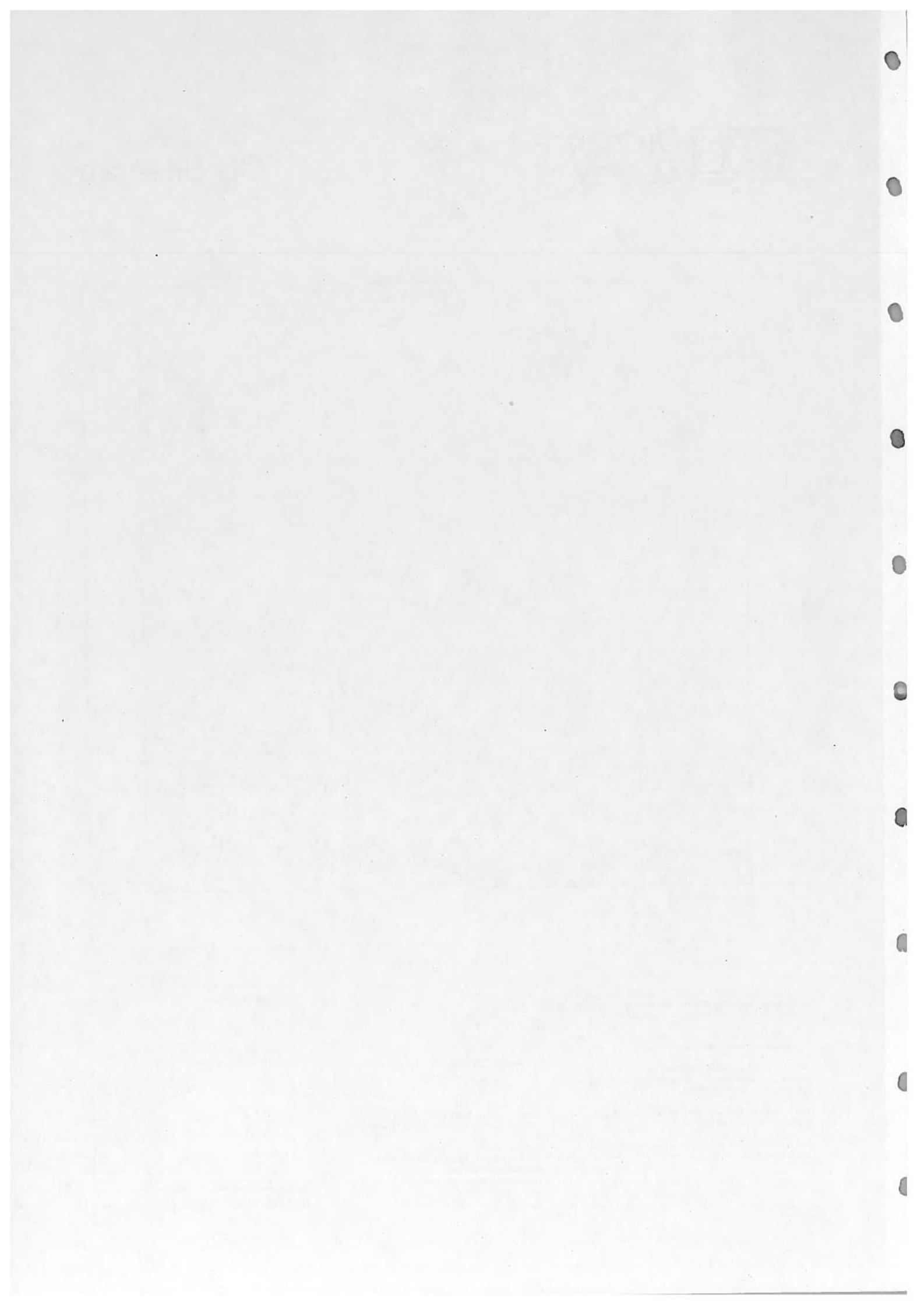
Mark Blythen

125 Clerkenwell Road

London

EC1R 5DB

LOCATION PLAN







DATED

31 MAY

2018

**(1) DESTRIER PROPERTY LIMITED**

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

125 Clerkenwell Road, London EC1R 5DB

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  
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