

DATED 23 November 2018

(1) DAVID GRAHAM BRAY

and

(2) AVIVA EQUITY RELEASE UK LIMITED

and

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

**A G R E E M E N T**

relating to land known as

22 SOUTH PARK HILL GARDENS, HAMPSTEAD, LONDON, NW3 2TG

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;

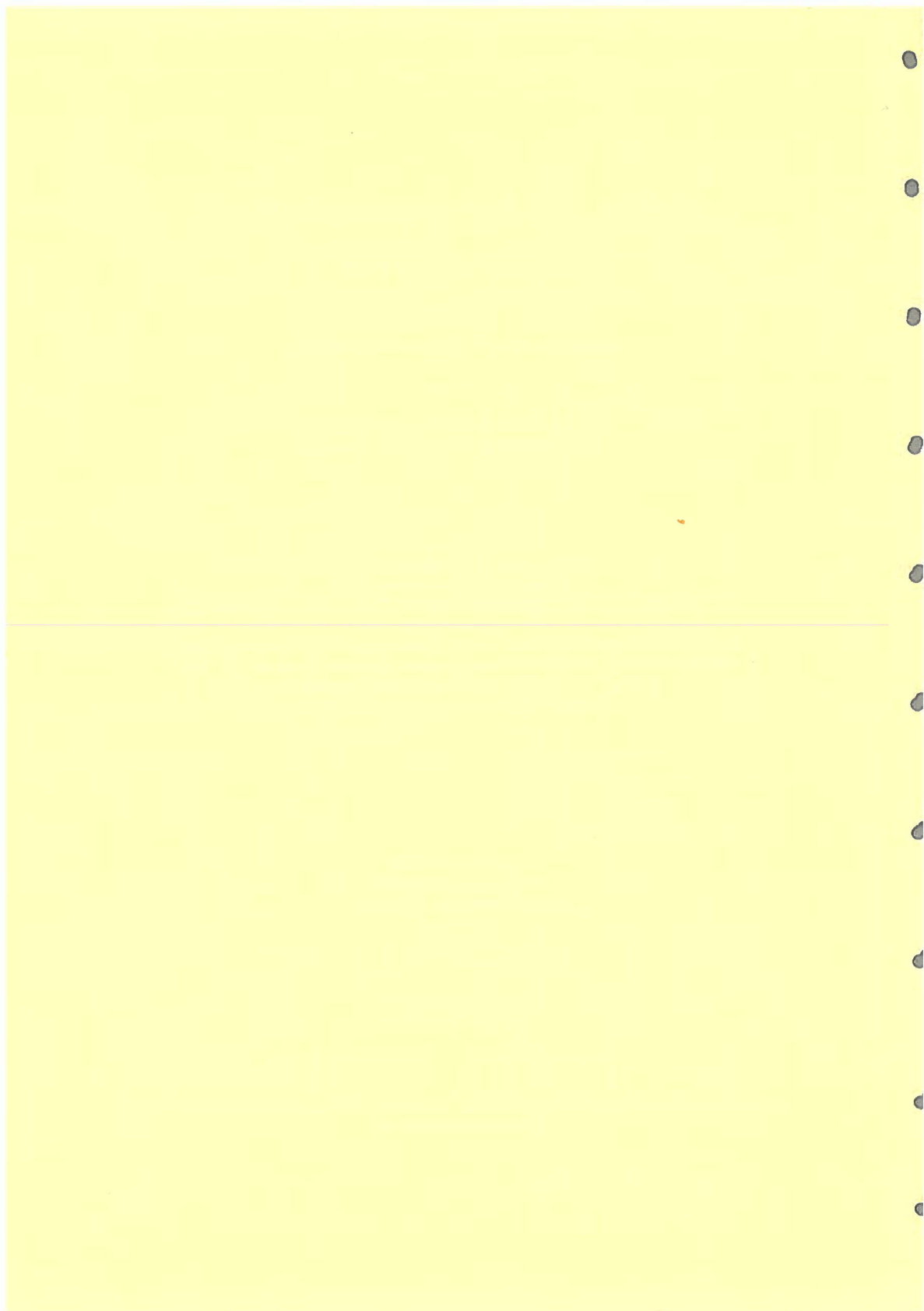
Section 111 of the Local Government Act 1972; and

Section 1(1) of the Localism Act 2011

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

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G:\case files\culture & env\planning\NS\s106 Agreements\22SouthHillParkgardens (CF)  
CLS/COM/NS/1800.524



**THIS AGREEMENT** is made the 23<sup>rd</sup> day of November 2018

**BETWEEN:**

- i. **DAVID GRAHAM BRAY** of Gable House 239 Regents Park Road Finchley London as the interim executor of the estate of the deceased **EMMA BARBARA CARTLIDGE** of 22 South Hill Park, Hampstead, London, NW3 2TG (hereinafter called "theExecutor") of the first part
- ii. **AVIVA EQUITY RELEASE UK LIMITED** (Co. Regn. No. 3286484) of P.O. Box 520, Surrey Street, Norwich NR1 3WG (hereinafter called "the Mortgagee") of the second part
- iii. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third part

**1. WHEREAS**

- 1.1 The deceased Emma Barbara Cartlidge was registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number 408435 subject to a charge to the Mortgagee, and was the freehold owner of and was interested in the Property for the purposes of Section 106 of the Act.
- 1.2 The Executor is the interim executor of the estate of the deceased Emma Barbara Cartlidge by virtue of the Grant of Probate dated 2 October 2018 and has the authority to manage, exploit and improve the Property under the Grant of Probate, and pursuant to such authority are 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 6<sup>th</sup> October 2017 and the Council resolved to grant permission conditionally under reference number 2017/5156/P subject to conclusion of this legal Agreement.

- 1.4 The Council is the local planning authority for the purposes of the Act 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 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.
- 1.6 For that purpose the Executor is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.7 The Mortgagee as mortgagee under a legal charge registered under Title Number 408435 and dated 11<sup>th</sup> December 2012 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" | erection of single storey rear extension; conversion of 1x2-bed unit into 2x1-bed units (C3) and associated external alterations including the conversion of two rear first floor windows into french doors with juliet balconies. as shown on drawing numbers:- 00L; 000 (Rev P); 001 (Rev P); 002 (Rev P); 003 (Rev P); 021 (Rev P); 042 (Rev P); 100 (Rev P); 103; 201 (Rev P); 302 (Rev P); 601; 602; Planning Statement (dated |



September 2017); Design & Access Statement  
(prepared by CSA, dated 14.09.2017)

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 "the Nominated Unit"

Proposed first floor Flat C forming part of the development, the same as edged in Red and numbered 103P on the drawing annexed hereto

2.6 "Occupation Date"

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

2.7 "the Parties"

mean the Council, the Executor and the Mortgagee

2.8 "the Planning Application"

a planning application in respect of the development of the Property submitted to the Council and validated on 6<sup>th</sup> October 2017 for which a resolution to grant permission has been passed conditionally under reference number 2017/5156/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 22 South Hill Park Gardens, Hampstead, London, NW3 2TG 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

3. **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 shall be enforceable by the Council against the Executor as provided herein and against any person deriving title to any part of the Property from the Executor 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 or 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 Executor 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 for all relevant purposes.

4. **OBLIGATIONS OF THE EXECUTOR**

The Executor hereby covenants with the Council as follows:-

4.1 **Car Free**

- 4.1.1 To ensure that prior to occupying any Nominated Unit (being part of the Development) each new occupier of the Development is informed by the Executor 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.

- 4.1.2 Not to occupy or use (or permit the occupation or use of) any Nominated Unit (being part of the Development) at any time during which the occupier of the Nominated 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).
- 4.1.3 The Executor for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1.1 and 4.1.2 in this Agreement shall continue to have effect in perpetuity.
- 4.1.4 On or prior to the Occupation Date the Executor 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 Executor's opinion are affected by the Executor's obligation in Clause 4.1.1 and 4.1.2 of this Agreement.

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

- 5.1 The Executor shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Planning Permission has taken or is about to take place.
- 5.2 Within seven days following completion of the Development the Executor shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting the Planning Permission reference 2017/5156/P the date upon which the Development is ready for Occupation.
- 5.3 The Executor 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 Executor 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 Executor's possession (at the Executor's expense) for the purposes of monitoring compliance with the obligations contained herein.



- 5.4 The Executor 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 Executor 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 Executor in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its Head of Legal Services a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.
- 5.6 Submission of any plan for approval by the Council under the terms of this Agreement shall be made by the Executor to the Council sending the full document and any appendices in electronic format (where practicable) to the Planning Obligations Monitoring Officer referring to the names dates and Parties to this Agreement and citing the specific clause of this Agreement to which such plan relates quoting the Planning Permission reference 2017/5156/P.
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, Placeshaping Service, Urban Design and Development Team, 2nd Floor, 5 Pancras Square, London, N1C 4AJ quoting the Planning Permission reference number 2017/5156/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 Executor 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 Executor 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, 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 Executor 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 Executor entering into this Agreement and agrees that the security of its charges over the Property shall take effect subject to this Agreement.

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 Executor.

8. **JOINT AND SEVERAL LIABILITY**

8.1 All Covenants made by the Executor and the Mortgagee 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 Executor and the Mortgagee have executed this instrument as their Deed the day and year first before written

**EXECUTED AS A DEED BY**  
**DAVID GRAHAM BRAY** )  
**in the presence of:** )



.....  
**Witness Signature**

**Witness Name**

**Address**



an  
ark Road

**Occupation**

**CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO 22 SOUTH PARK  
HILL GARDENS, HAMPSTEAD, LONDON, NW3 2TG**

**EXECUTED as a Deed )  
By AVIVA EQUITY RELEASE UK LIMITED )  
by [REDACTED] )  
in the presence of:- )**

**[REDACTED] .....**

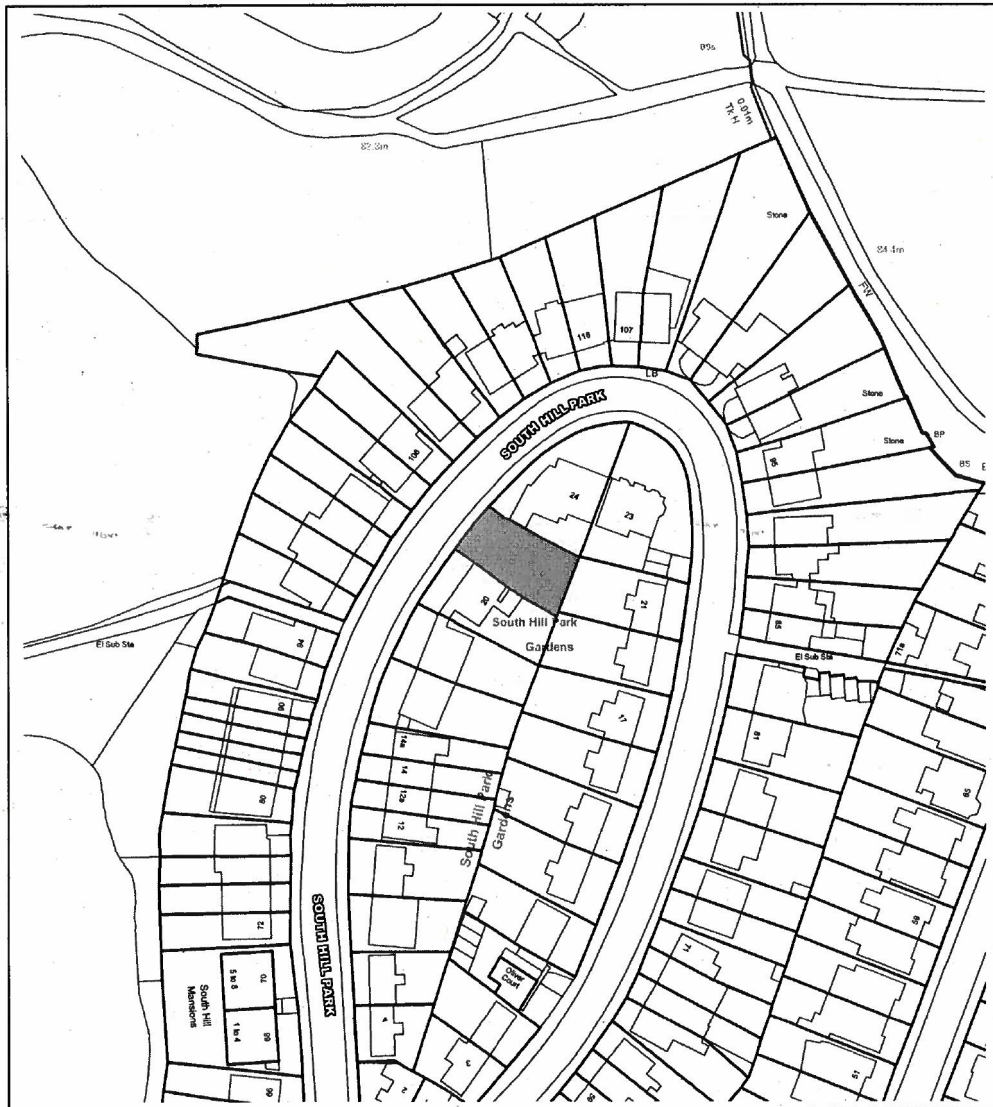
**THE COMMON SEAL OF THE MAYOR )  
AND BURGESSES OF THE LONDON )  
BOROUGH OF CAMDEN was hereunto )  
Affixed by Order:- )**

**[REDACTED] .....**

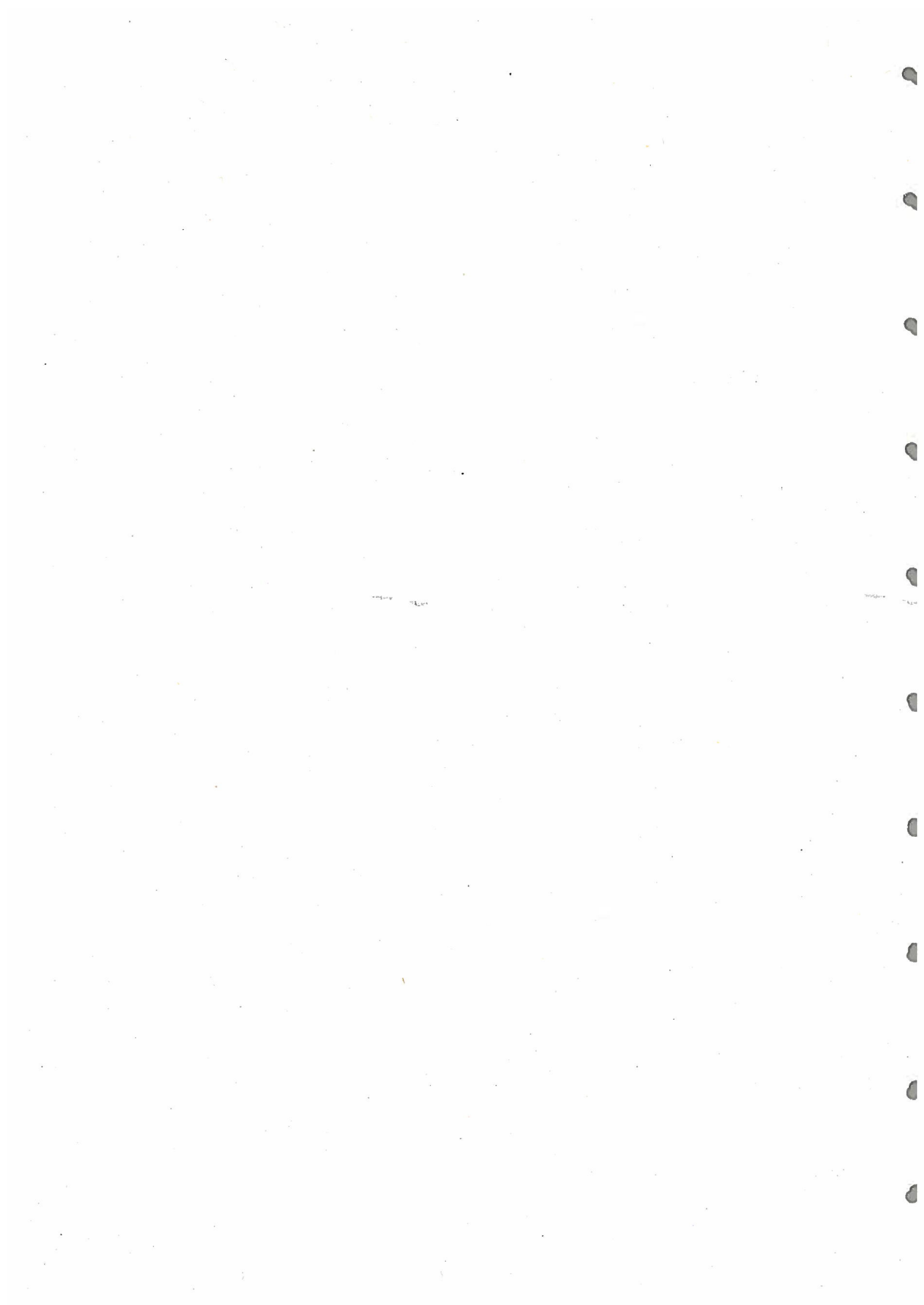
**Authorised Signatory**

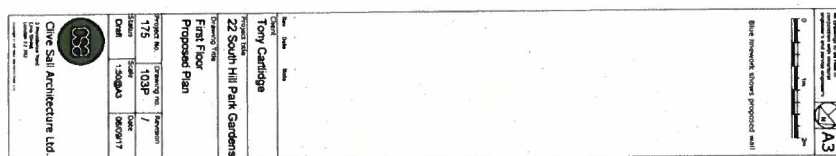
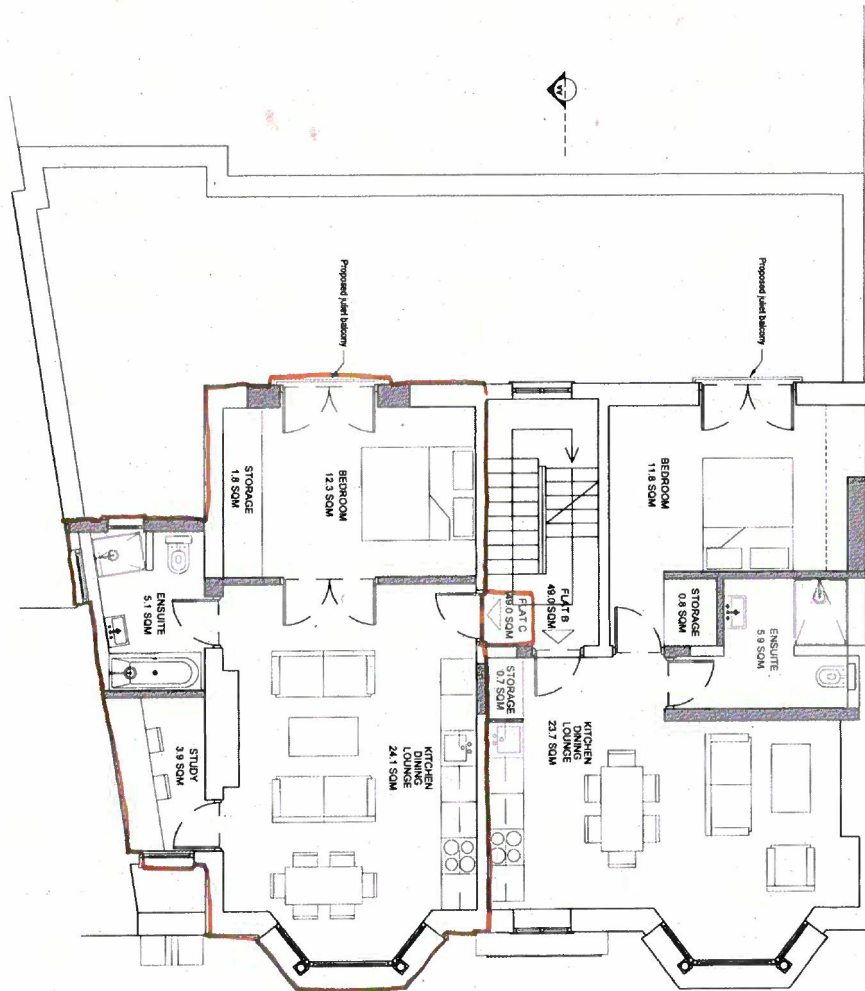


## NORTHGATE SE GIS Print Template



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Development Management**  
London Borough of Camden  
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WC1H 9JE

Tel 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

Savills  
33 Margaret Street  
LONDON  
W1G 0JD

Application Ref: **2017/5156/P**

12 November 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:  
**22 South Hill Park Gardens**  
**LONDON**  
**NW3 2TG**

**DECISION**  
**Proposal:**

Erection of single storey rear extension; conversion of 1x2-bed unit into 2x1-bed units (C3) and associated external alterations including the conversion of two rear first floor windows into french doors with juliet balconies.

Drawing Nos: 00L; 000 (Rev P); 001 (Rev P); 002 (Rev P); 003 (Rev P); 021 (Rev P); 042 (Rev P); 100 (Rev P); 103; 201 (Rev P); 302 (Rev P); 601; 602; Planning Statement (dated September 2017); Design & Access Statement (prepared by CSA, dated 14.09.2017)

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

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

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

Condition(s) and Reason(s):

- 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: 00L; 000 (Rev P); 001 (Rev P); 002 (Rev P); 003 (Rev P); 021 (Rev P); 042 (Rev P); 100 (Rev P); 103; 201 (Rev P); 302 (Rev P); 601; 602; Planning Statement (dated September 2017); Design & Access Statement (prepared by CSA, dated 14.09.2017)

Reason:

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

- 4 The roof of the extension hereby permitted shall not be used as a roof terrace without prior consent in writing from the Local Planning Authority.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy A1 of the Camden Local Plan 2017.

- 5 The cycle storage areas for 4 cycles as shown on drawing no. 602 (dated 17/11/2017) shall be provided in its entirety prior to the first occupation of any of the new units, and permanently retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy T1 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Reasons for granting permission.

The proposal involves converting an existing 2-bed unit at first floor level into 2 x 1-bed units. Whilst the provision of 1-bed units is less of a priority than 2-beds, the conversion is considered acceptable on balance given an additional unit would be created. The two units would both meet the 39 sqm space standard for a 1-bed flat and would benefit from being dual aspect with good levels of daylight and outlook. Four cycle spaces would be provided in an enclosed storage area to the front of the property, which complies with the Council's requirements. The two units would be secured as car-free by a s.106 legal agreement in accordance with policy T1 of the Camden Local Plan 2017.

The proposed rear extension remains the same scale and massing to that consented under extant permission ref. 2016/1026/P. The detailed design varies slightly in terms of placement and size of windows but remains acceptable. The original permission was granted on the grounds that, although the extension is full width, its depth would be of an appropriate scale to maintain a subservient appearance to the large four storey host building, with a significant amount of the rear garden left intact. The design and materials would be complementary to the property and the fenestration to the extension would relate to the windows above. The cycle store to the front of the property would be mostly concealed behind the hedge and would be in materials to match the existing timber bin store at the property and others nearby.

The windows across the rear elevation of host property and the wider building group demonstrate substantial variation including evidence of non-original openings. The enlargement of two window apertures at first floor level in association with the creation of Juliet balconies would therefore not interrupt a consistent fenestration. The doors would be white painted timber with glazing bars and have a corresponding window head detail to complement the existing sash windows elsewhere on the property. The Juliet balconies would have black metal railings for a balustrade, which is considered to be appropriate for both the host property and conservation area.

The proposal is not considered to cause any adverse impacts on the amenity of adjoining residential occupiers. The extension would only be slightly higher than the existing boundary wall and would not impact on the outlook or daylight received by the adjoining neighbour. A condition is attached preventing the roof of the extension to be used as a terrace.

No objections have been received prior to making this decision. The planning history of the site has been taken into account when coming to this decision.

The proposal is considered to preserve the character and appearance of the conservation area. Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

As such, the proposed development is in general accordance with policies H1, T1, T2, A1, D1 and D2 of the Camden Local Plan 2017. The proposed development also accords with the London Plan 2016 and the 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 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 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 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.

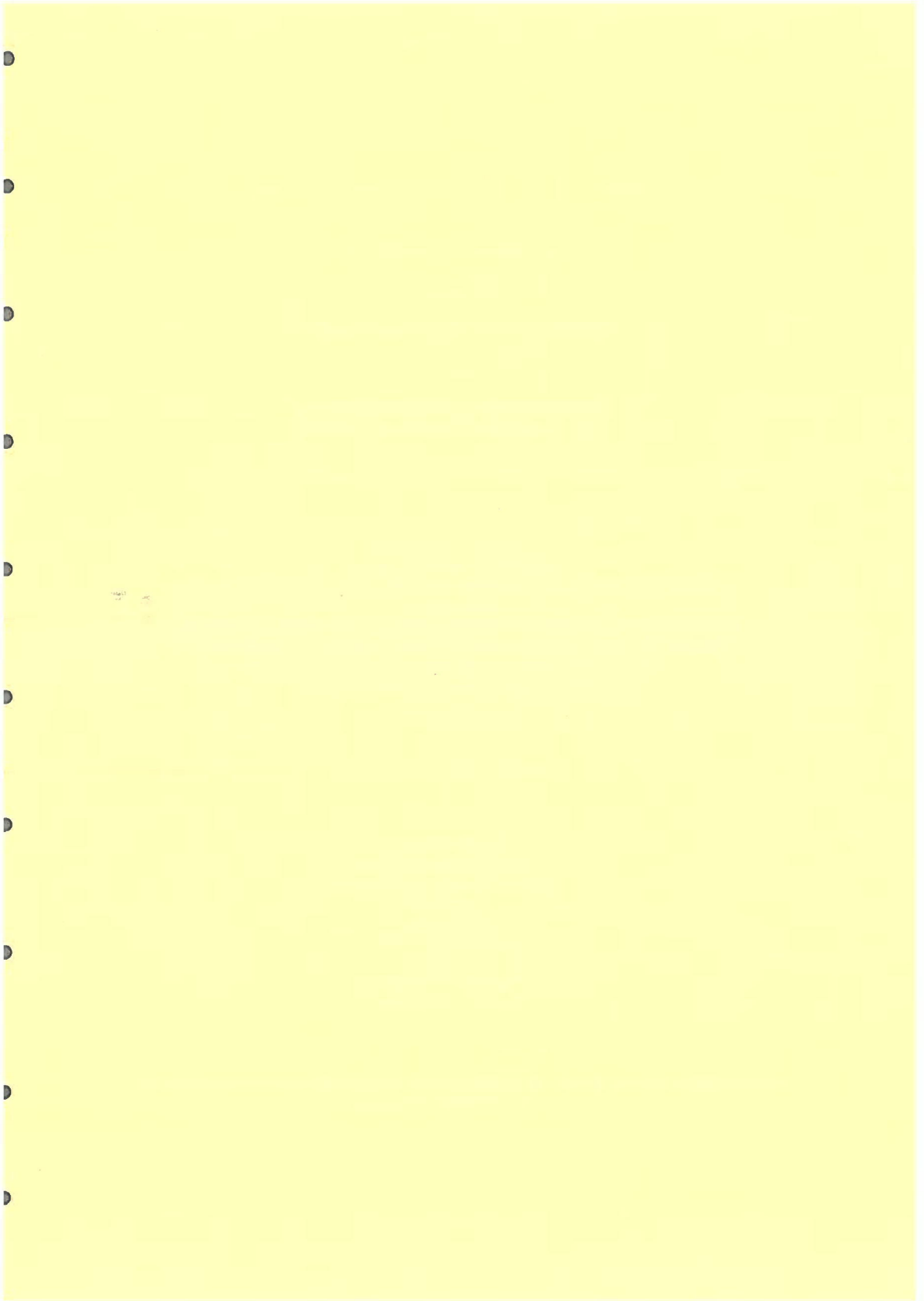
In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Supporting Communities Directorate

**DECISION**

Executive Director Supporting Communities





DATED 23 November 2018

(2) DAVID GRAHAM BRAY

and

(2) AVIVA EQUITY RELEASE UK LIMITED

and

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

**A G R E E M E N T**

relating to land known as

22 SOUTH PARK HILL GARDENS, HAMPSTEAD, LONDON, NW3 2TG

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

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