

DATED 21 December 2018

(1) DAN SAMRA

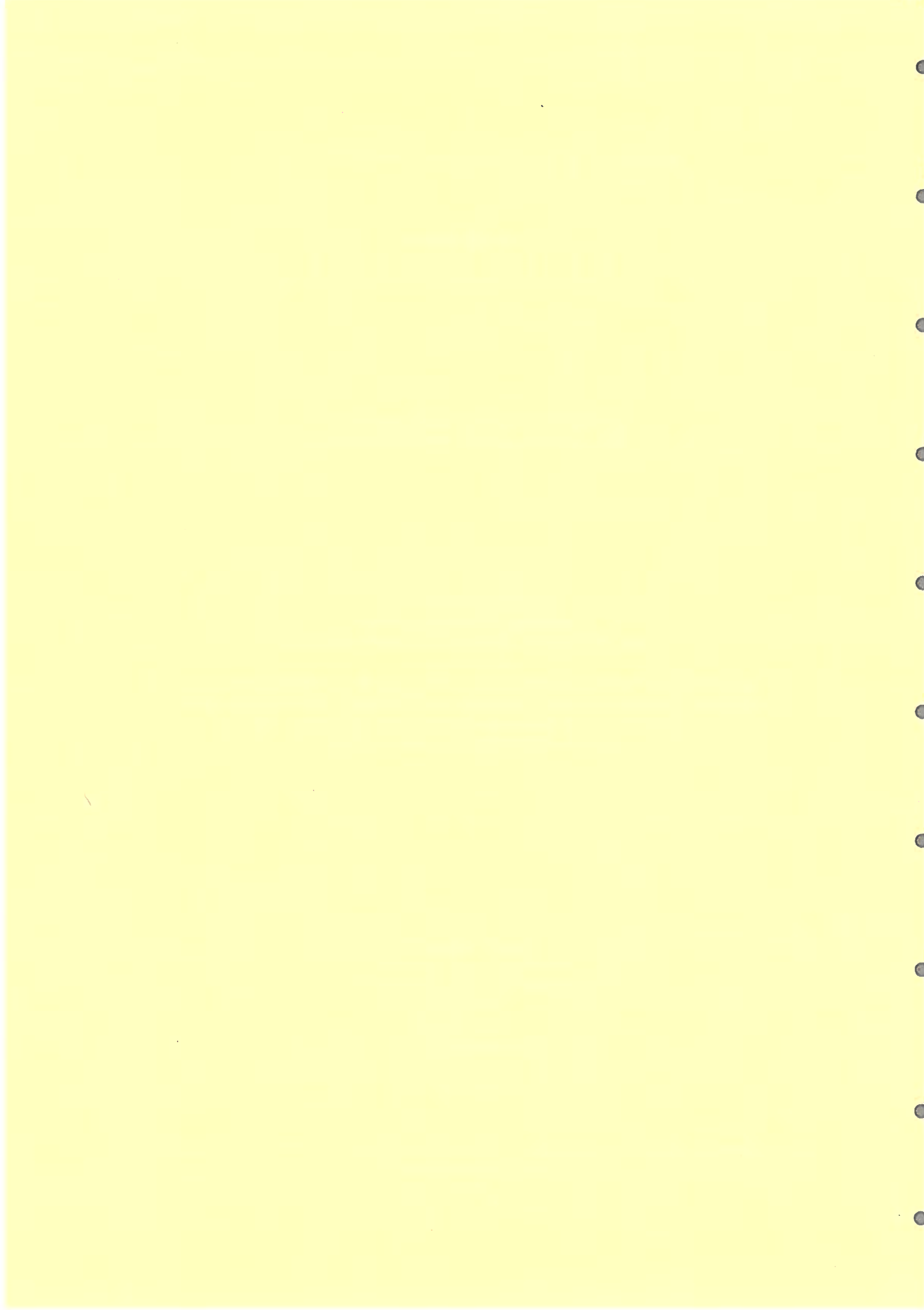
and

(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
108 FITZJOHNS AVENUE LONDON NW3 6NT
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 21 day of December 2018

B E T W E E N:

A. **DAN SAMRA** of Basement Flat, 108 Fitzjohns Avenue, London, NW3 6NT and 11 Abbey View, London, NW7 4PB (hereinafter called "the Owner") of the first part

B. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second part

1. **WHEREAS**

1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number NGL481672 and is registered as the leasehold proprietor with Title Absolute of the Property under Title Number NGL746645.

1.2 The Owner is the freehold and leasehold 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 15 October 2018 and the Council resolved to grant permission conditionally under reference number 2018/5027/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 2 bed unit at lower and ground floor levels to provide 1 x 2bed unit at lower ground floor and 1 x 2bed unit at ground floor; erection of rear bay extension and lower ground floor extension providing additional floorspace to existing lower, ground and first units, enlarge rear dormer, roof terrace and associated elevational and landscaping alterations. as shown on drawing numbers:- Site Plan, (Existing) 11192/ 01, 11192/ 02, 11192/ 03, 11192/ 04; (Proposed) 11192/ 05A, 11192/ 6A, 11192/ 07, 11192/ 08A.
2.4	"the Nominated Units"	Flat 5 (Second Floor Studio) and Flat 7 (Third Floor Studio), forming part of the Development the same as shaded in purple on the drawing numbered 11192/06 annexed hereto
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 and the Owner
2.8	"the Planning Application"	a planning application in respect of the development of the Property submitted to the Council and validated on 15 October 2018 for which a resolution to grant permission has been passed conditionally under reference number 2018/5027/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	"the Property"	the land known as 108 Fitzjohns Avenue London NW3 6NT the same as shown shaded grey on the plan annexed hereto
2.12	"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
2.13	"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, 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 and 4.2 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

- 4.1 To ensure that prior to occupying the Nominated Units (being part of the Development) each new occupier of the Nominated Units 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) the Nominated Units (being part of the Development) at any time during which the occupier of the Nominated Units 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 2018/5027/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 2018/5027/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 which it no longer has an interest in the Property but without prejudice to liability for any breach committed prior to the time it disposed of its interest.

6.7 For the avoidance of doubt the provisions of this Agreement (other than those contained in this sub-clause) shall not have any effect until this Agreement has been dated.

6.8 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of Development this Agreement shall forthwith determine and cease to have effect.

7. RIGHTS OF THIRD PARTIES

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

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

**EXECUTED AS A DEED BY
DAN SAMRA
in the presence of:**

)
) 
)

.....
Witness Signature

Witness Name: GHAZEMEND HAZIRI

Address: FLAT 16 PARK PARADE MANSION

NEW 62J
Occupation: BUILDERS

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



S. Alexander
.....

Authorised Signatory

Anna Rollman
108 Fitzjohn's Avenue
London
NW3 6NT

Application Ref: **2018/5027/P**

10 December 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:
**108 Fitzjohn's Avenue
London
NW3 6NT**

Proposal:

Conversion of existing 2 bed unit at lower and ground floor levels to provide 1 x 2bed unit at lower ground floor and 1 x 2bed unit at ground floor, erection of rear bay extension and lower ground floor extension providing additional floorspace to existing lower, ground and first units, enlarge rear dormer, roof terrace and associated elevational and landscaping alterations.

Drawing Nos: Site Plan, (Existing) 11192/ 01, 11192/ 02, 11192/ 03, 11192/ 04; (Proposed) 11192/ 05A, 11192/ 6A, 11192/ 07, 11192/ 08A.

The Council has considered your application and decided to grant permission subject to the conditions and informatives (if applicable) listed below **AND** subject to the successful conclusion of a Section 106 Legal Agreement.

The matter has been referred to the Council's Legal Department and you will be contacted shortly. If you wish to discuss the matter please contact **Aidan Brookes** in the Legal Department on **020 7 974 1947**.

Once the Legal Agreement has been concluded, the formal decision letter will be sent to you.

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

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

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans (Site Plan, (Existing) 11192/ 01, 11192/ 02, 11192/ 03, 11192/ 04; (Proposed) 11192/ 05A, 11192/ 6A, 11192/ 07, 11192/ 08A).

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

- 4 The dwelling hereby approved shall be designed in accordance with Building Regulations Part M4 (2); evidence demonstrating compliance should be submitted to and approved by the Local Planning Authority prior to occupation.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 of the London Borough of Camden Local Development Framework Development Policies.

- 5 All trees on the site, or parts of trees growing from adjoining sites shall be retained and protected from damage and follow guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction".

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policies A2 and A3 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 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).

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

3 Reasons for granting permission:

The site comprises a three-storey (plus basement) building, with dormers at roof level that is currently sub-divided into 7 flats.

The proposal would see the conversion of the 2 bedroom flat (123sqm) at lower ground and ground floor level to provide a 1 x 2bed flat (97sqm) at lower ground floor and 1 x 2bed flat at ground floor level (69sqm), along with the associated alterations and extensions.

The net loss of an overly large 2 bedroom flat to provide 2 new units that themselves would comply with the recommended guidelines contained within the London Plan is considered appropriate and compliant with Policy H3. Compliance with M4 (2) would be secured by condition.

The proposed uplift would be less than 100sqm, Policy H4 would not therefore apply in this instance.

The flats would enjoy dual aspect outlook, in addition to plenty of openings providing good levels of natural light and ventilation.

The brick rear extensions, although centrally located rather than off centre, are considered consistent with the local townscape and is similar in terms of size to the neighbouring implemented extension at No.110. Both the ground floor and upper floor elements would comply with CPG Design. The alterations to the dormers, again considered consistent with the local townscape, would match that of neighbouring No.106. The replacement railings are considered an improvement in terms of design. Within this context, the proposal would preserve the character and appearance of the building and conservation area and fall in line with the objectives of Policy DH1 of the Hampstead Neighbourhood Plan.

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 Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

The proposed alterations and in particular the rear extensions, by virtue of their size, scale and position set away from the boundaries and away from neighbouring windows involves limited external alterations that are not considered to cause detrimental harm to neighbouring amenity in terms of daylight, outlook or loss of privacy. The replacement railings would not afford any greater overlooking or noise disturbance that the existing arrangement.

The development shall be car-free, secured by way of a S106 planning obligation. Each unit, by virtue of their size are capable of hosting suitable cycle storage. Due to the congestion and proximity to schools, this permission shall be secured via an S106 planning obligation with a Construction Management Plan.

The rearward extension would not project near any mature trees, nor would the proposal require their removal. A condition shall however be attached to ensure suitable protection measures are secured.

Along with the planning history of the site, all matters were taken into account when coming to this decision.

As such, the proposed development is in general accordance with policies H3, H7, A1, CC1, CC2, T1, T2 of the London Borough of Camden Local Plan 2017, the Hampstead Neighbourhood Plan 2018, London Plan 2016, and the National Planning Policy Framework 2018.

- 4 This proposal may be liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL. Both CILs are collected by Camden Council after a liable scheme has started, and could be subject to surcharges for failure to assume liability or submit a commencement notice PRIOR to commencement. We issue formal CIL liability notices setting out how much you may have to pay once a liable party has been established. CIL payments will be subject to indexation in line with construction costs index. You can visit our planning website at www.camden.gov.uk/cil for more information, including guidance on your liability, charges, how to pay and who to contact for more advice.
- 5 Your proposals may be subject to control under the Party Wall etc Act 1996 which covers party wall matters, boundary walls and excavations near neighbouring buildings. You are advised to consult a suitably qualified and experienced Building Engineer.
- 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.

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.

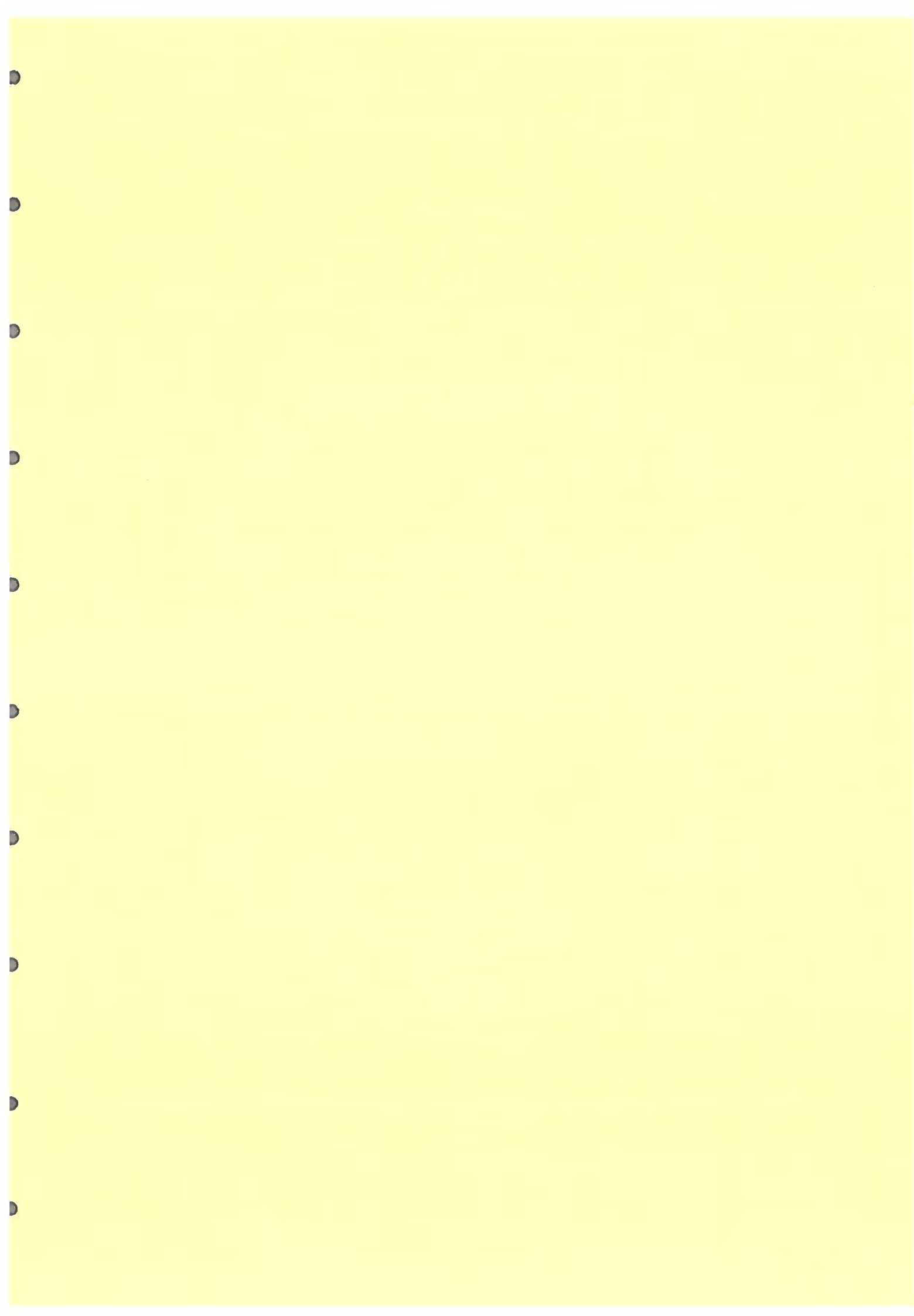
Yours faithfully

Supporting Communities Directorate

NORTHGATE SE GIS Print Template



This material has been reproduced from Ordnance Survey digital map data with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright.



DATED 21 December 2018

(1) DAN SAMRA

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
108 FITZJOHNS AVENUE LONDON NW3 6NT
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

G:\case files\culture & env\planning\Lauren Dunnill\s106 Agreements\Flat 108 Fitzjohns Avenue (CF)
CLS/COM/LD/1800.941
Final