(1) DESMOND HIGGINS

and

(2) CHRISTOPHER STANLEY O'SHEA

and

(3) UNITED TRUST BANK LIMITED

and

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

## A G R E E M E N T relating to land known as 14 HATTON WALL LONDON EC1N 8JH

pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended), Section 16 of the Greater London Council (General Powers) Act
1974, Section 111 of the Local Government Act 1972, Section 1(1) of the Localism Act 2011

Andrew Maughan
Head of Legal Services
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

CLS/COM/ESA/1800.562 S106 FINAL  THIS AGREEMENT is made the 24th day of October 2018

#### BETWEEN:

- DESMOND HIGGINS of 109 Talbot Road, London W11 2AT (hereinafter called "the Freeholder") of the first part
- ii. CHRISTOPHER STANLEY O'SHEA of 50 Halfway Street, Sidcup DA15 8JB (hereinafter called "the Leaseholder") of the second part
- iii. **UNITED TRUST BANK LIMITED** (Co. Regn. No. 549690) of One Ropemaker Street, London EC2Y 9AW (hereinafter called "the Mortgagee) of the third part
- iv. 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 Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number NGL927046 subject to a charge to the Mortgagee.
- 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 NGL973198.
- 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 7 November 2017 and the Council resolved to grant permission conditionally under reference number 2017/5910/P subject to the conclusion of this legal Agreement.

- 1.7 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.
- 1.8 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.9 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL927046 and dated 30 August 2018 is willing to enter into this Agreement and give its consent to the same.

#### 2. **DEFINITIONS**

"the Act"

2.1

In this Agreement the following expressions (arranged in alphabetical order) shall unless the context otherwise requires have the following meanings:

Sear o 1	0101100	
		amended)
2.2	"Affordable Housing"	low cost housing including social rented
		housing and intermediate housing that meets
		the needs of people who cannot afford to

nousing and intermediate housing that meets the needs of people who cannot afford to occupy homes available in the open market in accordance with the National Planning Policy Framework and successor documents

the Town and Country Planning Act 1990 (as

2.3 "Affordable Housing the sum of £18,550 to be paid by the Owner to Contribution" the Council in accordance with the terms of this

Agreement and to	be applied by the Council in
the event of receip	ot towards the provision of
Affordable Housin	g in the London Borough of
Camden	

2.4	"the	Development"
-----	------	--------------

change of use of part ground floor, first, and second floors from commercial (Class B1) to provide one residential maisonette (Class C3), erection of single storey roof extension, installation of roof terraces on 3rd floor and main roof, and alterations to front and rear elevations as shown on drawing numbers Site location plan, (101\_P\_) 002, 003, 004, 005, 006, 007, 008, 009, 010, 011, 012, 013; Design and Access Statement dated 24th October 2017

2.5 "the Implementation Date"

the date of implementation of the Development by the carrying out of a material operation as defined in Section 56 of the Act and references to "Implementation" and "Implement" shall be construed accordingly

2.6 "Occupation Date"

the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly

2.7 "the Parties"

mean the Council, the Owner and the Mortgagee

2.8 "the Planning Application"

a planning application in respect of the development of the Property submitted to the Council and validated on 7 November 2017 for which a resolution to grant permission has been passed conditionally under reference number

2017/5910/P	subject	to	conclusion	of	this
Agreement					

2.9	"Planning Obligations
	Monitoring Officer"

a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof

2.10 "the Planning Permission"

a planning permission granted for the

Development substantially in the draft form

annexed hereto

2.11 "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. This Agreement shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.

- 3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies corporations and other artificial persons.
- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction of interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5 and 6 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 4.2.1 and 4.2.2 for all relevant purposes.

#### 4. OBLIGATIONS OF THE OWNER

The Owner hereby covenants with the Council as follows:-

## 4.1 Affordable Housing Contribution

4.1.1 The Owner hereby covenants with the Council on or prior to the Implementation Date to pay to the Council the Affordable Housing Contribution.

4.1.2 The Owner hereby covenants with the Council not to implement or to permit Implementation until such time as the Council has received the Affordable Housing Contribution.

#### 4.2 Car free

- 4.2.1 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.
- 4.2.2 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.
- 4.2.3 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.2.1 and 4.2.2 in this Agreement shall continue to have effect in perpetuity.
- 4.2.4 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 4.2.1 and 4.2.2 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.
- 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
   hereof quoting the planning reference 2017/5910/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.
- 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 2017/5910/P.

- 5.7 Payment of the Affordable Housing Contribution pursuant to Clause 4 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 2017/5910/P. Electronic Transfer is to be made directly to the 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.
- 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

$$A = B \times (Y-X)$$

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:-
- The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall 6.1 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 PlanningObligations@camden.gov.uk quoting the Planning Permission reference number 2017/5910/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.
- 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.

### 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 charge 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 in this Agreement are made jointly and severally and shall be enforceable as such.

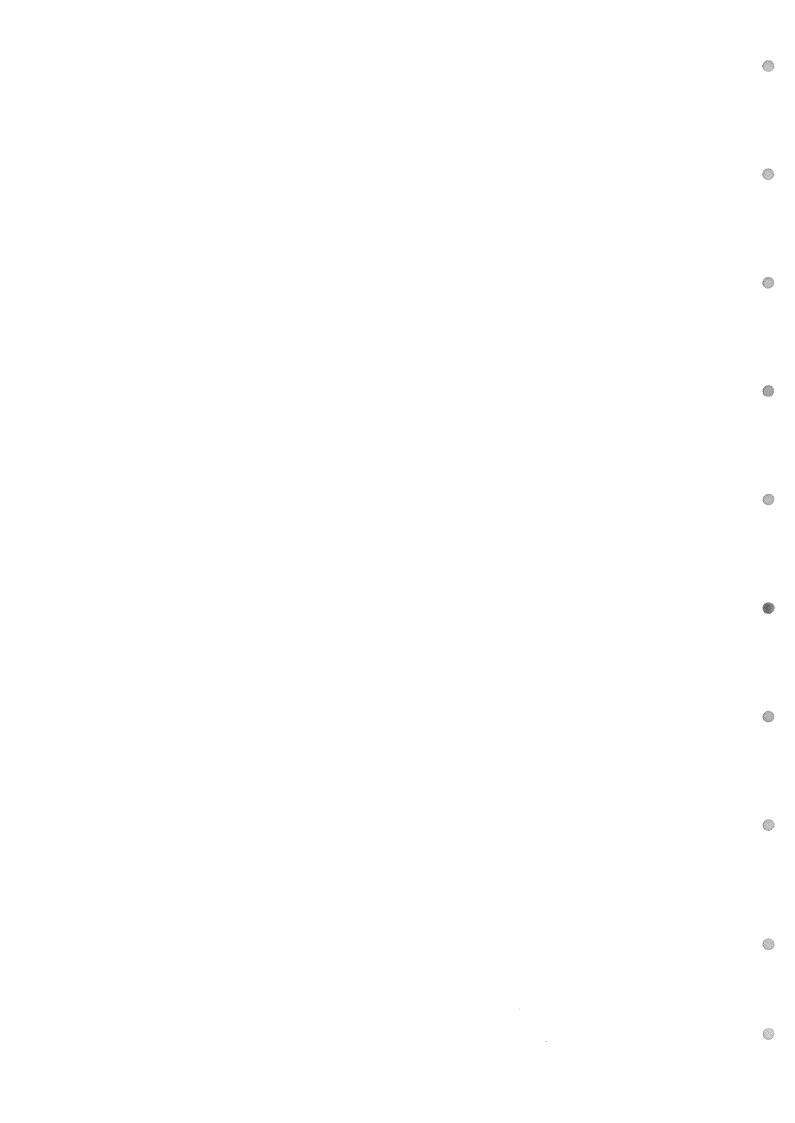
### 9. RIGHTS OF THIRD PARTIES

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

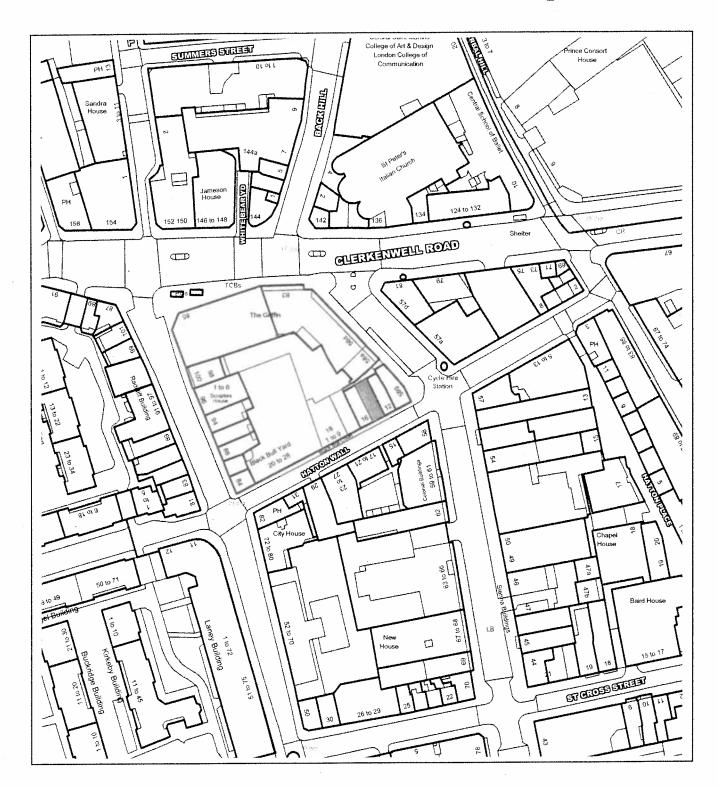
**IN WITNESS** whereof the Council has caused its Common Seal to be hereunto affixed and the Owner and the Mortgagee have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY DESMOND HIGGINS in the presence of:	
Witness Signature	
Witness Name BENTAMIN WHI	TE
Address FS ROBERT OWEN HOW	SE. SWE GJB.
Occupation LAB MANKER.	
EXECUTED AS A DEED BY CHRISTOPHER STANLEY O'SHEA in the presence of: )	601
L. Henris	
Witness Signature R Huns	
Witness Name	
Address 24 Partilly NWI	United the is they
Occupation Asovatant	Authorised Signatory Name CHRIS Down (A Signatory) Signature
EXECUTED as a Deed ) By UNITED TRUST BANK LIMITED By )	Authorised Signatory Name
in the presence of:	
THE COMMON SEAL OF THE MAYOR ) AND BURGESSES OF THE LONDON ) BOROUGH OF CAMDEN was hereunto )	

**Authorised Signatory** 



# NORTHGATE SE GIS Print Template



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Regeneration and Planning **Development Management** London Borough of Camden Town Hall **Judd Street** London WC1H9JE

Tel 020 7974 4444

planning@camden.gov.uk www.camden.gov.uk/planning

StudioJung Ltd 18 Gloucester Place Mews London **W1U 8BA** 

Application Ref: 2017/5910/P

17 October 2018

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:

14 Hatton Wall London EC1N 8JH

Proposal:

Change of use of part ground floor, first, and second floors from commercial (Class B1) to provide one residential maisonette (Class C3), erection of single storey roof extension, installation of roof terraces on 3rd floor and main roof, and alterations to front and rear elevations

Drawing Nos: Site location plan, (101\_P\_) 002, 003, 004, 005, 006, 007, 008, 009, 010, 011, 012, 013; Design and Access Statement dated 24th 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):

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).

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 policies D1 and D2 of the London Borough of Camden Local Plan 2017.

The development hereby permitted shall be carried out in accordance with the following approved plan: Site location plan, (101\_P\_) 002, 003, 004, 005, 006, 007, 008, 009, 010, 011, 012, 013; Design and Access Statement dated 24th October 2017.

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

### Informative(s):

- 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).
- 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.
- 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 additional floorspace exceeds 100sqm GIA or one unit of residential accommodation.

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The 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 circumstances. 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 the construction costs index.

#### 4 Reasons for granting permission

This application follows planning permissions for similar proposals at the site under refs: 2014/7438/P and 2016/3551/P, in terms of the change of use to residential and single storey roof extension, associated front balcony, rear roof terrace and rear elevation windows. The site circumstances have not changed since these approvals. Whilst the policy context has changed with the adoption of the Camden Local Plan in July 2017 since the previous approvals, there continues to be no objection to the principle of the change of use or the extensions and alterations.

The commercial areas on the part ground floor and basement floors would be retained. The loss of the commercial floorspace was appropriately demonstrated, through marketing evidence in the approved application 2014/7438/P, that the site has been vacant since this time without serious interest from prospective buyers for at least 2 years. An updated marketing report with this new application confirms that there is little or no interest in the upper floors being used for commercial purposes and the upper floors have been now vacant for over 7 years. As such the proposals comply with the requirements of Local Plan policy E2.

As the proposals involve the addition of a new residential unit of over 100sqm GIA (at approximately 155sqm GIA), a payment-in-lieu contribution to the Council's affordable housing fund would be required under policy H4. The target for this site would be 4% (as it is over 150sqm floorspace) multiplied by the GEA of 175sqm. As such, the payment-in-lieu is calculated to be £18550 in accordance with the current CPG2 on Housing. This payment would be secured via S106 legal agreement.

Whilst the previous approval was for two residential units and this application seeks permission for only one 2-bed unit, the one additional residential unit will still assist the Council in meeting the strategic housing targets for the Borough and 2-bed units are high priority as set out in policy H7. The proposed residential flat is of an appropriate size and will benefit from adequate levels of daylight, outlook and natural ventilation. The new residential unit will be secured as car-free through a S106 agreement to encourage sustainable lifestyles and reduce impact on the highway network in accordance with policy T2 of the Local Plan.

The design of the roof extension is contemporary; however it conforms with the Council's guidance for mansard roof extensions as set out in CPG1 on Design. The proposed changes to the front and rear facades are similar to those previously approved and are appropriate designs for the host building. The height of the rear part of the roof extension has been minimally raised by 40cm in order to improve the internal ceiling height of the top floor. A balustrade is added to the roof to create a roof terrace. These changes would be substantially set back from the front façade therefore would not be visible from street level.

(Reasons contd.) The proposed roof extension and external alterations, owing to their design and location, will not harm neighbour amenity in terms of daylight, sunlight or outlook. The proposed 3rd floor front balcony and 4th floor roof terrace are in the same location as previously approved and would not result in any harmful overlooking.

No comments have been received prior to making this decision. The site's planning history and relevant appeal decisions were taken into account when coming to this decision.

Special attention has been paid to the desirability of preserving or enhancing the character or appearance of 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 proposed development is in general accordance with policies G1, E2, H1, H4, H6, H7, D1, D2, T1, T2 and A1 of the Camden Local Plan 2017. The proposed development also accords with policies in the London Plan 2016 and the National Planning Policy Framework 2012.

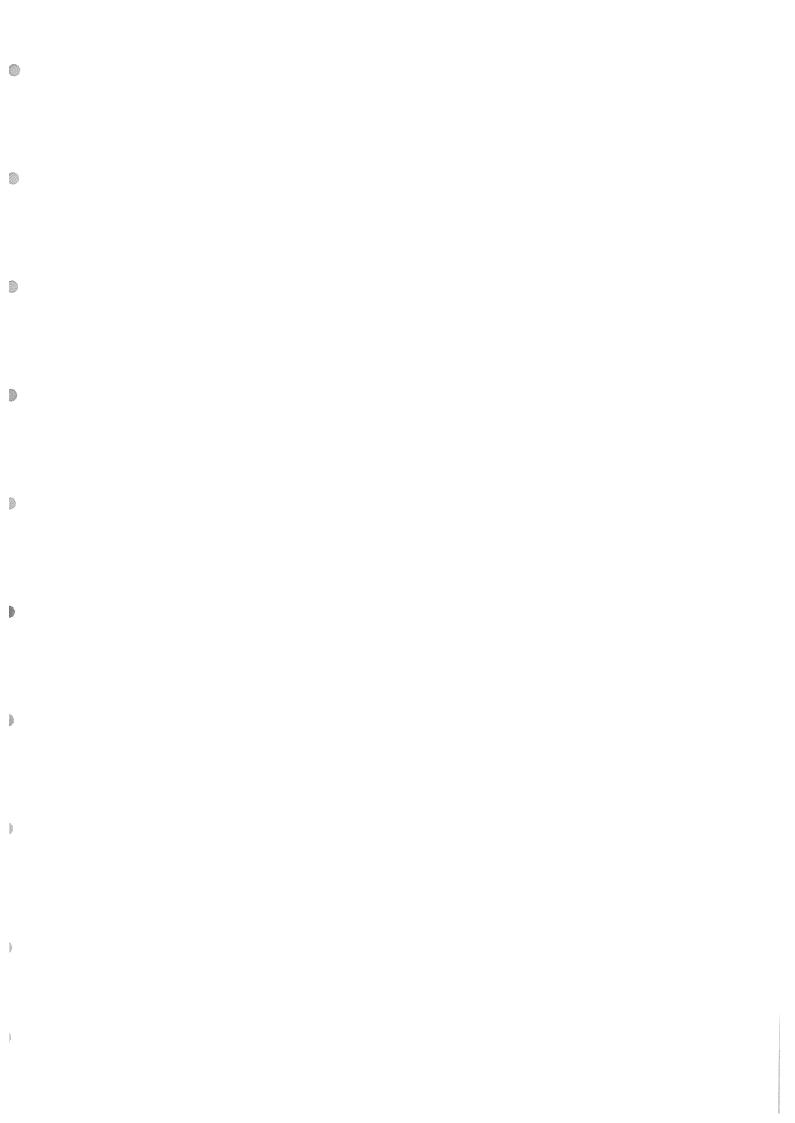
Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the 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

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DATED 24 October

(1) DESMOND HIGGINS

and

(2) CHRISTOPHER STANLEY O'SHEA

and

(3) UNITED TRUST BANK LIMITED

and

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

#### A G R E E M E N T relating to land known as 14 HATTON WALL LONDON EC1N 8JH

pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended), Section 16 of the Greater London Council (General Powers) Act
1974, Section 111 of the Local Government Act 1972, Section 1(1) of the Localism Act 2011

Andrew Maughan
Head of Legal Services
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