

DATED

24 JUNE

2019

(1) CREATE REIT LIMITED

and

(2) LLOYDS BANK PLC

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

283 Gray's Inn Road

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

G:\case files\culture & env\planning\s106 Agreements (2018/5175/P)

CLS/COM//1800.

s106

THIS AGREEMENT is made the 26th day of June 2019

BETWEEN:

- A. **CREATE REIT LIMITED** (incorporated in Guernsey) of P O Box 410, Guernsey, GY1 3WB (hereinafter called "the Owner") of the first part
- B. **LLOYDS BANK PLC** (Co. Regn. No. 00002065) of 1st Floor, 10 Gresham Street, London EC2V 7AE (hereinafter called "the Mortgagee") of the third part
- C. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the fourth part

1. **WHEREAS**

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number LN112946 subject to a charge to the Mortgagee.
- 1.2 The Owner is the freehold 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 30 November 2018 and the Council resolved to grant permission conditionally under reference number 2018/5175/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.

		<p>on the site location plan and drawing numbers:-</p> <p>Existing: 22960-00, 22960-01, 22960-02, 22960-03, 22960-04, 22960-05.</p> <p>Proposed: 22960-P01 D, 22960-P02 G, 22960-P03 C, 22960-P04 G, 22960-P05 I, 22960-P06 E.</p> <p>Supporting documents: Daylight & Sunlight (Surrounding Properties) and Scheme Internal Daylight Report (Point Surveyors) May 2018, Planning Statement (GL Hearn) October 2018, Design and Access Statement (Fresson & Tee) 23rd October 2018, Energy Statement (Ensphere Group) March 2018.</p>
2.6	"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
2.7	"Occupation Date"	the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
2.8	"the Parties"	mean the Council the Owner and the Mortgagee
2.9	"the Planning Application"	a planning application in respect of the development of the Property submitted to the Council and validated on 30 November 2018 for which a resolution to grant permission has been passed conditionally under reference number 2018/5175/P subject to conclusion of this Agreement
2.10	"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

2.11	"the Planning Permission"	a planning permission granted for the Development substantially in the draft form annexed hereto
2.12	"the Property"	the land known as 283 Gray's Inn Road, London WC1X 8QF the same as shown outlined in red on the plan annexed hereto
2.13	"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
2.14	"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 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 or interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7 and 8 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 for all relevant purposes.

4. OBLIGATIONS OF THE OWNER

The Owner hereby covenants with the Council as follows:-

4.1 CAR FREE DEVELOPMENT

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

- (i) be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay; and

- (ii) buy a contract to park within any car park owned, controlled or licensed by the Council.

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

4.1.3 The Owner 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 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 4.1.1 and 4.1.2 of this Agreement.

4.2 **AFFORDABLE HOUSING CONTRIBUTION**

4.2.1 The Owner hereby covenants with the Council to pay to the Council the Affordable Housing Contribution on or prior to Implementation.

4.2.2 The Owner hereby covenants with the Council not to Implement or to permit Implementation until such time as the Council has received the Affordable Housing Contribution in full (as evidenced by written notice to that effect).

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 2018/5175/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.
- 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 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 Owner 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 2018/5175/P.

- 5.7 Payment of any contribution pursuant to Clause 4 of this Agreement shall be made by the Owner to the Council sending the full amount via electronic transfer (where practicable) The owner shall notify the Planning Obligations Monitoring Officer that payment has been made referring to names date and Parties to this Agreement and citing the specific clause of this Agreement to which such contribution relates quoting the planning reference 2018/5175/P. Electronic Transfer be made directly to National Westminster Bank of Hampstead Village, Enfield Customer Service Centre, PO Box 145 Baird Road Middlesex EN1 1FN quoting Sort Code 50-30-03 and London Borough of Camden General Account no. 24299480.
- 5.8 All consideration given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable in respect thereof and all parties other than the Council shall pay and indemnify the Council against any such value added tax properly payable on any sums paid to the Council under this Agreement upon presentation of an appropriate value added tax invoice addressed to the Owner.
- 5.9 Any sums referred to in this Agreement as payable or to be applied by any party other than the Council under this Agreement shall be paid or applied TOGETHER WITH if such payment or application is made more than three months from the date of this Agreement a further sum ("A") being equal to the original sum payable ("B") multiplied by a figure being a fraction of which the All Items of Retail Prices ("the AIIRP") figure last published by the Office for National Statistics at the date hereof is the denominator ("X") and the last AIIRP figure published before the date such payment or application is made ("Y") less the last published AIIRP figure at the date hereof ("X") is the numerator so that
- $$A = B \times \frac{(Y-X)}{X}$$
- 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, Placeshaping Service, Urban Design and Development Team, 2nd Floor, 5 Pancras Square, London, N1C 4AJ and sent to planning obligations on PlanningObligations@camden.gov.uk quoting the planning reference number 2018/5175/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.

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
CREATE REIT LIMITED
acting by a Director and its Secretary
or by two Directors

)
)
)
)



Sophie Hook
Authorised Signatory

.....
Director

For and on behalf of
Create Wealth Management FDN
Director *Create Reit limited*

.....
~~Director/Secretary~~

EXECUTED AS A DEED BY
LLOYDS BANK PLC
By
in the presence of:-

)
)
)
)

MAYWELL DIKOU, ASSOCIATE DIRECTOR
AARON YOHANANTHAN


.....

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

)
)
)
)

R. Alexander

.....
Authorised Signatory



- 6.6 Neither the Owner nor the Mortgagee nor their successors in title nor any person deriving title from them shall be bound by the obligations in this Agreement in respect of any period during which it no longer has an interest in the Property but without prejudice to liability for any breach committed prior to the time it disposed of its interest.
- 6.7 For the avoidance of doubt the provisions of this Agreement (other than those contained in this sub-clause) shall not have any effect until this Agreement has been dated.
- 6.8 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of Development this Agreement shall forthwith determine and cease to have effect.

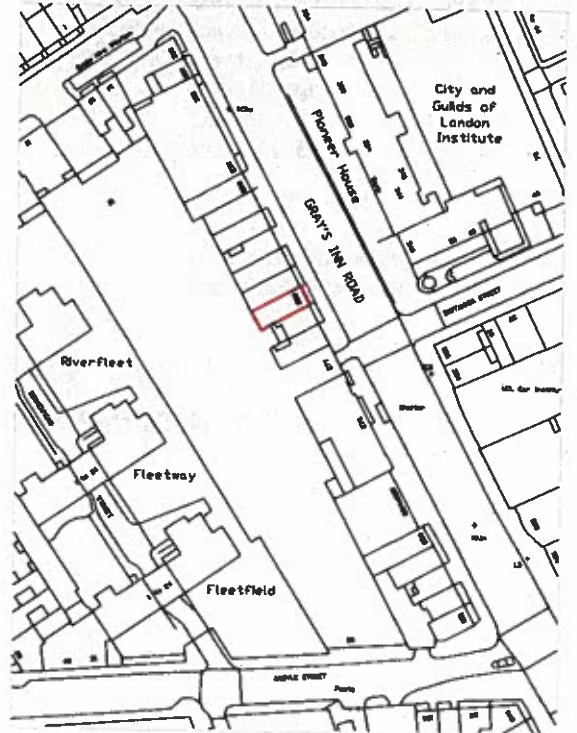
7. **MORTGAGEE EXEMPTION**

- 7.1 The Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 hereof and for the avoidance of doubt agrees to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.
- 7.2 The Parties agree that the obligations contained in this Agreement shall not be enforceable against any mortgagee or chargee of the whole or any part of the Property unless it takes possession of the Property as mortgagee in possession in which case it will be bound by the obligations as a person deriving title from the Owner.

8. **RIGHTS OF THIRD PARTIES**


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

LOCATION PLAN AT
1:1250 SCALE & NORTH UP ^



SITE PLAN AT
1:500 SCALE & NORTH UP ^



 <p>Fresson Tee CHARTERED SURVEYORS</p> <p>1 SANDWICH STREET LONDON WC1H 9PF</p> <p>Tel (020) 7391 7100 Fax (020) 7391 7121</p>	<p>NOTES: ALL SCALES/DIMS FOR PLANNING PURPOSES ONLY.</p>	<p>Location & Site Plans</p>	<p>Alterations</p>	<p>Jan. 2018</p>
		<p>283 Gray's Inn Road London WC1</p>	<p>Create REIT Ltd</p>	<p>As Above</p>
				<p>22960-00</p>

GL Hearn
65 Gresham Street LONDON EC2V
7NQ

Application Ref: 2018/5175/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:
283 Gray's Inn Road
London
WC1X 8QF

Proposal:

DECISION
Change of use of 1st, 2nd and 3rd floors from Class A2 use to create 2no. residential units 1 x 1 bed & 1 x 2 bed (Use Class C3) together with extensions and alterations including mansard roof extension with 2 front dormers, rear extension, roof terrace to the rear of 2nd floor, infill of ground floor light well, and shopfront alterations.

Drawing Nos: Existing: 22960-00, 22960-01, 22960-02, 22960-03, 22960-04, 22960-05.

Proposed: 22960-P01 D, 22960-P02 G, 22960-P03 C, 22960-P04 G, 22960-P05 I, 22960-P06 E.

Supporting documents: Daylight & Sunlight (Surrounding Properties) and Scheme Internal Daylight Report (Point Surveyors) May 2018, Planning Statement (GL Hearn) October 2018, Design and Access Statement (Fresson & Tee) 23rd October 2018, Energy Statement (Ensphere Group) March 2018.

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 if in CA] 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:

22960-P01 D, 22960-P02 G, 22960-P03 C, 22960-P04 G, 22960-P05 I, 22960-P06 E.

Reason:

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

- 4 Before the relevant part of the work is begun, detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority:

a) Details including sections at 1:10 of all windows (including jambs, head and cill)).

b) Manufacturer's specification details of all facing materials including roof slates (to be submitted to the Local Planning Authority) and samples of those materials (to be provided on site).

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.

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 if in CA) of the London Borough of Camden Local Plan 2017.

- 5 Prior to first occupation of either of the new flats hereby permitted, details of an enhanced sound insulation value $D_{nT,w}$ and $L_{nT,w}$ of at least 5dB above the Building Regulations value, for the floor/ceiling structures separating different types of rooms/uses in adjoining units (i.e. between ground floor commercial unit and first floor dwelling and between bedroom of unit 1 and living room of unit 2), shall be submitted to and approved in writing by the Local Planning Authority.

The insulation details as approved shall be implemented prior to first residential occupation of the relevant building and thereafter be permanently retained.

Reason: To safeguard the amenities of future and adjoining residential occupants and the area generally in accordance with the requirements of policies G1, CC1, D1, A1, and A4 of the London Borough of Camden Local Plan 2017.

Informative(s):

- DRAFT**
- 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.

1. Land use

The applicant has submitted sufficient information to demonstrate that the lawful use of the premises is Class A2 - recruitment agency. This information consists of leases for the recruitment agency dating from 2002 to 2016 and a statutory declaration. The loss of Class A2 use on the upper floors is considered acceptable in land use terms.

The ground floor (25.9sqm) and basement (43sqm) would remain in Class A2 and would retain an active frontage, contributing to the Central Activities Zone.

Policy TC2 supports the conversion of the upper floors of commercial premises to residential accommodation within centres and Central London including above and below shops where this does not prejudice the town centre function and particularly the ability of the ground floor. Housing is the Council's priority land use and welcomed in principle. 110.3sqm of housing would be provided. Given the

increase in residential floorspace, an affordable housing payment in lieu is required of £8,723.80, which is secured via section 106 obligation.

2. Design

The site is located within the King's Cross St Pancras Conservation Area. The existing roof form and shopfront are poorly designed and the proposals would be an improvement. The mansard would be have an angle of 70 degrees, in line with CPG Design and would match the neighbouring mansard. The proposals have been reviewed by a Conservation Officer who considers them acceptable.

The alteration and extensions at the rear would not be readily visible and would respect the original building.

Overall due to the appropriate design, it is considered that the proposed works do not detract from the character and appearance of the host building or the wider conservation area.

Special attention has been paid to the desirability of preserving the special interest of the listed building and preserving or enhancing the character or appearance of the conservation area, under s. 66 and s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

3. Amenity of occupants

Two flats would be created under the proposals, a flat on the first floor and a duplex on the second and third floors. Both of these flats would be dual aspect and would meet the nationally described space standards. Both flats would benefit from external space; the first floor would have an external lightwell at the rear and the duplex flat would have a terrace at second floor level. Given the above, the proposed flats would have acceptable levels of amenity.

4. Amenity of neighbours

The proposed works are not considered to adversely impact upon the residential amenity of adjoining occupiers. This is by reason of the location and scale of the works. Screening would be erected on either side of the second floor terrace which would ensure that there are no direct views into windows to the properties to the rear on Hand Axe Yard. A condition is attached that the screens would be erected and maintained prior to occupation.

5. Transport

The new flats are secured as car-free under a section 106 agreement.

Given the new flats are to be located on the upper floors of an existing building;

officers accept that it is not possible to provide cycle parking on site. Given that only two units are involved, there is no requirement for a financial contribution towards cycle parking.

No objections have been received to the proposals.

Given the above, the proposed development is in general accordance with policies H1, H4, A1, D1 and D2 of the London Borough of Camden Local Plan 2017. The proposed development is also in accordance with the 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.

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