

DATED

17th December

2018

(1) ORIGIN HOUSING LIMITED

-and-

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

**FIRST DEED OF VARIATION
UNDER S106A OF THE TOWN AND COUNTRY
PLANNING ACT 1990 (AS AMENDED)**

Relating to the Agreement dated 14 April 2016
Between the Mayor and the Burgesses of the
London Borough of Camden, Origin Housing Limited and
Abbey National Treasury Services PLC

under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as

**RUSSELL MANSIONS, 144 SOUTHAMPTON ROW
LONDON WC1B 5AJ**

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

Tel: 020 7974 1478
Fax: 020 7974 2962

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FINAL DoV 041018

THIS AGREEMENT is made on the 17th day of December 2018

BETWEEN

1. **ORIGIN HOUSING LIMITED** (Industrial and Provident Society No. IP10008R) whose registered office is at St Richards House, 110 Eversholt Street, London NW1 1BS (hereinafter called "the Owner") of the first part
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

WHEREAS:

- 1.1 The Council, Origin Housing Limited and Abbey National Treasury Services PLC entered into an Agreement dated 14 April 2016 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 Abbey National Treasury Services PLC no longer hold an interest in the Property
- 1.3 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number NGL348621.
- 1.4 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.5 The Council is the local planning authority for the purposes of the Act 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.
- 1.6 The Owner has submitted an Application for First Minor Material Amendments in respect of the Property to amend the Original Planning Permission and the Council has agreed to modify the Original Planning Permission under section 73 of the Act subject to the Parties entering into this Deed to secure amendments to the Existing Agreement.

1.7 This Agreement is made by virtue of the Town and Country Planning Act 1990 Section 106 (as amended) and is a planning obligation for the purposes of that section.

1.8 Without prejudice to the terms of the other covenants contained in the Existing Agreement the parties hereto have agreed to vary the terms of the Existing Agreement as hereinafter provided.

2. INTERPRETATION

2.1 This Deed is made in pursuance of Section 106 and Section 106A of the Act.

2.2 The planning obligations in the Existing Agreement as modified by this Deed shall be enforceable by the Council against the Owner as provided therein 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.

2.3 All words and phrases defined in the Existing Agreement shall have the same meaning in this Agreement save where the context otherwise dictates and for the avoidance of any doubt the Existing Agreement shall remain in full force and effect save as varied by this Agreement.

2.4 All reference in this Agreement to clauses in the Existing Agreement are to clauses within the Existing Agreement.

2.5 In this Agreement the following expression shall unless the context otherwise states have the following meaning now allocated to it.

2.5.1	"Act"	the Town and Country Planning Act 1990 (as amended)
2.5.2	"the Application for First Minor Material Amendments"	the application for planning permission pursuant to Section 73 of the 1990 Act in respect of the Property to be granted conditionally by the Council (under planning application reference 2018/1869/P) subject to the conclusion of this Deed

2.5.3	"this Deed"	this First Deed of Variation
2.5.4	"Existing Agreement"	the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 14 April 2016 between the Council, Origin Housing Limited and Abbey National Treasury Services PLC
2.5.5	"the Original Planning Permission"	means the planning permission granted by the Council on 14 th April 2016 referenced 2015/5605/P allowing the: Internal and external alterations to lower ground floor commercial unit in association with proposed change of use from B1 to C3 to create a new residential dwelling as shown on SR/PL06, SR/PL05, SR/PL04, SR/PL03, SR/PL02, SR/PL01, SR144-0215-001, Design & Access Statement, Location Plan, Daylight Sunlight Report, Disposal Appraisal.

- 2.6 Where in this Deed reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Deed.
- 2.7 Headings are for ease of reference only and are not intended to be construed as part of this Agreement and shall not be construed as part of this Deed and shall not effect the construction of this Agreement.
- 2.8 Unless the context otherwise requires references to the singular shall include the plural and vice versa.
- 2.9 References in this Deed to the Owner shall include their successors in title.
- 2.10 The Existing Agreement as modified by this Deed shall not be enforceable against any mortgagee or chargee from time to time unless and until such mortgagee or chargee becomes a mortgagee in possession in which case it shall be liable as if it were a person deriving title from the Owner

3. VARIATION TO THE EXISTING AGREEMENT

With effect from the date of this Deed; and the Council issuing a notice granting planning permission for the Application for First Minor Material Amendments,, the Existing Agreement shall be varied as follows:

3.1 The following definitions shall be added to the Existing Agreement:

3.1.1	"Existing Agreement"	the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 14 April 2016 between the Council, Origin Housing Limited and Abbey National Treasury Services PLC.
3.1.3	"the Application for First Minor Material Amendments"	the application for planning permission made under section 73 of the Act having reference number 2018/1869/P substantially in a form found attached to this Deed amending the Original Planning Permission to permit: Variation of condition 3 (approved plans) and removal of condition 4 (tree protection measures) of planning permission 2015/5605/P dated 14/04/2016 (Internal and external alterations to lower ground floor commercial unit in association with proposed change of use from B1 to C3 to create a new residential dwelling) namely to alter the approved excavation and landscaping works to the rear of the site as shown on SR/PL06 A, SR/PL05 A, SR/PL04 A, SR/PL03, SR/PL02 A, SR/PL01 A, SR144-0215-001, Design & Access Statement, Location Plan, Daylight Sunlight Report, Disposal Appraisal.
3.1.2	"Parties"	the Council and the Owner being the parties to this Deed and shall include their successors in title, mortgagees, transferees and assigns.

3.1.8	"the First Planning Permission"	the planning permission granted pursuant to the Application for First Material Amendments with reference number 2018/1869/P (substantially in a form found attached) subject to this Deed.
3.1.9	"the Original Planning Permission"	means the planning permission granted by the Council on 14 th April 2016 referenced 2015/5605/P allowing the: Internal and external alterations to lower ground floor commercial unit in association with proposed change of use from B1 to C3 to create a new residential dwelling as shown on SR/PL06, SR/PL05, SR/PL04, SR/PL03, SR/PL02, SR/PL01, SR144-0215-001, Design & Access Statement, Location Plan, Daylight Sunlight Report, Disposal Appraisal.

3.2 The definition at clause 2.17 shall be **varied** to the following:

3.2.1 "Development"

Either (a) Internal and external alterations to lower ground floor commercial unit in association with proposed change of use from B1 to C3 to create a new residential dwelling as shown on SR/PL06, SR/PL05, SR/PL04, SR/PL03, SR/PL02, SR/PL01, SR144-0215-001, Design & Access Statement, Location Plan, Daylight Sunlight Report, Disposal Appraisal; or
(b) the development described in the Application for First Minor Material Amendments; (as the case may be)

3.4 The definition at clause 2.7 shall be **varied** to the following:

3.4.1 "the Planning Application"

Either (a) the application for the Original Planning Permission in respect of the

development of the Property validated on the 2nd November 2015 which a resolution to grant permission was passed conditionally under reference number 2015/5605/P subject to the Existing Agreement; or

(b) the Application for First Minor Material Amendments (as the case may be)

3.5 The definition at clause 2.9 shall be **varied** to the following:

3.5.1 "Planning Permission" Either the Original Planning Permission or the First Planning Permission (as the case may be)

3.3 The numbering of Clause 2 (Definitions) of the Existing Agreement shall be re-numbered accordingly;

3.7 In all other respects the Existing Agreement (as varied by this Agreement) shall continue in full force and effect.

4. **PAYMENT OF THE COUNCIL'S LEGAL COSTS**

4.1 The Owner agrees to pay the Council (on or prior to completion of this Agreement) its reasonable legal costs incurred in preparing this Agreement

5. **REGISTRATION AS LOCAL LAND CHARGE**

5.1 This Agreement shall be registered as a Local Land Charge

IN WITNESS WHEREOF the Council and the Owner has caused their respective Common
Seals to be affixed and has caused this Agreement to be executed as a deed the day and
year first above written.



4671

**THE COMMON SEAL OF
ORIGIN HOUSING LIMITED**
was hereunto affixed by Order:-

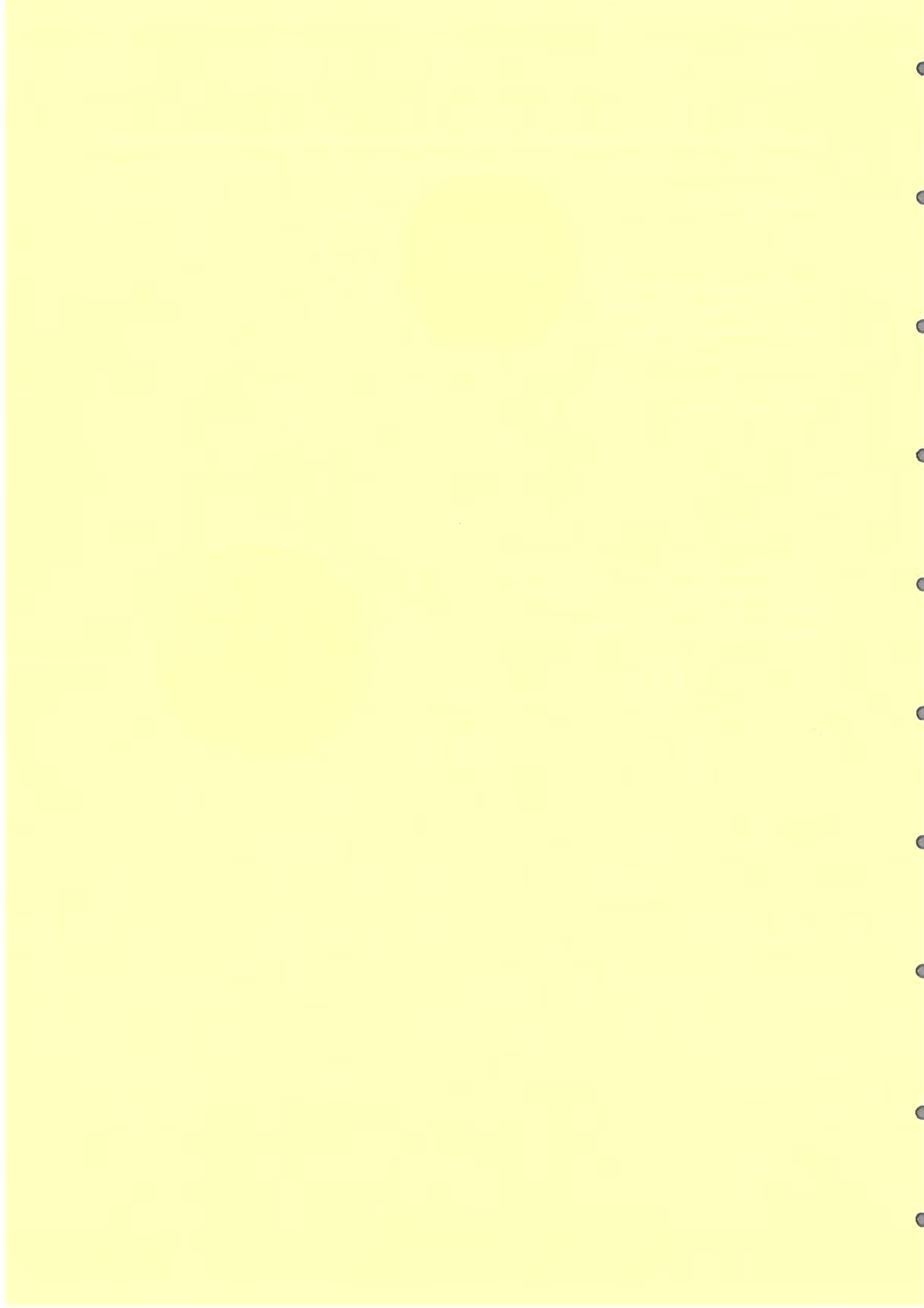
.....
Authorised officer

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

)
)
)
)

.....
Duly Authorised Officer





WYG Planning
1 Angel Court
London
EC2R 7HJ

Application Ref: **2018/1869/P**

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:

**144 Russell Mansions
Southampton Row
London
WC1B 5AJ**

Proposal:

DECISION
Variation of condition 3 (approved plans) and removal of condition 4 (tree protection measures) of planning permission 2015/5605/P dated 14/04/2016 (Internal and external alterations to lower ground floor commercial unit in association with proposed change of use from B1 to C3 to create a new residential dwelling) namely to alter the approved excavation and landscaping works to the rear of the site.

Drawing Nos: SR/PL06 A, SR/PL05 A, SR/PL04 A, SR/PL03, SR/PL02 A, SR/PL01 A, SR144-0215-001, Design & Access Statement, Location Plan, Daylight Sunlight Report, Disposal Appraisal.

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 the original permission reference 2015/5605/P dated 14/04/2016.

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 CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans SR/PL06 A, SR/PL05 A, SR/PL04 A, SR/PL03, SR/PL02 A, SR/PL01 A, SR144-0215-001, Design & Access Statement, Location Plan, Daylight Sunlight Report, Disposal Appraisal.

Reason:

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

Informative(s):

- 1 Reasons for granting permission.

The previously approved scheme (2015/5605/P) at the site proposed the partial demolition of the retaining wall in the rear garden area and excavation works to create a larger patio area for the future occupants of the new 1 bed dwelling. The current application seeks to amend this element of the approved scheme and retain the garden wall in its existing position, thus removing the need for any excavation works at the site.

The amended rear patio area would still provide some outdoor space for the occupants of the new dwelling whilst also providing cycle storage space to the rear of the site. The proposal is therefore considered acceptable in terms of its impact on the character and appearance of the host building and surrounding conservation area and would continue to provide a good standard of living accommodation for any future occupiers of the 1 bed dwelling.

Due to the proximity of the proposed excavation works to an existing mature tree at the site, the previous approval secured tree protection details by condition, however; as the approved excavation works are no longer proposed, officers do not require tree protection measures to be submitted and approved. The removal of condition 4 (tree protection measures) of permission 2015/5605/P is therefore considered acceptable.

The full impact of the scheme has already been assessed by virtue of the previous approval granted under permission 2015/5605/P dated 14/04/2016. In the context of the permitted scheme, it is considered that the amendments would not have a significant effect on the approved development in terms of appearance and neighbouring amenity.

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 (ERR) 2013.

No objections were received following statutory consultation. The site's planning history and relevant appeal decisions were taken into account when coming to this decision.

As such, the proposal is in general accordance with policies A1, A3, D1, D2 and T1 of the Camden Local Plan 2017. The proposed development also accords with the policies of the London Plan 2016 and National Planning Policy Framework.

- 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 Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> 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 which 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, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 4 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.

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

Yours faithfully

Supporting Communities Directorate

DRAFT

DECISION

WYG Planning
1 Angel Court
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EC2R 7HJ

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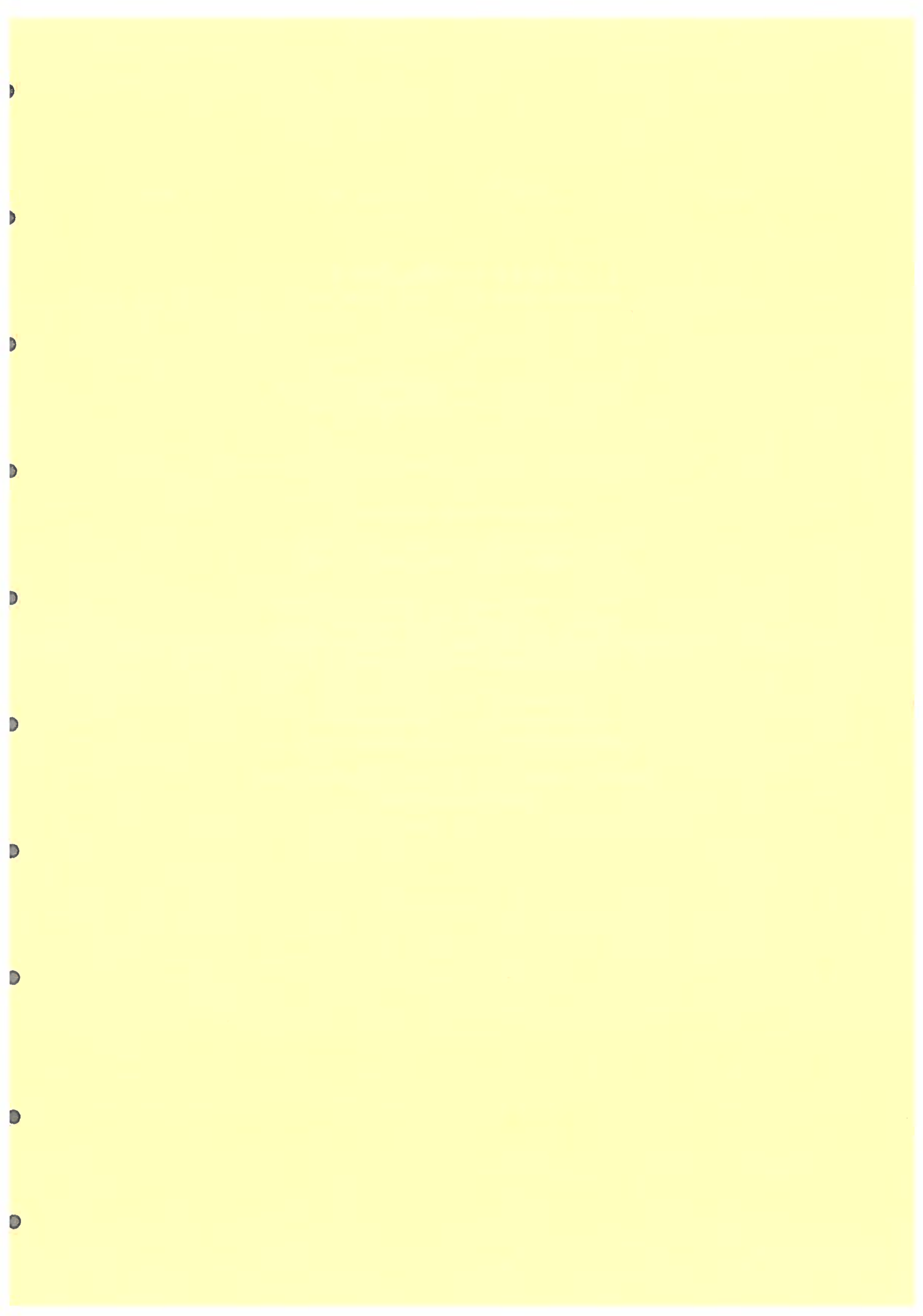
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Yours faithfully

Supporting Communities Directorate

DRAFT

DECISION



DATED

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