

DATED 9 February 2018

(1) COOPER GROUP DEVELOPMENTS (ST EDMUNDS) 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

**Guinness Court, St Edmund's Terrace, London NW8 7QE
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)**

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 1918
Fax: 020 7974 2962

CLS/COM/OO.1800.256



THIS AGREEMENT is made the

9th

day of

February 2018

B E T W E E N:

1. **COOPER GROUP DEVELOPMENTS (ST EDMUNDS) LIMITED** (Co. Regn. No. 55442, incorporated in Guernsey) whose registered office is at 13 North Esplanade St Peter Port GUERNSEY GY1 2LQ (hereinafter called "the Owner") of the first part; and
2. **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 280140.
- 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 17/03/2017 and the Council resolved to grant permission conditionally under reference number 2017/1465/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" conversion of existing waste/recycling refuse store to include excavation to create 1x 2bedroom self-contained flat and creation of associated lightwell within residential building as shown on drawing numbers:- 001; 100_C; 101; 110_D; 111_D; 112_A; 200_A; 210_A; 300_A; 310_A; 910; Planning Statement dated 17 March 2017; Basement Impact Assessment for 114 St. Edmund's Terrace by Barrett Mahony (Document Number: 17708-RP-01)
- 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

- 2.7 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 17 March 2017 for which a resolution to grant permission has been passed conditionally under reference number 2017/1465/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 Guinness Court, St Edmund's Terrace, London NW8 7QE 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 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 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 of interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6 and 7 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 4.1.1 and 4.1.2 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:

- (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 provisions 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.

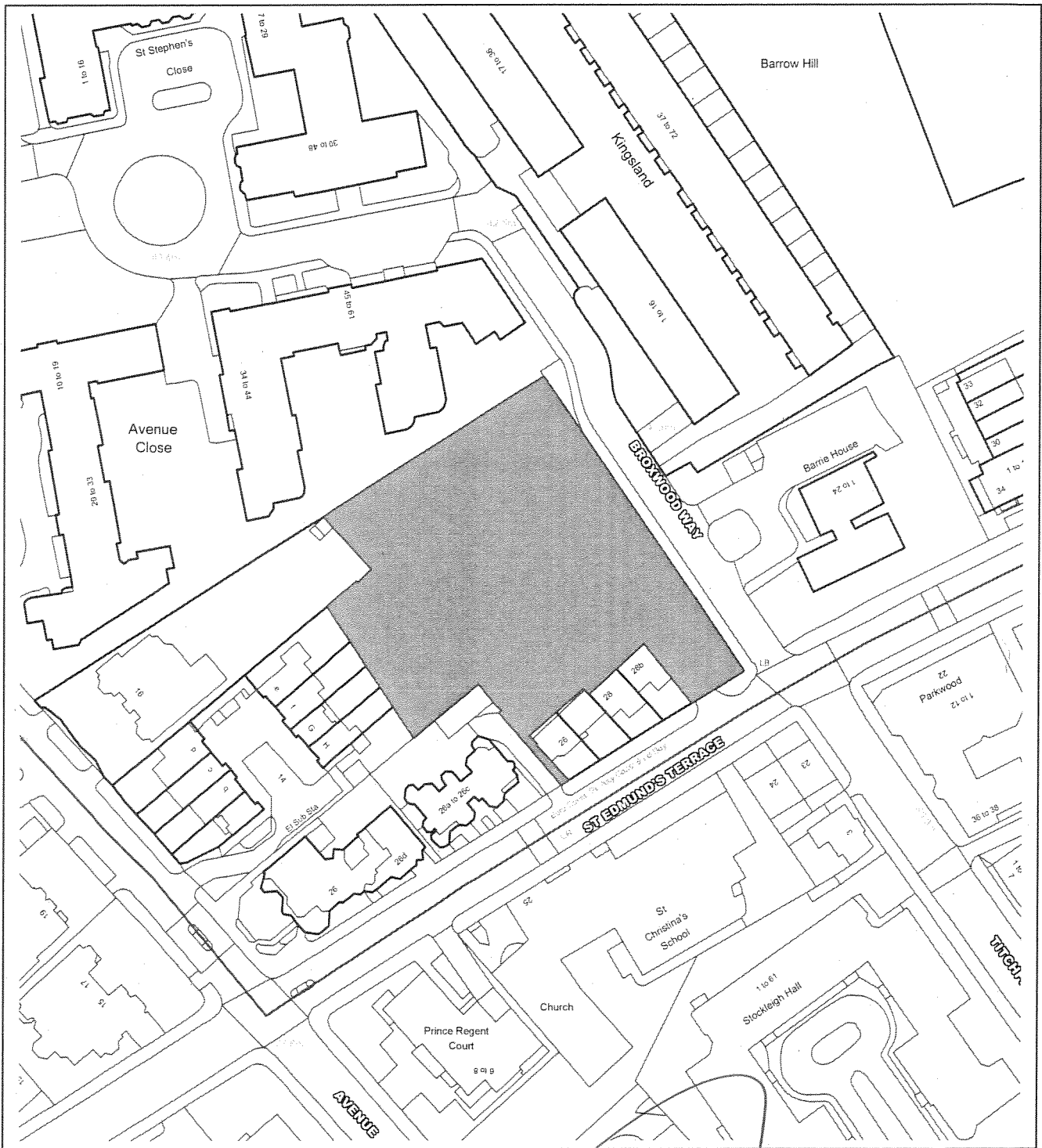
5. **NOTICE TO THE COUNCIL/OTHER MATTERS**

- 5.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the 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 2017/1465/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.

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

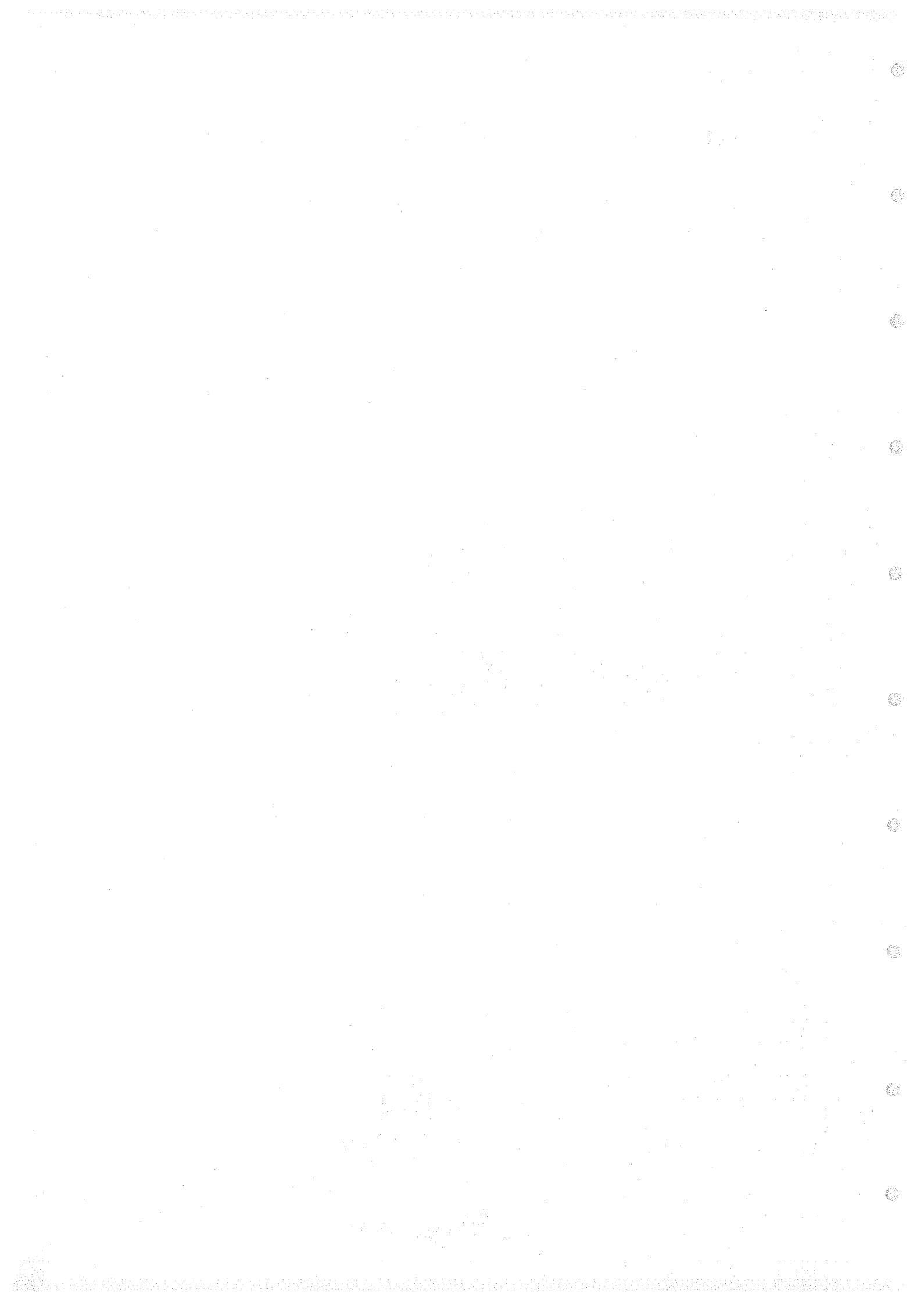
- 6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to 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, 2nd Floor, 5 Pancras Square, London, N1C 4AJ and sent to planning obligations on PlanningObligations@camden.gov.uk quoting the planning reference number 2017/1465/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

NORTHGATE SE GIS Print Template



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R. Alexander



JAA
Studio Six
38-50 Pritchards Road
London
E2 9AP

Application Ref: **2017/1465/P**

25 January 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:

**Regent's Gate
St Edmund's Terrace
London
NW8 7QE**

Proposal:

DECISION
Conversion of existing waste/recycling refuse store to include excavation to create 1x 2bedroom self-contained flat and creation of associated lightwell within residential development (Class C3).

Drawing Nos: 001; 100_C; 101; 110_D; 111_D; 112_A; 200_A; 210_A; 300_A; 310_A; 910; Planning Statement by JAA dated 13 March 2017.

17708: S-2000_P1; S-2100_P1; S2101_P1.

Basement Impact Assessment by Brett Mahony (Document No: 17708-RP-01).

Construction Timeline.

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:

001; 100_C; 101; 110_D; 111_D; 112_A; 200_A; 210_A; 300_A; 310_A; 910; Planning Statement by JAA dated 13 March 2017.

17708: S-2000_P1; S-2100_P1; S2101_P1.

Basement Impact Assessment by Brett Mahony (Document No: 17708-RP-01).
Construction Timeline.

Reason:

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

- 4 Before the development commences, details of secure and covered cycle storage area for 2x 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 any of the new units, 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.

- 5 The development hereby approved shall not commence until such time as a suitably qualified chartered engineer with membership of the appropriate professional body has been appointed to inspect, approve and monitor the critical elements of both permanent and temporary basement construction works throughout their duration to ensure compliance with the design which has been checked and approved by a building control body. Details of the appointment and the appointee's responsibilities shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. Any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policies D1 and A5 of the London Borough of Camden Local Plan 2017.

- 6 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.

Informative(s):

DRAFT

- 1 Reasons for granting permission:

The proposal concerns the excavation of an existing and redundant refuse store within a residential development and its conversion into a 1x 2bedroom self-contained flat. The existing refuse store is one storey in height and is located within the south-western corner of the site adjacent to a five storey residential building. To the south of the site are three storey residential buildings (Nos. 26-28B St. Edmund's Terrace) in which the rear gardens adjoin the site boundary in close proximity to where the refuse store is located.

The proposal would create a split-level 2x bedroom self-contained flat with a GIA of 77.1sqm of residential accommodation. The space proposed meets the minimum space requirement as specified within the Department of Communities and Local Government (DCLG) (and the London Plan) for a two bedroom dwelling at two storeys to accommodate three people.

The proposed two bedroom dwelling is considered acceptable in policy terms as it assists the Council to maximise the supply of additional homes in borough while providing a dwelling size that is highly prioritised and sought after. Furthermore, the residential unit will be dual aspect and will provide a reasonable level of sunlight, daylight, ventilation and outlook.

Alterations as part of the works include the removal of 2x existing windows and the installation of 2x windows that are vertically aligned with each other on the north-eastern elevation with the installation of railings around the proposed lightwell at ground floor level. These alterations are considered appropriate and would only minimally affect the design of the north-eastern elevation when viewed from the entrance path into Regent's Gate.

Other alterations within the scheme include the alteration of the existing entrance door to feature a glass sidelight on the south-eastern elevation and the removal of the secondary entrance door and installation of 2x windows on the south-western elevation. These alterations are also considered acceptable and would not affect the appearance of the residential development as a whole.

The size and depth of the excavation is considered to be acceptable as it does not extend further beyond the perimeter of the existing refuse room and the depth of the excavation is 1.7m. The associated lightwell is considered acceptable as it is modest in its size and scale and would not impact upon the street scene due to its location in a courtyard within a residential complex.

The application was accompanied by a Basement Impact Assessment which was externally audited and it has been confirmed that the potential impacts from basement construction have been identified and sufficient mitigation proposed. Due to the location of the works and the features of the site, a construction management plan (CMP) is not required in this instance. A condition will be secured upon approval for further details of the suitably qualified engineer to carry out the basement works.

No trees would be removed or affected as part of the works. The scheme was assessed by the Council's Tree and Landscaping Officer who raises no objection to the scheme.

The proposed development is not considered to raise any amenity concerns. The basement extension is modest and the external manifestations would not cause any harm to neighbouring amenity.

The development should provide 2x cycle spaces in accordance with the London Plan and Camden cycle standards. This has been secured by condition to provide details of the 2x cycle parking spaces within the development which will be in accordance with policy T1.

2 [Continued]

The site falls within the Primrose Hill Controlled Parking Zone (CPZ). As per, the requirements of policy T2 of the Camden Local Plan, this decision is subject to a car-free legal agreement to ensure that future occupants of the development are aware that they are not entitled to on-street parking permits. Policy T2 seeks to ensure car-free development in low parking provision areas.

Due to the location of the site and works, a highways contribution and an Approval in Principle (AIP) is not required for this scheme.

All new build or converted dwellings are required to achieve 110L per person, per day (including 5 litres for external water use) usage. This will be secured by condition.

Two objections have been received prior to making this decision. The planning site's history and relevant appeal decisions have been taken into account when determining this proposal.

As such, the proposed development is in general accordance with policies H1, H7, A1, A4, A5, D1, 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 2012.

- 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 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).
- 5 You are advised that this proposal will be liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL as the proposal creates a new residential unit. Based on the information given on the plans, the Mayor's CIL Charging Schedule and the Camden Charging Schedule, the charge is likely to be £3,855 (77.1sqm x £50) and £38,550 (77.1sqm x £500) for the Camden CIL.

This amount is an estimate based on the information submitted in your planning application. The liable amount may be revised on the receipt of the CIL Additional Information Requirement Form or other changes in circumstance. Both CIL's will be collected by Camden after the scheme has started and could be subject to surcharges for failure to assume liability or submit a commencement notice PRIOR to commencement and/or for late payment. We will issue a formal liability notice once the liable party has been established. CIL payments will also be subject to indexation in line with construction costs index.

- 6 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.
- 7 You are advised that Section 44 of the Deregulation Act 2015 [which amended the Greater London Council (General Powers) Act 1973]] only permits short term letting of residential premises in London for up to 90 days per calendar year. The person who provides the accommodation must be liable for council tax in respect of the premises, ensuring that the relaxation applies to residential, and not commercial, premises.

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.

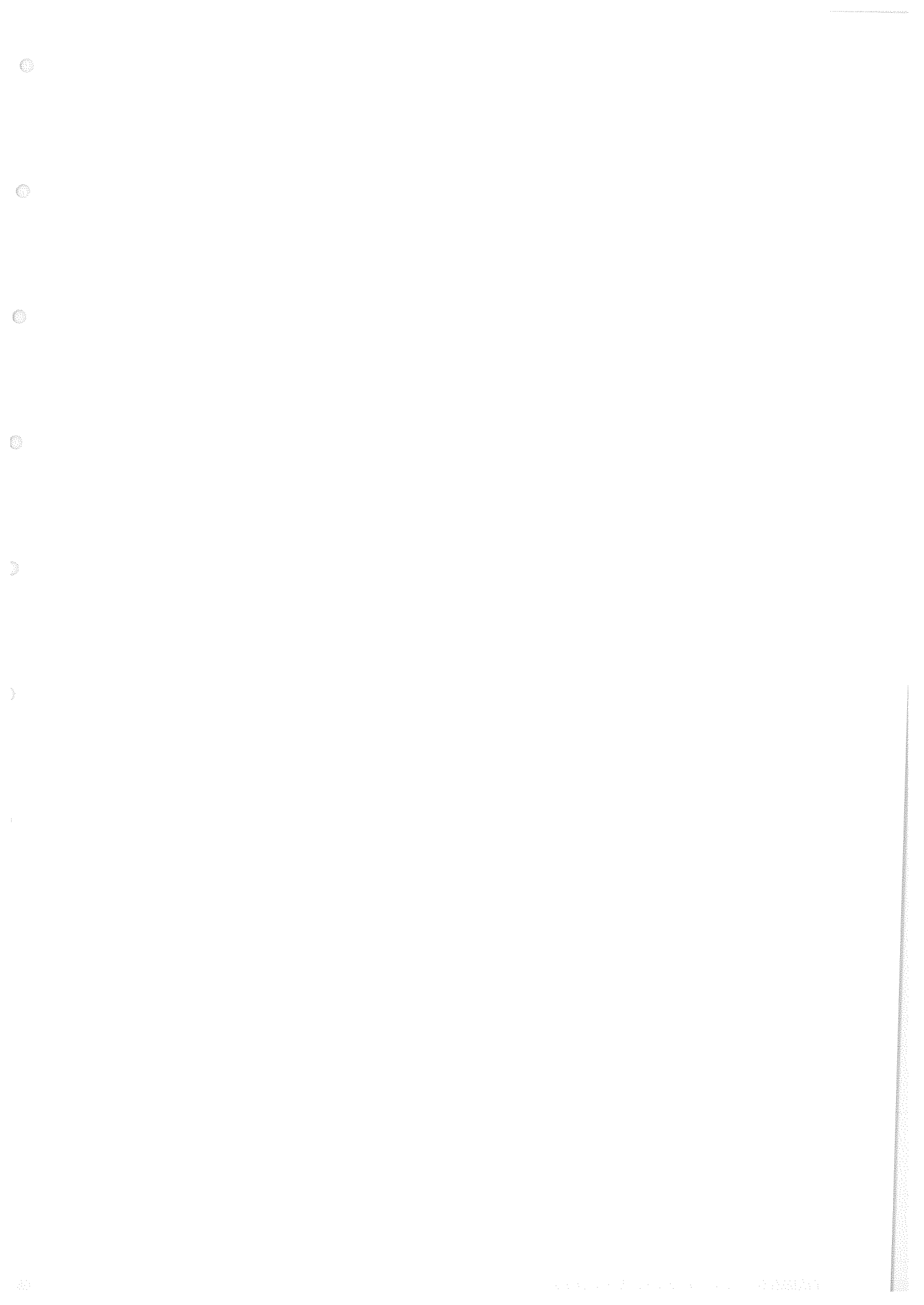
Yours faithfully

Executive Director Supporting Communities

Supporting Communities Directorate

DRAFT

DECISION



DATED

9 February

2018

(1) COOPER GROUP DEVELOPMENTS (ST EDMUNDS) LIMITED

and

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

A G R E E M E N T

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