

DATED *Tuesday 11th December* 2018

(1) PENELOPE MAXINE MORGAN AND JAMES PHILIP MORGAN

and

(2) CIRCLE EAST LIMITED

and

(3) HYDE PARK FINANCE 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

**Outbuilding to the rear of 35A BROADHURST GARDENS, LONDON, NW6 3QT
pursuant to**

Section 106 of the Town and Country Planning Act 1990 (as amended);

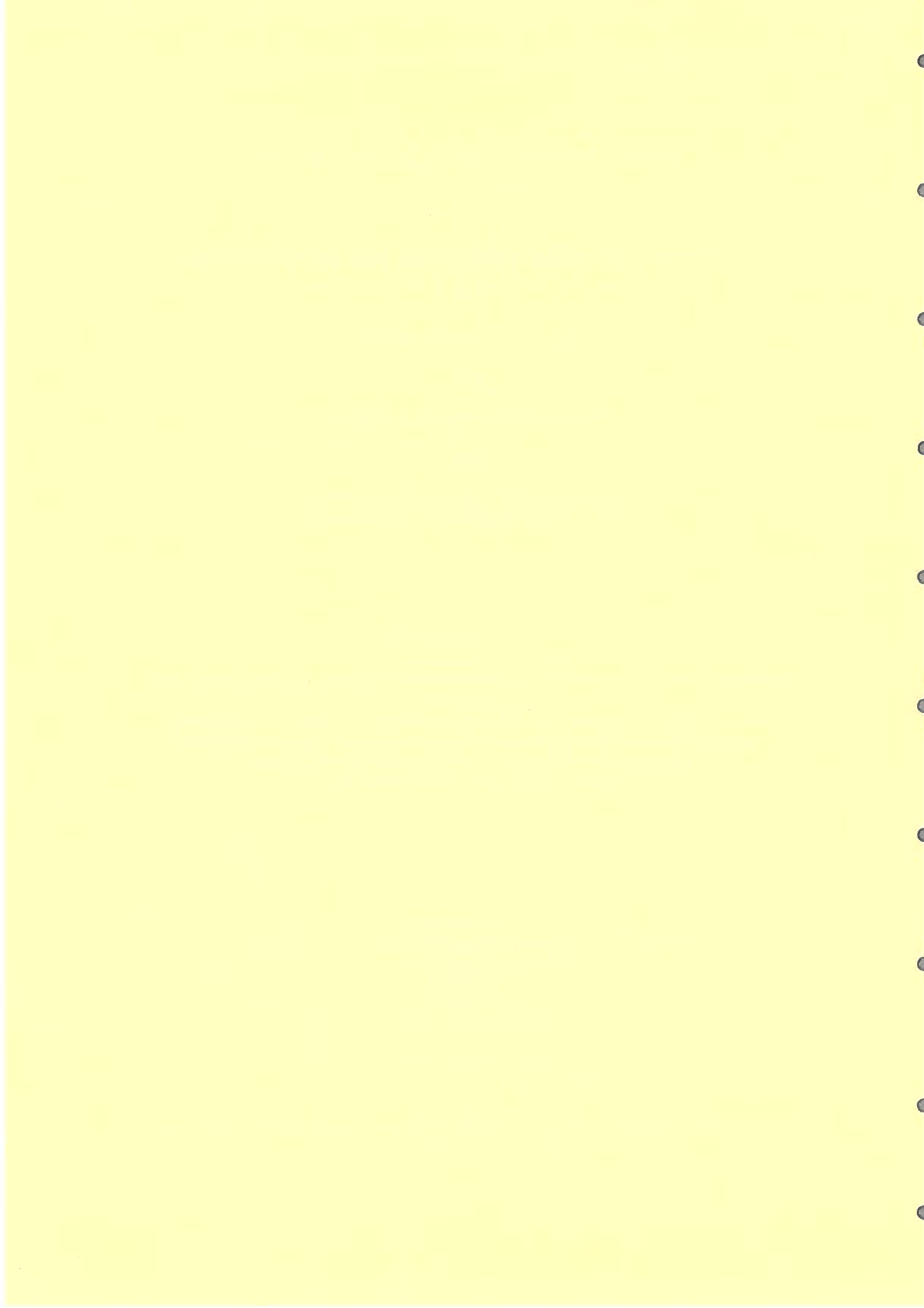
Section 16 of the Greater London Council (General Powers) Act 1974;

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 5680



THIS AGREEMENT is made the 11 day of December 2018

BETWEEN:

- A. **PENELOPE MAXINE MORGAN** of 56D King Henry's Road, London, NW3 and **JAMES PHILIP MORGAN** of 27 Oppidans Road, London, NW3 (hereinafter called "the Freeholder") of the first part
- B. **CIRCLE EAST LIMITED** (Co. Regn. No. 9946674) whose registered office is at 788-790 Elscot House, Arcadia Avenue, London, N3 2JU (hereinafter called "the Leaseholder") of second part
- C. **HYDE PARK FINANCE LIMITED** of Broughtonhall, Broughton, Eccleshall, Stafford, ST21 6NS (hereinafter called "Mortgagee") of the third part
- D. **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 NGL362943.
- 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 NGL598858 subject to a charge to the 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 16 October 2018 and the Council resolved to grant permission conditionally under reference number 2018/4983/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.

1.5 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

1.6 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL598858 and dated 26 June 2017 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"	Change of use from light industrial (Class B1c) to residential (Class C3) comprising 1x studio flat as shown on drawing numbers:- 007.001.E Rev 00; 007.150.E Rev 00; 007.130.E Rev 00; Proposed Floor Plan; Transport Statement dated October 2018; Remediation Strategy and Verification Plan dated 18/09/2018; Drainage and Water Usage report dated

		September 2018; Desk Study Contamination Report dated 20/04/2018; Asbestos Report dated 05/09/2018.
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 and the Mortgagee
2.7	"the Planning Application"	a planning application in respect of the development of the Property submitted to the Council and validated on 16 October 2018 for which a resolution to grant permission has been passed conditionally under reference number 2018/4983/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 the outbuilding to the rear of 35A Broadhurst Gardens the same as shown shaded grey on the plan annexed hereto
2.11	"Residents Parking Bay"	a parking place designated by the Council by an order under the Road Traffic Regulation Act 1984 or other relevant legislation for use by residents of the locality in which the Development is situated
2.12	"Residents Parking Permit"	a parking permit issued by the Council under section 45(2) of the Road Traffic Regulation Act 1984 allowing a vehicle to park in Residents Parking Bays

NOW THIS DEED WITNESSETH as follows:-

- 3.1 This Agreement is made in pursuance of Section 106 of the Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and is also made in pursuance of Section 16 of the Greater London Council (General Powers) Act 1974 Section 111 of the Local Government Act 1972; and Section 1(1) of the Localism Act 2011 and shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.
- 3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies, corporations and other artificial persons.
- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction of interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7, 8 and 9 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Implementation Date.
- 3.6 The Council hereby agrees to grant the Planning Permission on the date hereof.
- 3.7 The Parties save where the context states otherwise shall include their successors in title.
- 3.8 The Parties acknowledge that the Development shall be treated as being permanently designated as "car free" housing in accordance with Clause 4.1 and 4.2 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

4.1 To ensure that prior to occupying any residential unit (being part of the Development) each new occupier of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to:

- (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 Not to Occupy or use (or permit the Occupation or use of) any residential unit (being part of the Development) at any time during which the occupier of the residential unit holds a Residents Parking Permit to park a vehicle in a Residents Parking Bay or is permitted to park a vehicle in any car park owned, controlled or licensed by the Council unless the occupier is the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970).

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

4.4 On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the residential units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those residential units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.1 and 4.2 of this Agreement.

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

5.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken or is about to take place.

5.2 Within seven days following completion of the Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting planning reference 2018/4983/P the date upon which the Development will be ready for Occupation.

5.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.

5.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall jointly and severally indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.

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

6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 2018/4983/P and in the case of any notice or approval or agreement from the Council this shall be signed by a representative of the Council's Environment Department.

6.2 This Agreement shall be registered as a Local Land Charge.

- 6.3 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement on or prior to the date of completion of the Agreement.
- 6.4 The Owner hereby covenants with the Council that it will within 28 days from the date hereof apply to the Chief Land Registrar of the Land Registry to register this Agreement in the Charges Register of the title to the Property and will furnish the Council forthwith with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property.
- 6.5 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.
- 6.6 Neither the Owner or the Mortgagee nor their successors in title nor any person deriving title from them shall be bound by the obligations in this Agreement in respect of any period during which it no longer has an interest in the Property but without prejudice to liability for any breach committed prior to the time it disposed of its interest.
- 6.7 For the avoidance of doubt the provisions of this Agreement (other than those contained in this sub-clause) shall not have any effect until this Agreement has been dated.
- 6.8 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of Development this Agreement shall forthwith determine and cease to have effect.

7. **MORTGAGEE EXEMPTION**

7.1 The Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 hereof and for the avoidance of doubt agrees to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.

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

8. **JOINT AND SEVERAL LIABILITY**

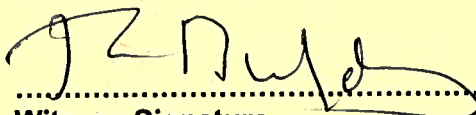
8.1 All Covenants made by the Owner(s) in this Agreement are made jointly and severally and shall be enforceable as such.

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
PENELOPE MAXINE MORGAN
in the presence of:**


.....
Witness Signature

Witness Name: RACHEL BUCKLEY
Address: 72 BARTHOLOMEW ROAD
LONDON NW5 2AL
Occupation: Therapist

**THIS IS A CONTINUATION OF THE SECTION 106 AGREEMENT IN RELATION TO
35A BROADHURST GARDENS LONDON NW6 3QT**

**EXECUTED AS A DEED BY
JAMES PHILIP MORGAN
in the presence of:**

James Morgan

R Buckley
.....
Witness Signature

Witness Name: RACHEL BUCKLEY
Address: 72 BARTHOLOMEW ROAD
LONDON N15 2AL
Occupation: IT Support

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

[Signature]
.....
Director

[Signature]
.....
Director/Secretary

EXECUTED AS A DEED BY)
HYDE PARK FINANCE LIMITED)
by)
in the presence of:-)

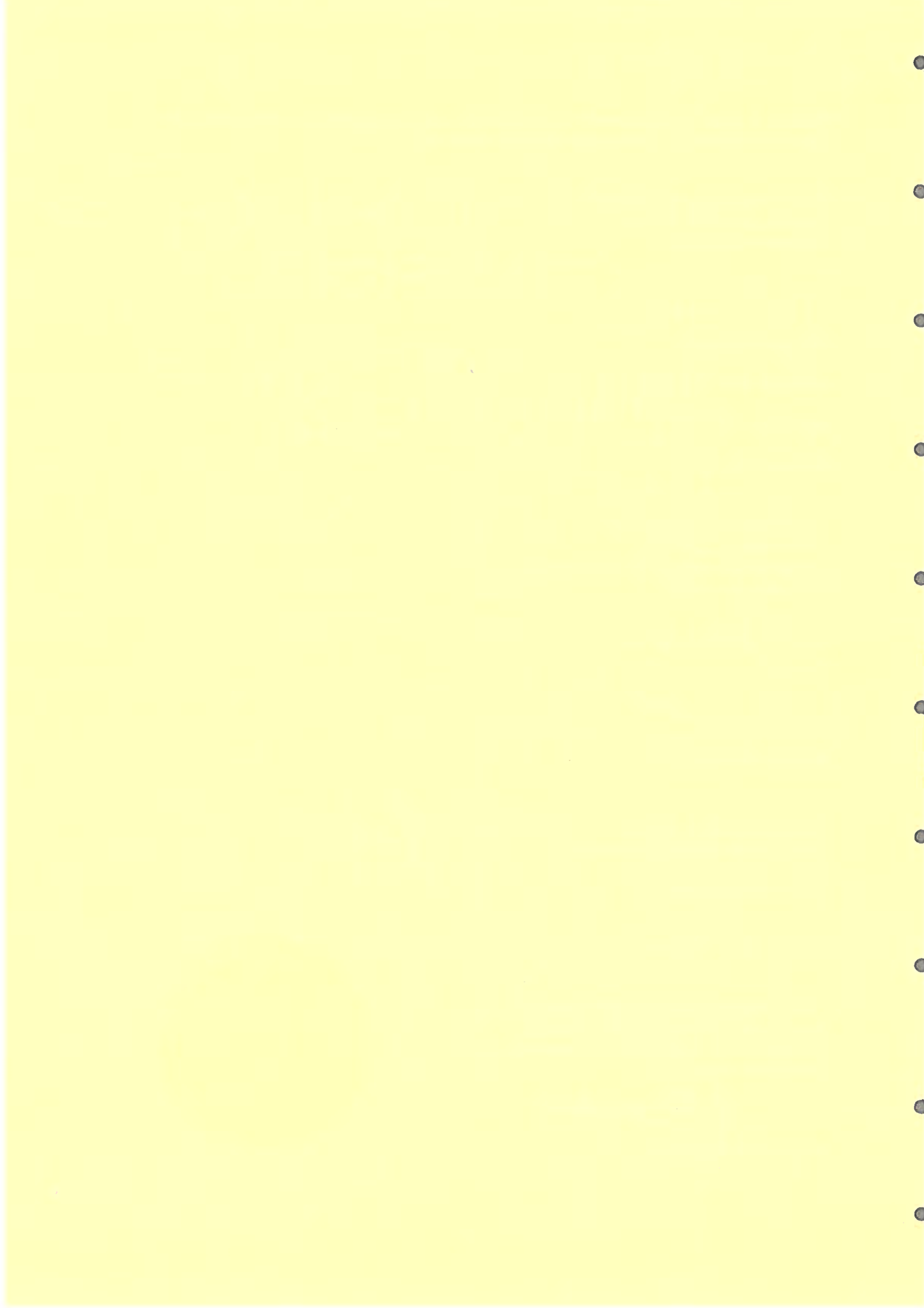
[Signature]

J. Shapiro
.....

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

R Alexander
.....
Authorised Signatory





Application ref: 2018/4983/P
Contact: Kate Henry
Tel: 020 7974 3794
Date: 6 December 2018

Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Phone: 020 7974 4444

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

Katie Turvey
Planning Potential
Magdalen House
148 Tooley Street
London
SE1 2TU

DRAFT

Dear Sir/Madam

DECISION

In accordance with section 60 (2B) and (2C) of the Town and Country Planning Act 1990
(as amended by section 4(1) of the Growth and Infrastructure Act 2013)

Process set out by condition O.2 of Schedule 2 Part 3 Class O of the Town and Country
Planning (General Permitted Development) Order 1995 (as amended by SI 2008 No. 2362
and SI 2013 No. 1101)

Certificate of Lawfulness (Proposed) Prior Approval granted

The Council, as local planning authority, hereby confirm that their **prior approval is granted** for the proposed development at the address shown below, as described by the description shown below, and in accordance with the information that the developer provided to the local planning authority:

Address of the proposed development:
Outbuilding to rear of 35A Broadhurst Gardens
London
NW6 3QT

Description of the proposed development:
Change of use from light industrial (Class B1c) to residential (Class C3) comprising 1x studio flat

Details approved by the local planning authority:
Drawing Nos: 007.001.E Rev 00; 007.150.E Rev 00; 007.130.E Rev 00; Proposed Floor Plan; Transport Statement dated October 2018; Remediation Strategy and Verification Plan dated 18/09/2018; Drainage and Water Usage report dated September 2018; Desk Study Contamination Report dated 20/04/2018; Asbestos Report dated 05/09/2018.

Reason for approval:

- 1 Details of secure and covered cycle storage for 1 cycle shall be submitted to and approved by the local planning authority prior to the first occupation of the unit. The approved facility shall thereafter be provided in its entirety prior to the first occupation of the unit and permanently retained thereafter.

Reason: To support a pattern of development which facilitates the use of sustainable modes of transport in accordance with the provisions of the NPPF (2018) and Class PA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2016.

- 2 Prior to the first occupation of the development, full details to demonstrate:
 - a) the proposed internal water efficiency and/or water recycling equipment to ensure that the development will pose no additional strain on adjoining sites or the existing drainage infrastructure; and
 - b) the proposed internal measures to ensure the development has been designed to cope with potential flooding;

shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation/use of the development.

Reason: To ensure that the development will pose no additional strain on adjoining sites or the existing drainage infrastructure and to ensure the development has been designed to cope with potential flooding in accordance with the provisions of the NPPF (2018) and Class PA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2016.

- 3 Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report (referred to in PPS23 as a Validation Report) that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval.

Reason: To protect future occupiers of the development from the possible presence of ground contamination arising in connection with the previous industrial/storage use of the site in accordance with the provisions of the NPPF (2018) and Class PA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2016.

Informative(s):

- 1 Reason for granting permission-

The change of use from light industrial use (Class B1c) to residential use (Class C3) to provide 1x studio flat is permitted under Schedule 2 Part 3 Class PA of The Town and Country Planning (General Permitted Development)

(England) (Amendment) Order 2016.

- 2 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.
- 3 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 4 If a revision to the postal address becomes necessary as a result of this development, application under Part 2 of the London Building Acts (Amendment) Act 1939 should be made to the Camden Contact Centre on Tel: 020 7974 4444 or Environment Department (Street Naming & Numbering) Camden Town Hall, Argyle Street, WC1H 8EQ.
- 5 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.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2018.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

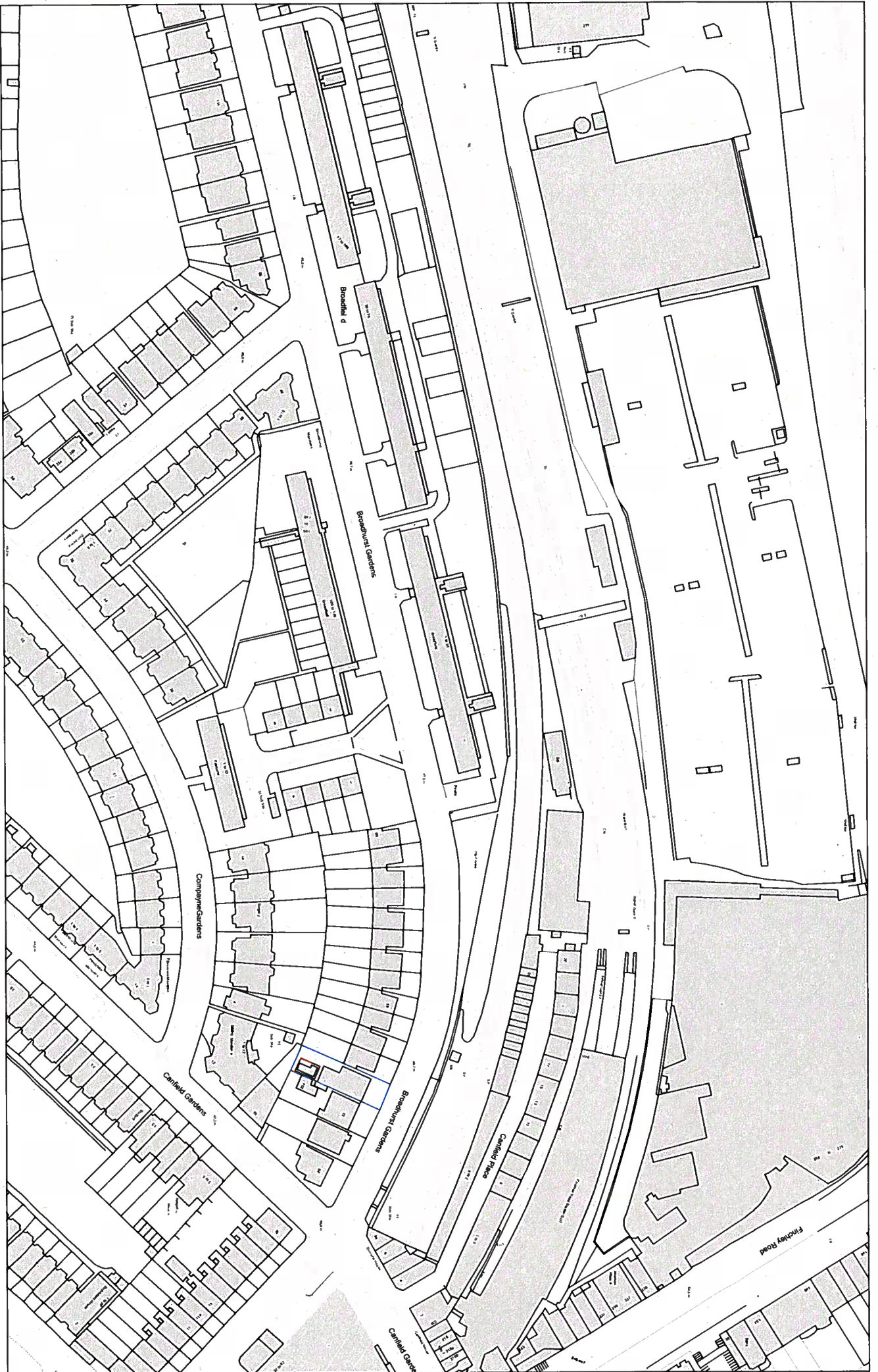
Director of Regeneration and Planning

It's easy to make, pay for, track and comment on planning applications on line. Just go to www.camden.gov.uk/planning.

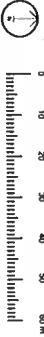
It is important to us to find out what our customers think about the service we provide. To help us in this respect, we would be very grateful if you could take a few moments to complete our online survey at the following website address:
www.camden.gov.uk/dmfeedback. We will use the information you give us to help improve our services.

DRAFT

DECISION



NEUBAU



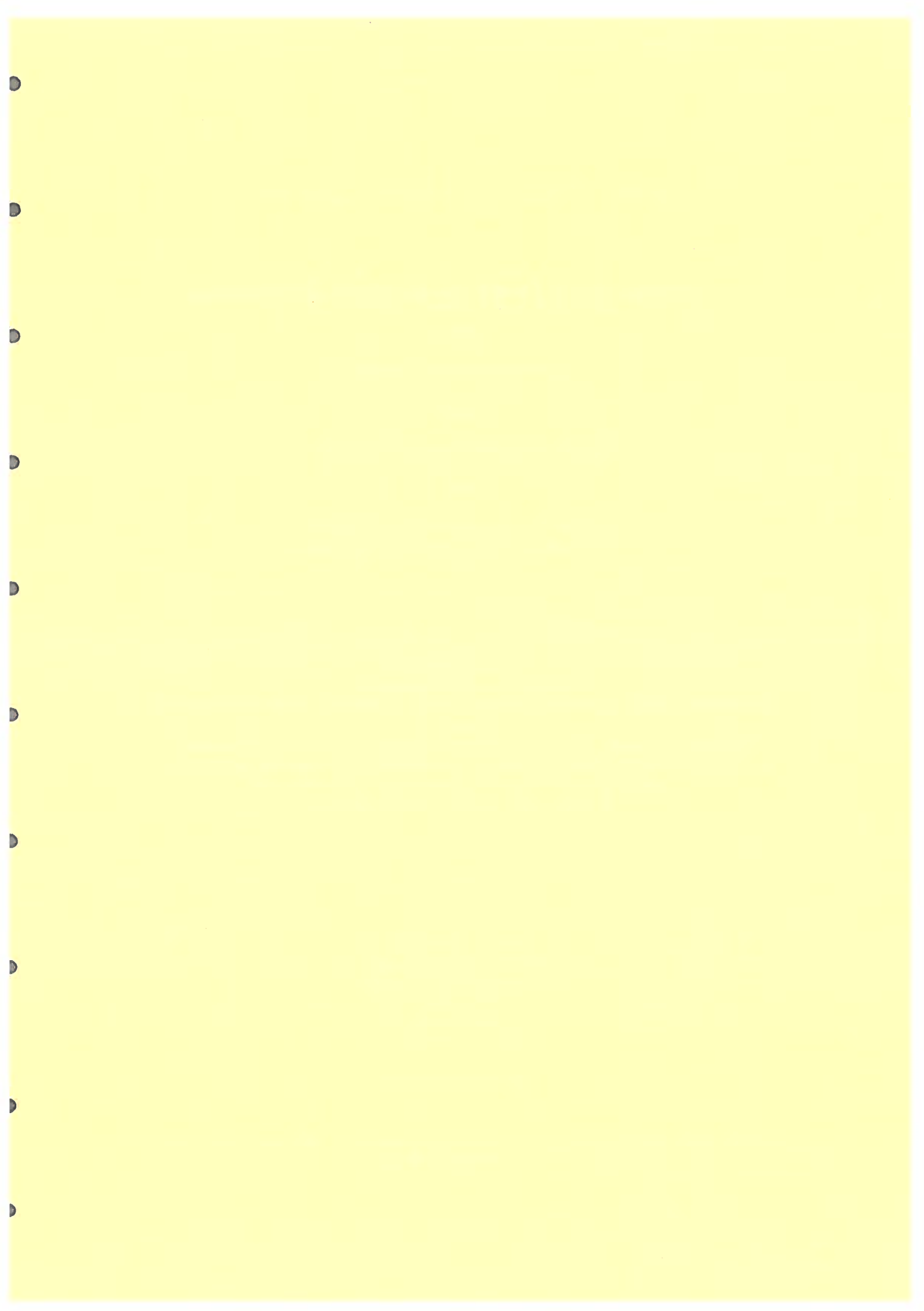
Project Name: **Broadhurst Gardens**
 Drawing Title: **Location Plan**

Drawn: **BL**
 Checked: **AG**

Drawing Scale: **1:1250 @ A3**
 Drawing Num.: **007.001.E**

Date: **17.04.2018**
 Revision: **00**





DATED *Tuesday 11 December* 2018

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and

(2) CIRCLE EAST LIMITED

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(3) HYDE PARK FINANCE LIMITED

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**(4) THE MAYOR AND BURGESSES OF
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