

DATED 11<sup>th</sup> March 2019

(1) THALIS VLACHOS and ALEX VLACHOS

and

(2) BANK OF SCOTLAND 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  
**THE GARDEN HOUSE, VALE OF HEALTH, LONDON NW3 1AN**  
pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended) and  
Section 278 of the Highways Act 1980

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

Tel: 020 7974 6007

Legal/JL/1800.719  
V FINAL

THIS AGREEMENT is made the 11<sup>th</sup> day of March 2019

**BETWEEN:**

- i. **THALIS VLACHOS and ALEX VLACHOS** of The Garden House, Vale of Heath, Hapstead, London W3 1AN (hereinafter jointly called "the Owner") of the first part
- ii. **BANK OF SCOTLAND PLC** of The Mound, Edinburgh EH1 1YZ (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 Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number 302683 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 22 May 2017 and the Council resolved to grant permission conditionally under reference number 2017/2885/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 Owner 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 302683 and dated 26 September 2003 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 Certificate of Practical Completion"	the certificate issued by the Owner's contractor architect or project manager certifying that the Development has been completed
2.4	"Construction Management Plan"	a plan to be submitted by the Owner to the Council in accordance with the terms of this Agreement and the First Agreement setting out the measures that the Owner will adopt in undertaking any demolition of the existing building and the construction of the Development and the First Development using good site practices in accordance with the Council's Considerate Contractor Manual and in the form of the Council's Pro Forma Construction Management

		<p>(e) the inclusion of a waste management strategy for handling and disposing of construction waste; and</p> <p>(f) 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</p>
2.5	"the Construction Management Plan Implementation Support Contribution"	the sum of £7,620 (seven thousand six hundred and twenty pounds) paid by the Owner to the Council in accordance with the terms of the First Agreement and to be applied by the Council for the review and approval of the draft Construction Management Plan and verification and enforcement of the proper operation of the approved Construction Management Plan during the Construction Phase
2.6	"the Construction Phase"	<p>the whole period between:-</p> <p>(a) the Implementation Date; and</p> <p>(b) the date of issue of the Certificate of Practical Completion</p> <p>and for the avoidance of doubt includes any demolition works</p>
2.7	"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

2.8	"the Development"	excavation to create a basement lightwell at the southeast corner of the house as shown on drawing numbers:- Design and Access Statement dated 15.5.17 by James Gorst architects; Garden House Structural Report and Basement Impact Assessment by Eckersley O'Callaghan issue 06 dated December 2018; letter from GEA dated 1.3.18; site plan- GH10-1001; existing plans- GH16-090A, 100A, 130A; EX-310A, 320A, 330A, 200A; proposed plans- GH16-090A, 100A, 130A; PR-310A, 320A, 330A, 200A, EL-310A, 320A
2.9	"the First Agreement"	the agreement under s106 of the Town and Country Planning Act 1990 (as amended) dated 10 October 2016 made between the Council and the Owner and the Mortgagee pursuant to the planning permission granted under reference 2016/2600/P
2.10	"the First Development"	the development permitted under planning permission reference 2016/2600/P granted by the Council on 10 October 2016
2.11	"the Highways Contribution"	<p>the sum of £1,594 (one thousand five hundred and ninety four pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and in fulfilment of the First Agreement to be applied by the Council in event of receipt for the carrying out works to the public highway and associated measures required as a result of the Development and the First Development in the vicinity of the Property such works to include the following ("the Highways Works"):-</p> <p>a) resurfacing the yorkstone paving either</p>

		<p>side of the existing access from the public highway; and</p> <p>b) reinstatement of the bollard.</p> <p>all works will be subject to final measure and any level adjustment required and for the avoidance of doubt the Council in accepting this sum does not undertake any responsibility in connection with any required statutory undertakers works and <u>excludes any statutory undertakers costs</u></p>
2.12	"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
2.13	"Occupation Date"	the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
2.14	"the Parties"	mean the Council the Owner and the Mortgagee
2.15	"the Planning Application"	a planning application in respect of the Development of the Property submitted to the Council and validated on 22 May 2017 for which a resolution to grant permission has been passed conditionally under reference number 2017/2885/P subject to conclusion of this Agreement
2.16	"Planning Obligations Monitoring Officer"	a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to Section 106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1

		hereof
2.17	"the Planning Permission"	a planning permission granted for the Development pursuant to the Planning Application substantially in the draft form annexed hereto
2.18	"the Property"	the land known as The Garden House, Vale Of Health, London NW3 1A the same as shown shaded grey on the plan annexed hereto
2.19	"the Public Highway"	any carriageway footway and/or verge adjoining the Property maintainable at public expense

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 111 of the Local Government Act 1972 and Section 1(1) of the Localism Act 2011 and Section 278 of the Highways Act 1980 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, 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 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.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

4.1 **CONSTRUCTION MANAGEMENT PLAN**

- 4.1.1 The Owner has paid to the Council the Construction Management Plan Implementation Support Contribution in full;
- 4.1.2 On or prior to the Implementation Date to submit to the Council for approval a draft Construction Management Plan.
- 4.1.3 Not to Implement nor allow Implementation of the Development until such time as the Council has approved the Construction Management Plan as demonstrated by written notice to that effect.
- 4.1.4 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 and the First Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network.
- 4.1.5 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 as approved by the Council in writing from time to time 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 HIGHWAYS WORKS**

4.2.1 On the date of this Agreement to pay to the Council the Highways Contribution in full.

4.2.2 Not to Implement or to allow Implementation until such time as the Council has received the Highways Contribution in full.

4.2.3 For the avoidance of doubt the Owner acknowledges that the Council has the right reserved to it to construct the Public Highway to levels it considers appropriate and does not undertake any responsibility in connection with any required statutory undertakers works and that the Highways Contribution excludes any statutory undertakers costs.

4.2.4 On completion of the Highway Works the Council shall provide to the Owner a certificate specifying the sum ("the Certified Sum") expended by the Council in carrying out the Highway Works.

4.2.5 If the Certified Sum exceeds the Highway Contribution then the Owner shall within fourteen days of the issuing of the said certificate pay to the Council the amount of the excess.

4.2.6 If the Certified Sum is less than the Highway Contribution then the Council shall within fourteen days of the issuing of the said certificate pay to the Owner the amount of the unspent element of the Highway Contribution

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 Planning Permission 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 the Planning Permission reference 2017/2885/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 request) provide through 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 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 2017/2885/P.

5.7 Payment of the Highways 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 2017/2885/P. Electronic Transfer be made directly to the 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 Central Statistical Office 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, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the Planning Permission reference number 2017/2885/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, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.

- 6.6 Neither the Owner 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 Owner entering into this Agreement and agrees that the security of its charges over the Property shall take effect subject to this Agreement.
- 7.2 Subject to clause 7.3 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 Owner
- 7.3 The Parties agree that in the event that the Mortgagee takes possession of the Property it shall only be liable for a breach of the Agreement that it has itself caused whilst Mortgagee in possession and it shall not be liable for any pre-existing breach ALWAYS PROVIDING THAT:
- (i) anyone deriving title from the Mortgagee; and
  - (ii) the Mortgagee if it decides to carry out the development itself;
- will be bound by the obligations in this Agreement and remain liable for any pre-existing breaches as a person deriving title from the Owner.

8. JOINT AND SEVERAL LIABILITY

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

EXECUTED AS A DEED BY  
THALIS VLACHOS  
in the presence of:



Witness Signature

Witness Name EDWARD BLACK  
Address 1 CORNHILL LONDON EC2V 3ND  
Occupation Solicitor

EXECUTED AS A DEED BY  
ALEX VLACHOS  
in the presence of:



Witness Signature

Witness Name Daisy Humm  
Address 1 The Sanctuary, Westminster, London. SW1P 3JT  
Occupation legal Secretary

EXECUTED AS A DEED BY )  
BANK OF SCOTLAND PLC )

By.....  
Authorised Signatory

in the presence of:-

.....*Linda Seaton*.....  
Witness Signature

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

.....  
Authorised Signatory



**THE 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**





**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)

Mr Steven Wilkinson  
16a Crane Grove  
London N7 8NN

Application Ref: **2017/2885/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:  
**The Garden House  
Vale of Health  
London NW3 1AN**

Proposal:

Excavation to create a basement lightwell at the southeast corner of the house.

Drawing Nos: Design and Access Statement dated 15.5.17 by James Gorst architects;  
Garden House Structural Report and Basement Impact Assessment by Eckersley  
O'Callaghan issue 06 dated December 2018; letter from GEA dated 1.3.18; site plan-  
GH10-1001; existing plans- GH16-090A, 100A, 130A; EX-310A, 320A, 330A, 200A;  
proposed plans- GH16-090A, 100A, 130A; PR-310A, 320A, 330A, 200A, EL-310A, 320A

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 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.

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**

# The Garden House, Vale of Heath, London NW3 1AN



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