

DATED

30 May

2019

**(1) 106 MALDEN ROAD LIMITED**

-and-

**(2) ABDUL QAYYUM ALVI**

-and-

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

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**DEED OF VARIATION**

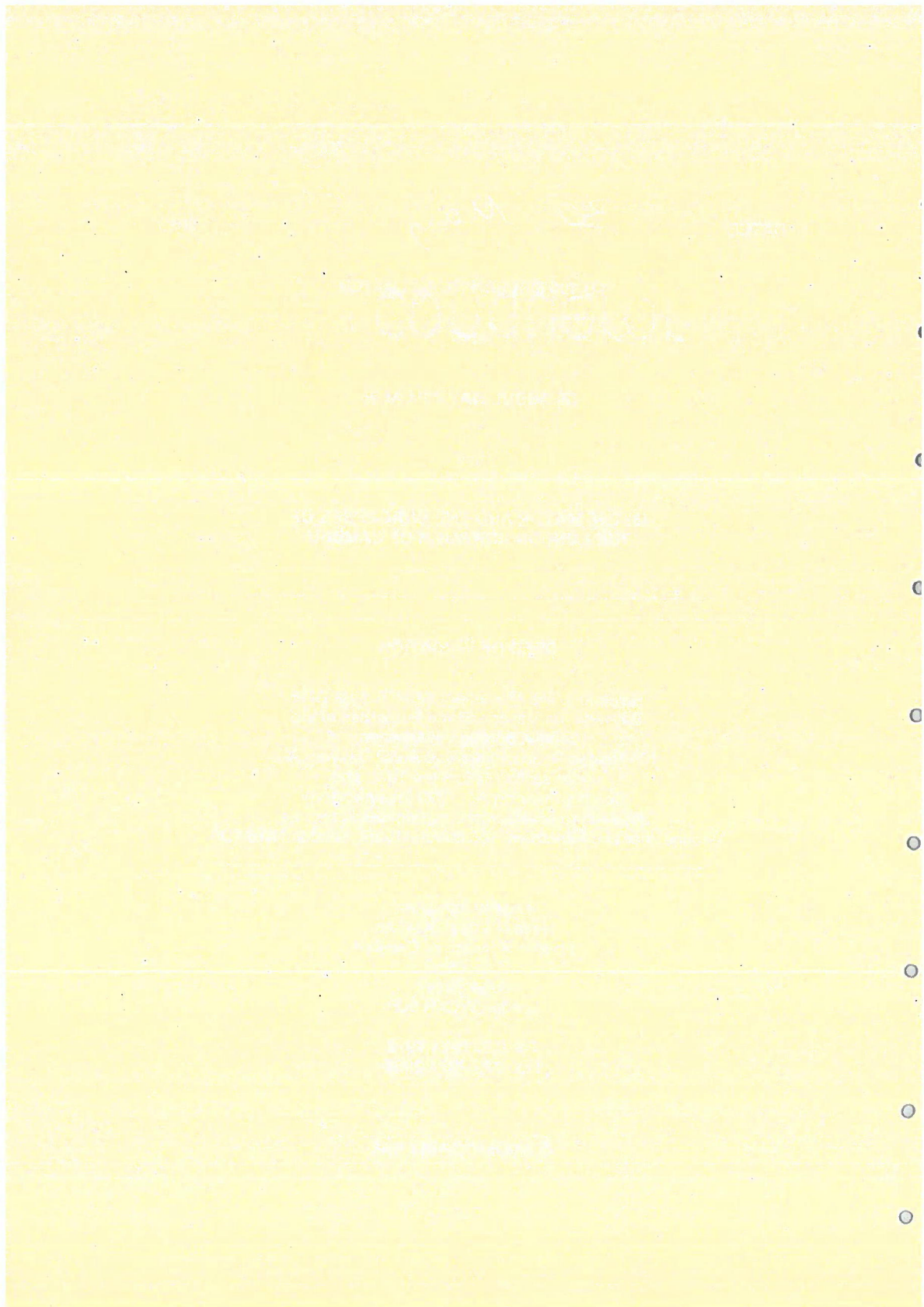
Relating to the Agreement dated 6 June 2016  
Between the Mayor and the Burgesses of the  
London Borough of Camden,  
106 Malden Road Limited and Abdul Qayyum Alvi  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
Ground floor and Basement, 106 Malden Road, London NW5 4DA

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

Tel: 020 7974 1918  
Fax: 020 7974 2962

CLS/COM/OO/1800.1045



THIS DEED is made on the 30<sup>th</sup> day of May 2019

**BETWEEN**

- A. **106 MALDEN ROAD LIMITED** (Co. Regn. No. 7789363) whose registered office is at 106 Malden Road, London NW5 4DA (hereinafter called "the Freeholder") of the first part
- B. **ABDUL QAYYUM ALVI** of 15 Tankridge Road, London NW2 6EJ (hereinafter called "the Leaseholder") of the first 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 third part

**WHEREAS:**

- 1.1 The Council, 106 Malden Road Limited and Abdul Qayyum Alvi entered into an Agreement dated 6 June 2016 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 The Freeholder is registered at the Land Registry as the freehold proprietor with Title Absolute under title number 428818.
- 1.3 The Leaseholder is the leasehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.4 The Leaseholder is registered at the Land Registry as the leasehold proprietor with Title Absolute under title number NGL919303.
- 1.5 The Freeholder is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.6 The Council is the local planning authority for the purposes of the Act and considers it expedient in the interests of the proper planning of its area that the Development of the Property should be restricted or regulated in accordance with this Deed.

1.7 A new Planning Application in respect of the Property and to amend the Original Planning Permission was submitted to the Council by the Owner and validated on 17 December 2018 for which the Council resolved to grant permission conditionally under reference 2018/5644/P subject to the conclusion of this Deed.

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

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

## 2. **INTERPRETATION**

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

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

2.3 Where in this Deed reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Agreement.

2.4 Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not be construed as part of this Agreement and shall not effect the construction of this Deed.

2.5 Unless the context otherwise requires references to the singular shall include the plural and vice versa.

2.6 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 4, 5 and 6 hereof all of which shall come into effect on the date hereof the covenants

undertakings and obligations contained within this Deed shall become binding upon the Owner upon the Implementation Date.

2.7 References in this Deed to the Owner and Mortgagee shall include their successors in title.

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

2.8.1 "Deed" this Deed of Variation made pursuant to Section 106A of the Act

2.8.2 "Existing Agreement" the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 6 June 2016 made between the Council, 106 Malden Road Limited and Abdul Qayyum Alvi

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 6 June 2016 referenced 2015/4985/P allowing the erection of a part single storey, part two storey rear extension. Excavation of a front light well and conversion of the basement to create an additional two bedroom flat as shown on drawing numbers Location Plan, 106(01)-01 A, 106 (02)-03 B, 106 (02)-01 C, 106 (02)-02 A, Design and Access Statement

### **3. VARIATION TO THE EXISTING AGREEMENT**

3.1 The following definitions contained in the Existing Agreement shall be varied as follows:

3.1.1 "Development"

shall mean the development authorised by the planning permission with reference 2015/4985/P dated 6 June 2016, as amended by:

Variation of condition 3 (approved drawings) of planning reference 2015/4985/P dated 06/06/2016 for 'Erection of a part single storey, part two storey rear extension. Excavation of a front light well and conversion of the basement to create an additional two bedroom flat.'; CHANGES include enlargement of ground floor rear extension, relocation of the cycle store from ground to lower ground and alterations to rear external staircase as shown on drawing numbers: Location Plan, 106(01)-01 A, 106 (02)-03 B, 106 (02)-01 Rev.F, 106 (02)-02 Rev.C, 106 (02)- 04 Rev.B and Design and Access Statement

3.1.2 "Planning Permission"

the planning permission for the Development under reference number 2018/5644/P granted by the Council in the form of the draft annexed hereto

3.1.3 "Planning Application"

the application for Planning Permission in respect of the Property submitted on 12 November 2018 by the Owner and given reference number 2018/5644/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2015/4985/P" shall be replaced with "Planning Permission reference 2018/5644/P".

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

4. **COMMENCEMENT**

4.1 Without prejudice to the effect of Clause 3.5 in the Existing Agreement the provisions in this Deed shall take effect on the Implementation of the Planning Permission referenced 2018/5644/P.

5 **PAYMENT OF THE COUNCIL'S LEGAL COSTS**

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

6. **REGISTRATION AS LOCAL LAND CHARGE**

6.1 This Deed shall be registered as a Local Land Charge

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

THE COMMON SEAL OF )  
EXECUTED AS A DEED BY )  
106 MALDEN ROAD LIMITED )  
was hereunto affixed )  
in the presence of:- )

[Redacted] Ben Hammond  
Director

[Redacted] CLARENCE WRET  
Director/Secretary

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO GROUND FLOOR  
AND BASEMENT, 106 MALDEN ROAD, LONDON NW5 4DA

EXECUTED AS A DEED BY  
ABDUL QAYYUM ALVI  
in the presence of:

)  
)  
)

[Redacted Signature]

Witness Signature

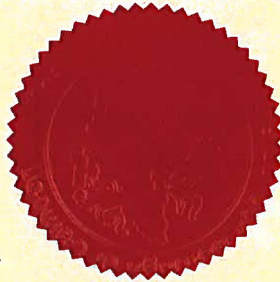
[Redacted Name]

Witness Name: RASA HAMID NAWAZ

Address: 28 COLES GREEN ROAD LONDON NW2 7ER

Occupation: DRIVING INSTRUCTOR

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



[Redacted Name]

Duly Authorised Officer





**Regeneration and Planning  
Development Management**  
London Borough of Camden  
Town Hall  
Judd Street  
London  
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)

Studio11Development  
79 St. Barnabas Road  
Woodford Green  
Essex  
IG8 7BY

Application Ref: **2018/5644/P**

26 March 2019

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:  
**106 Malden Road  
London  
NW5 4DA**

Proposal:

Variation of condition 3 (approved drawings) of planning reference 2015/4985/P dated 06/06/2016 for 'Erection of a part single storey, part two storey rear extension. Excavation of a front light well and conversion of the basement to create an additional two bedroom flat.'; **CHANGES** include enlargement of ground floor rear extension, relocation of the cycle store from ground to lower ground and alterations to rear external staircase

Drawing Nos: Superseded drawings: 106 (02)-01 C, 106 (02)-02 A,

Amended drawings: Pr106 (02)- 01 Rev.F; 106 (02)- 02 Rev.C; 106 (02)- 04 Rev.B

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.

**DECISION**

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of the original planning permission ref 2015/4985/P dated 06/06/2016.

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

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

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

- 3 For the purposes of this decision, condition no.3 planning permission 2015/4985/P dated 06/06/2016 shall be replaced with the following condition:

REPLACEMENT CONDITION 3

The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan, 106(01)-01 A, 106 (02)-03 B, 106 (02)-01 Rev.F, 106 (02)-02 Rev.C, 106 (02)- 04 Rev.B and Design and Access Statement.

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

- 4 The proposed development shall not be occupied until the cycle parking shown on the approved drawings is provided. The cycle parking shall be permanently retained and maintained 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 planning permission:

The main external alterations include the enlargement of ground floor rear extension with associated alterations to rear external staircase and relocation of the cycle store from ground to lower ground. The rear extension will increase modestly in depth to the rear to match the rear building line of No. 108's outrigger. Access to the rear garden is from first floor and to retain this access, the stairs are proposed to extend over the enlarged ground floor extension. Although the external staircase will be subject to some increased private views, it is not considered to be materially different to what was originally granted.

The cycle store will be relocated to the basement level, and although it would be preferable to retain the cycle parking at ground level to maintain step free access, it is acknowledged that the previous officer had considered that it would be more discreet to locate the cycle storage facilities at lower ground level. The store will provide 2 spaces that are enclosed, secure and sheltered which complies with policy. Highways officers have assessed the scheme and raised no objection. Car free development and a highways contribution will be secured by the S106 agreement.

These proposed amendments are considered to be of an acceptable design quality and would overall result in minor changes to the approved scheme. The proposed alterations are considered to preserve the character and appearance of the host property and the West Kentish Town 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 Area) Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

Given the scale, siting and design of the enlarged extension with altered external access stairs and relocated cycle store the development is not considered to create additional amenity concerns in terms of overlooking, loss of privacy, light or a sense of enclosure. Although the revised position of the staircase would allow for increased views into the rear garden of the adjoining property, given that this is an outdoor space associated with the Robert Peel public house, it would not harm residential amenity.

The full impact of the scheme has already been assessed during the determination of the permitted scheme, and it is considered that the amendments would have a minor material effect in terms of appearance, neighbouring amenity and transport considerations.

No comments or objections were received during the consultation period. The planning history of the site has been taken into account when coming to this decision.

As such, the proposed development is in general accordance with policies A1, D1, D2 and T1 of the Camden Local Plan 2017. The proposal also accords with the London Plan 2016 and the NPPF 2018.

- 2 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).

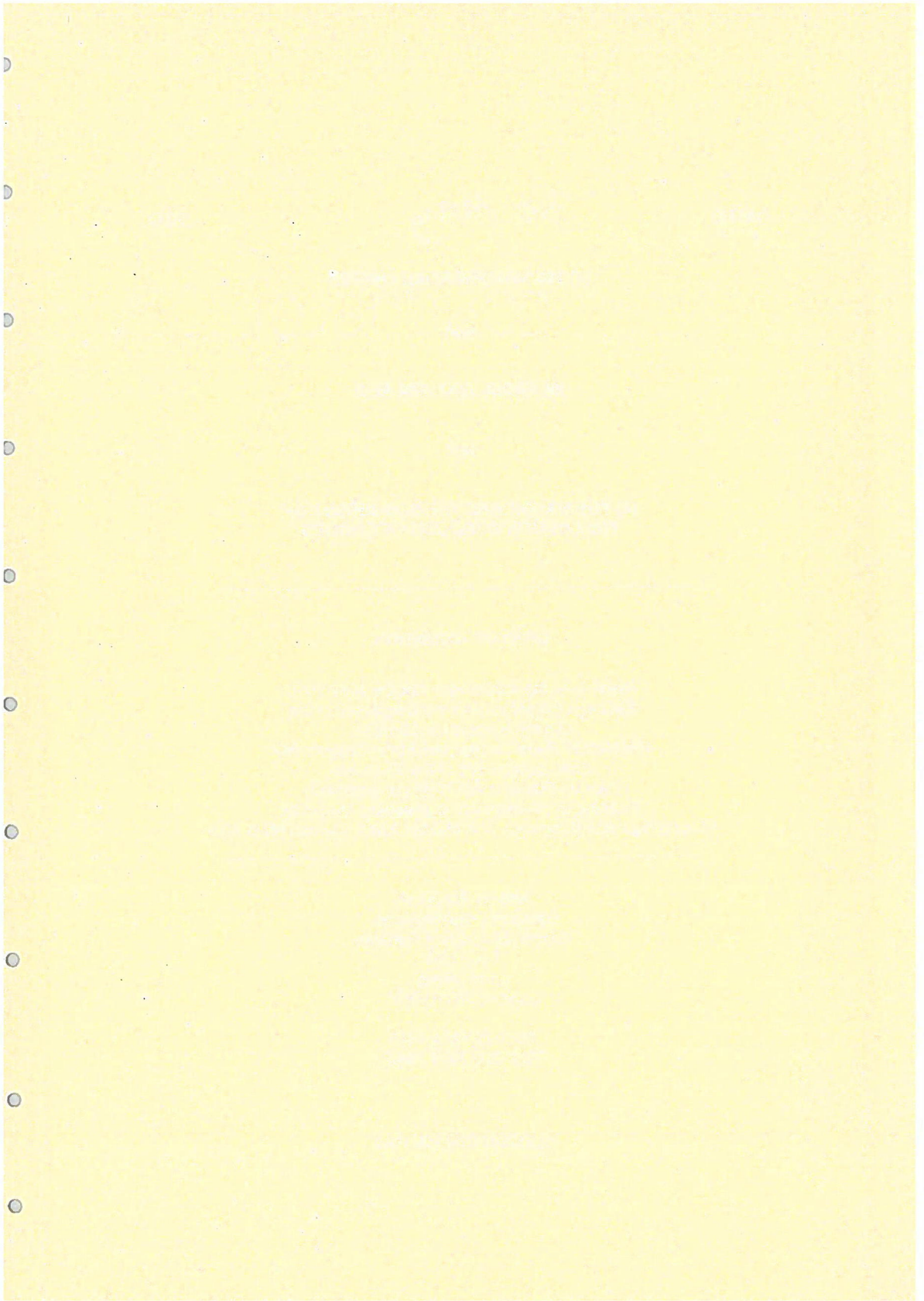
- 3 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays 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.
- 4 You are advised that Section 44 of the Deregulation Act 2015 [which amended the Greater London Council (General Powers) Act 1973]] only permits short term letting of residential premises in London for up to 90 days per calendar year. The person who provides the accommodation must be liable for council tax in respect of the premises, ensuring that the relaxation applies to residential, and not commercial, premises.
- 5 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](http://www.camden.gov.uk/cil) for more information, including guidance on your liability, charges, how to pay and who to contact for more advice.
- 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

Executive Director Supporting Communities



DATED

30 May

2019

**(1) 106 MALDEN ROAD LIMITED**

-and-

**(2) ABDUL QAYYUM ALVI**

-and-

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

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**DEED OF VARIATION**

Relating to the Agreement dated 6 June 2016  
Between the Mayor and the Burgesses of the  
London Borough of Camden,  
106 Malden Road Limited and Abdul Qayyum Alvi  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
Ground floor and Basement, 106 Malden Road, London NW5 4DA

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