

DATED 15 January 2018

(1) DENISE SONNENTHAL and MICHAEL SONNENTHAL

and

(2) METRO BANK PLC

and

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

**AGREEMENT**  
relating to land known as

**4 Frognal Rise  
London  
NW3 6RD**

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

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

Tel: 020 7974 5647  
Fax: 020 7974 2962

CLS/PK/1800.222 (final)

- 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 As local highway authority the Council considers the Highways Works to be carried out pursuant to this section 278 agreement to be in the public benefit.
- 1.7 The Mortgagee as mortgagee under a legal charge registered under title number NGL155063 and dated 28 April 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 | "this Agreement"                          | this planning obligation made pursuant to Section 106 of the Act   |
| 2.3 | "the Burland Category of Damage"          | an industry recognised category of structural damage as specified at para 3.25 of Camden Planning Guidance 4: Basements and lightwells (as may be amended from time to time) and shown at the Fourth Schedule annexed hereto |
| 2.4 | "the Certificate of Practical Completion" | the certificate issued by the Owner's contractor architect or project manager certifying that the Development has been completed   |
| 2.5 | "Construction Management Plan"            | a plan setting out the measures that the Owner will adopt in undertaking the construction of the Development using good site practices in accordance with the Council's Considerate Contractor Manual and                    |

- (vi) identifying means of ensuring the provision of information to the Council and provision of a mechanism for monitoring and reviewing as required from time to time

- 2.6 "Construction Management Plan Implementation Support Contribution" the sum of £1,140 (one thousand one and forty pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt for the review and approval of the draft Construction Management Plan and verification of the proper operation of the approved Construction Management Plan during the Construction Phase
- 2.7 "the Construction Phase" the whole period between
- (i) the Implementation Date and
  - (ii) the date of issue of the Certificate of Practical Completion
- 2.8 "the Council's Considerate Contractor Manual" the document produced by the Council from time to time entitled "Guide for Contractors Working in Camden" relating to the good practice for developers engaged in building activities in the London Borough of Camden
- 2.9 "the Development" erection of part two storey part first floor side and rear extension, excavation of a new basement level and front lightwell, alterations to front boundary wall and front forecourt area, including new bicycle and bin store all in connection with the existing single family dwellinghouse (Class C3 use) as shown on drawing numbers LOC (Site location and viewpoints); P 001; P 002; P 003 A; P 011; P 012 A; P 013 A; P 014; P 015

construction commensurate with the Development ("the Basement Design Engineer") and for details of the appointment to be submitted to the council for written approval in advance (and for the Owner to confirm that any change in Basement Design Engineer during the Construction Phase with the Council in advance of any appointment); and,

- (ii) the Basement Design Engineer to formulate the appropriate plan to fulfil the requirements of the Detailed Construction Basement Plan and at all times to ensure the following:-
  - (a) that the design plans have been undertaken in strict accordance with the terms of this Agreement incorporating proper design and review input into the detailed design phase of the Development and ensuring that appropriately conservative modelling relating to the local ground conditions and local water environment and structural condition of Neighbouring Properties have been incorporated into the final design;
  - (b) that the result of these appropriately conservative figures ensure that that the Development will be undertaken without any impact on the structural integrity of the Neighbouring Properties beyond "Slight" with reference to the Burland Category of Damage; and
  - (c) that the Basement Design Engineer having confirmed that the design plans have been undertaken in strict

structural condition of Neighbouring Properties prepared by the Basement Design Engineer for all elements of the groundworks and basement authorised by the Planning Permission together with specifications and supporting calculations for both the temporary and permanent basement construction works;

4. the Basement Design Engineer to be retained at the Property throughout the Construction Phase to inspect approve and undertaking regular monitoring of both permanent and temporary basement construction works throughout their duration and to ensure compliance with the plans and drawings as approved by the building control body;
5. measures to ensure the on-going maintenance and upkeep of the basement forming part of the Development and any and all associated drainage and/or ground water diversion measures order to maintain structural stability of the Property the Neighbouring Properties and the local water environment (surface and groundwater);
6. measures to ensure ground water monitoring equipment shall be



clauses 1 – 7 (inclusive) above and are sufficient to achieve the objectives of the Detailed Basement Construction Plan AND should any omissions, errors or discrepancies be raised by the Certifying Engineer then these to be clearly outlined in the report and thereafter be raised directly with the Basement Design Engineer with a view to addressing these matters in the revised design plans;

- (v) only thereafter shall the Owner submit the agreed finalised version of the Detailed Basement Construction Plan to the Council for its written approval with a letter of professional certification from the Certifying Engineer confirming that the Detailed Basement Construction Plan is an approved form and has been formulated in strict accordance with the terms and clauses of this Agreement.
- (vi) the Owner to respond to any further questions and requests for further information about the submitted plan from the Council and in the event that a further technical assessment be required then the Owner agrees to reimburse the Council for any costs expended which requires the instruction of an independent assessment in order to resolve any unresolved issues or technical deficiencies in the Council's consideration of the submitted plan

2.11 "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

- 2.17 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 12 October 2015 for which a resolution to grant permission has been passed conditionally under reference number 2015/3525/P subject to conclusion of this Agreement
- 2.18 "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
- 2.19 "the Planning Permission" a planning permission granted for the Development substantially in the draft form at the Second Schedule annexed hereto
- 2.20 "the Property" the land known as 4 Frognal Rise, London, NW3 6RD the same as shown edged red on the plan at the Third Schedule annexed hereto
- 2.21 "the Public Highway" any carriageway footway and/or verge adjoining the Property maintainable at public expense

**NOW THIS DEED WITNESSETH** as follows:-

- 3.1 This Agreement is made in pursuance of Section 106 of the Act, 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 and Section 278 of the Highways Act 1980 and is a planning obligation for the purposes of Section 106 of the Act as aforesaid and shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.

4.1.3 The Owner acknowledges and agrees that the Council will not approve the Construction Management Plan unless it demonstrates to the Council's reasonable satisfaction that the Construction Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network.

4.1.4 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the Construction Management Plan and not to permit the carrying out of any works comprised in demolition or building out the Development at any time when the requirements of the Construction Management Plan are not being complied with and in the event of non-compliance with this sub-clause the Owner shall forthwith take any steps required to remedy such non-compliance.

#### **4.2 DETAILED BASEMENT CONSTRUCTION PLAN**

4.2.1 On or prior to the Implementation Date to provide the Council for approval the Detailed Basement Construction Plan.

4.2.2 Not to Implement nor allow Implementation of the Development until such time as the Council has approved the Detailed Basement Construction Plan as demonstrated by written notice to that effect.

4.2.3 The Owner acknowledges and agrees that the Council will not approve the Detailed Basement Construction Plan unless it demonstrates by way of certification by the suitably qualified engineers from recognised relevant professional body to the Council's reasonable satisfaction that the Development can be constructed safely in light of the ground and water conditions and will not cause any structural problems with neighbouring properties nor the Development itself.

4.2.4 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the Detailed Basement Construction Plan and not to permit the carrying out of any works comprised in building out the Development at any time when the requirements of the Detailed Basement Construction Plan are not being complied with and in the event of non-compliance with this sub-clause the Owner shall upon notice from the Council forthwith take any steps required to remedy such non-compliance.



**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 2015/3525/P the date upon which the Development is 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 indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.
- 5.5 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its Borough Solicitor 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 to the Council 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 to the Planning Obligations Monitoring

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:-

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 2015/3525/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 on written demand 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,

10. **JURISDICTION**

This Agreement is governed by and interpreted in accordance with the law of England and the Parties agree that the courts of England shall have jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

**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

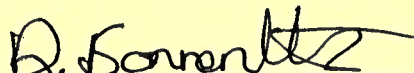
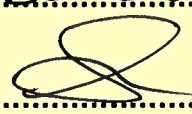
**EXECUTED AS A DEED BY  
DENISE SONNENTHAL  
in the presence of:**

**Witness Signature:**

**Witness Name: (CAPITALS)**

**Address:**

**Occupation:**

)   
) .....  
)   
) .....  
) SUSANA FIGUEIREDO  
) .....  
) 60 BRAYGROVE RD  
) .....  
) LONDON HA8 6JA  
) .....  
) ASSISTANT MANAGER  
) .....



**EXECUTED AS A DEED BY  
MICHAEL SONNENTHAL  
in the presence of:**

**Witness Signature:**

**Witness Name: (CAPITALS)**

**Address:**

**Occupation:**

)   
) .....  
)   
) .....  
) SUSANA FIGUEIREDO  
) .....  
) 60 BRAYGROVE RD  
) .....  
) LONDON HA8 6JA  
) .....  
) ASSISTANT MANAGER  
) .....

## **THE FIRST SCHEDULE**

### **Pro Forma Construction Management Plan**

The Council has produced a pro-forma Construction Management Plan that can be used to prepare and submit a Construction Management Plan to meet technical highway and environmental health requirements. This document should be prepared, submitted and receive approval from the Council well in advance of works starting.

The pro-forma Construction Management Plan can be found on the Council's website at:-

<https://www.camden.gov.uk/ccm/content/environment/planning-and-built-environment/two/planning-applications/making-an-application/supporting-documentation/planning-obligations-section-106/>

Please use the Minimum Requirements (also available at the link above) as guidance for what is required in the CMP and then download the Construction Management Plan

**It should be noted that any agreed Construction Management Plan does not prejudice further agreement that may be required for things such as road closures or hoarding licences**

**THE SECOND SCHEDULE**

**DRAFT PLANNING PERMISSION**



Stephen Brandes Architects  
5 Spedan Close  
London  
NW3 7XF  
United Kingdom

Application Ref: **2015/3525/P**

27 July 2018

Dear Sir/Madam

**DRAFT**  
**FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION**  
Town and Country Planning Act 1990 (as amended)

**DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT**

Address:  
**4 Frognal Rise**  
**London**  
**NW3 6RD**

**Proposal:**

**DECISION**  
Erection of part two storey part first floor side and rear extension, excavation of a new basement level and front lightwell, alterations to front boundary wall and front forecourt area, including new bicycle and bin store all in connect with the existing single family dwellinghouse (Class C3 use).

Drawing Nos: LOC (Site location and viewpoints); P 001; P 002; P 003 A; P 011; P 012 A; P 013 A; P 014; P 015 A; Structural Engineering Report and Subterranean Construction Method Statement produced by Elliott Wood Partnership dated June 2015; Ground Investigation Report produced by K F Geotechnical dated 12 March 2015; Site Investigation and Basement Impact Assessment produced by GEA Ltd dated June 2015; Ground Movement Assessment Report dated May 2016; Tree Survey, Arboricultural Impact Assessment and Tree Protection Plan produced by Martin Dobson dated 5th June 2015; Construction Management Plan produced by Motion; Archaeological Assessment produced by Britannia dated January 2015

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.

- 5 Prior to the commencement of any works on site, details demonstrating how trees to be retained shall be protected during construction work shall be submitted to and approved by the Council in writing. Such details shall follow guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction". All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the approved protection details. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

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 A1 and A3 of the Camden Local Plan Submission 2017.

- 6 No demolition or development shall take place until a stage 1 written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.

If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which has archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:

A. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works

B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

Reason: In order to minimise damage to the important archaeological remains which exist on this site, in accordance with the requirements of policy D2 of the Camden Local Plan 2017.

- 12 Prior to the end of the next available planting season, replacement tree planting shall be carried out in accordance with details of replanting species, position, date and size, where applicable, that have first been submitted to and approved by the local planning authority in writing.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area, in accordance with the requirements of policies A1 and A3 of the Camden Local Plan 2017.

- 13 No development shall take place until full details of hard and soft landscaping and means of enclosure of all un-built, open areas have been submitted to and approved by the Council. Such details shall include:
1. scaled plans showing all existing and proposed vegetation and landscape features
  2. a schedule detailing species, sizes, and planting densities
  3. location, type and materials to be used for hard landscaping and boundary treatments
  4. specifications for replacement trees (and tree pits where applicable), taking into account the standards set out in BS5845:2014.
  5. details of any proposed earthworks including grading, mounding and other changes in ground levels.
  6. a management plan including an initial scheme of maintenance

The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To enable the Council to ensure a reasonable standard of visual amenity in the scheme in accordance with the requirements of policies A1 and A3 of the Camden Local Plan 2017.

Informative(s):

- 1 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).
- 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.

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

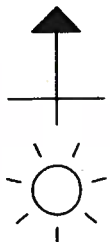
**DRAFT**

**DECISION**

**THE THIRD SCHEDULE**

**PLAN OF THE PROPERTY**





SITE LOCATION & VIEWPOINTS  
4 FROGNAL RISE NW3 6RD  
STEPHEN BRANDES ARCHITECTS  
MAY 2015  
SCALE 1:500  
550 LOC

0 10 20 30 50m 100m

## THE FOURTH SCHEDULE

### The Burland Category of Damage

Category of damage	Description of typical damage	Approximate crack width (mm)	Limiting tensile strain $\epsilon_{lim}$ (per cent)
0 Negligible	Hairline cracks of less than about 0.1 mm are classed as negligible	<0.1	0.0-0.05
1 Very slight	Fine cracks that can easily be treated during normal decoration. Perhaps isolated slight fracture in building. Cracks in external brickwork visible on inspection	<1	0.05-0.075
2 Slight	Cracks easily filled. Redecoration probably required. Several slight fractures showing inside of building. Cracks are visible externally and some repointing may be required externally to ensure weathertightness. Doors and windows may stick slightly.	<5	0.075-0.15
3 Moderate	The cracks require some opening up and can be patched by a mason. Recurrent cracks can be masked by suitable lining. Repointing of external brickwork and possibly a small amount of brickwork to be replaced. Doors and windows sticking. Service pipes may fracture. Weathertightness often impaired.	5-15 or a number of cracks > 3	0.15-0.3
4 Severe	Extensive repair work involving breaking-out and replacing sections of walls, especially over doors and windows. Windows and frames distorted, floor sloping noticeably. Walls leaning or bulging noticeably, some loss of bearing in beams. Service pipes disrupted.	15-25 but also depends on number of cracks	>0.3
5 Very severe	This requires a major repair involving partial or complete rebuilding. Beams lose bearings, walls lean badly and require shoring. Windows broken with distortion. Danger of instability.	Usually > 25 but depends on number of cracks	

Damage Category Chart (CIRIA C580)

Extract from para 2.30 of the Camden Planning Guidance 4: Basements and Lightwells

