

DATED

12 August

2019

(1) ANDREW CLIVE MARKEY and CAROLE ANN MARKEY

-and-

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

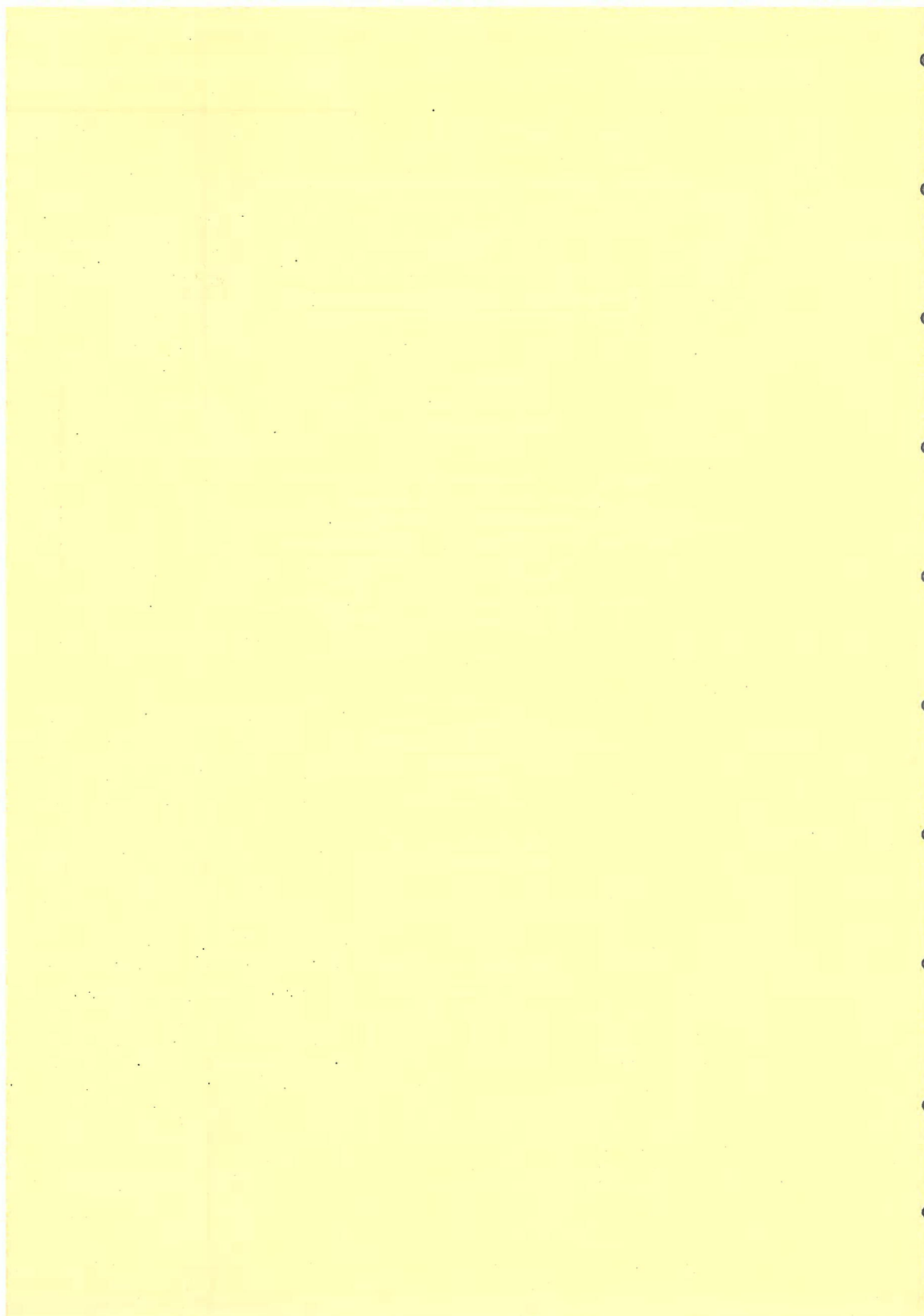
DEED OF VARIATION

Relating to the Agreement dated 12 August 2015
Between the Mayor and the Burgesses of the
London Borough of Camden,
and Andrew Clive Markey and Carole Ann Markey
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
35 South Hill Park London NW3 2ST

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/ESA/1800.1235
DoV FINAL



THIS DEED is made on the 12th day of August 2019

BETWEEN

1. **ANDREW CLIVE MARKEY and CAROLE ANN MARKEY** of 35 South Hill Park London NW3 2ST (hereinafter called "the Owner") of the first part
2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second part

WHEREAS:

- 1.1 The Council, Andrew Clive Markey and Carole Ann Markey entered into an Agreement dated 12 August 2015 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number 415930.
- 1.3 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.4 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.
- 1.5 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 2 January 2019 for which the Council resolved to grant permission conditionally under reference 2018/5806/P subject to the conclusion of this Deed.
- 1.6 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.

- 1.7 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 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 12 August 2015 made between the Council and Andrew Clive Markey and Carole Ann Markey

2.8.3 "the Original Planning Permission"

means the planning permission granted by the Council on 12 August 2015 referenced 2014/1938/P allowing the excavation to create new basement level under existing house and part of rear garden and erection of part two, part three storey rear extension to replace existing extension to be demolished; replacement of front and rear dormers; formation of front lightwell with cycle storage; new front boundary treatment; associated works. as shown on drawing numbers:- AL 0 001; 100 A; 101 A; 200; 201; 202; 203; 204; AL 1 100 A; 101 C; 200; 201 B; 202 A; 203 B; 204 B; 205; Design and Access Statement; CCTV Survey; Construction Method Statement; by Ecologica dated 5 March 2014; Independent Review of Basement Impact Assessment by LBH Wembley October 2014; Letter from BTA Structural Design dated 2 May 2014; Letter from Howard Sharp and Partners dated 15 May 2014

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"

variation of condition 3 (development in accordance with approved plans) of planning permission ref 2014/1938/P dated 12/08/2015

(for Excavation to create new basement level under existing house and part of rear garden and erection of part two, part three storey rear extension to replace existing extension to be demolished; replacement of front and rear dormers; formation of front lightwell with cycle storage; new front boundary treatment; associated works), namely to change design and form of the rear extension elements at basement, ground and first floors as shown on drawing numbers:- Planning Design and Access Statement by Stephen Brandes architects dated November 2018; Arboricultural Method Statement dated 21.6.18 by Martin Dobson; 570/ LOC, T01, 301, 303, 305, 306, 311, 313, 315, 316; 570/ SK-091118, SK-101118, SK-121118, SK-100319; 570/COMP/ 011-1, 011-2, 011-3, 013-1A, 013-2, 014-1, 014-2, 014-3, 015-1, 015-2, 015-3

3.1.2 "Planning Permission"

the planning permission for the Development under reference number 2018/5806/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 2 January 2019 by the Owner and given reference number 2018/5806/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2014/1938/P" shall be replaced with "Planning Permission reference 2018/5806/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 2018/5806/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 has caused its Common Seal to be hereunto affixed and the Owner have executed this instrument as their Deed the day and year first before written

**EXECUTED AS A DEED BY
ANDREW CLIVE MARKEY
in the presence of:**

) *Andrew Markey*
)

Mandy HC Seal

.....
Witness Signature

Witness Name: *MANDY HC SEAL*

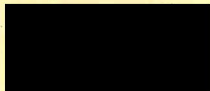
Address: *25 PINE GROVE, LONDON N20 8LB*

Occupation: *COMMUNITY ASSESSOR.*

CONTINUATION OF DEED OF VARIATION IN RELATION TO 35 SOUTH HILL PARK
LONDON NW3 2ST

EXECUTED AS A DEED BY
CAROLE ANN MARKEY
in the presence of:

)
)
)



.....
Witness Signature

Witness Name: *MARY K. BEAR*

Address: *PINE GROVE LONDON N20 8LB*

Occupation: *COMMON IT ASSessor*

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

)
)
)
)

.....
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
www.camden.gov.uk/planning

Stephen Brandes Architects
5 Spedan Close
London
NW3 7XF

Application Ref: **2018/5806/P**

23 July 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:
**35 South Hill Park
London
NW3 2ST**

DECISION
Proposal:

Variation of condition 3 (development in accordance with approved plans) of planning permission ref 2014/1938/P dated 12/08/2015 (for Excavation to create new basement level under existing house and part of rear garden and erection of part two, part three storey rear extension to replace existing extension to be demolished; replacement of front and rear dormers; formation of front lightwell with cycle storage; new front boundary treatment; associated works), namely to change design and form of the rear extension elements at basement, ground and first floors.

Drawing Nos: Planning Design and Access Statement by Stephen Brandes architects dated November 2018; Arboricultural Method Statement dated 21.6.18 by Martin Dobson; 570/ LOC, T01, 301, 303, 305, 306, 311, 313, 315, 316; 570/ SK-091118, SK-101118, SK-121118, SK-100319; 570/COMP/ 011-1, 011-2, 011-3, 013-1A, 013-2, 014-1, 014-2, 014-3, 015-1, 015-2, 015-3

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 the original planning permission ref 2014/1938/P dated 12/08/2015.

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans- Planning Design and Access Statement by Stephen Brandes architects dated November 2018; Arboricultural Method Statement dated 21.6.18 by Martin Dobson; 570/ LDC, T01, B01, 303, 305, 306, 311, 313, 315, 316; 570/ SK-091118, SK-101118, SK-121118, SK-100319; 570/COMP/ 011-1, 011-2, 011-3, 013-1A, 013-2, 014-1, 014-2, 014-3, 015-1, 015-2, 015-3

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

- 3 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.

- 4 All hard and soft landscaping works shall be carried out in accordance with the approved landscape details by not later than the end of the planting season following completion of the development or any phase of the development, whichever is the sooner. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a high quality of visual amenity in the scheme in accordance with the requirements of policies A2, A3, A5, D1 and D2 of the London Borough of Camden Local Plan 2017.

- 5 The cycle facility as shown on the approved drawings shall be provided in its entirety 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.

-
- 6 All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the tree protection details approved on 19.7.18 ref 2018/2966/P.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policies A2 and A3 of the London Borough of Camden Local Plan 2017.

- 7 The basement accommodation hereby approved shall not be used as an independent or separate Class C3 dwelling.

Reason: To ensure that the future occupation of the building does not adversely affect the adjoining premises/immediate area by reason of the risk of flooding, in accordance with policies A1, A5 and CC3 of the London Borough of Camden Local Plan 2017.

Informative(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 Your proposals may be subject to control under the Party Wall etc Act 1996 which covers party wall matters, boundary walls and excavations near neighbouring buildings. You are advised to consult a suitably qualified and experienced Building Engineer.
- 3 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team London Borough of Camden 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444) . Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 4 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website at <https://beta.camden.gov.uk/documents/20142/1269042/Camden+Minimum+Requirements+%281%29.pdf/bb2cd0a2-88b1-aa6d-61f9-525ca0f71319> or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

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 must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

- 5 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.

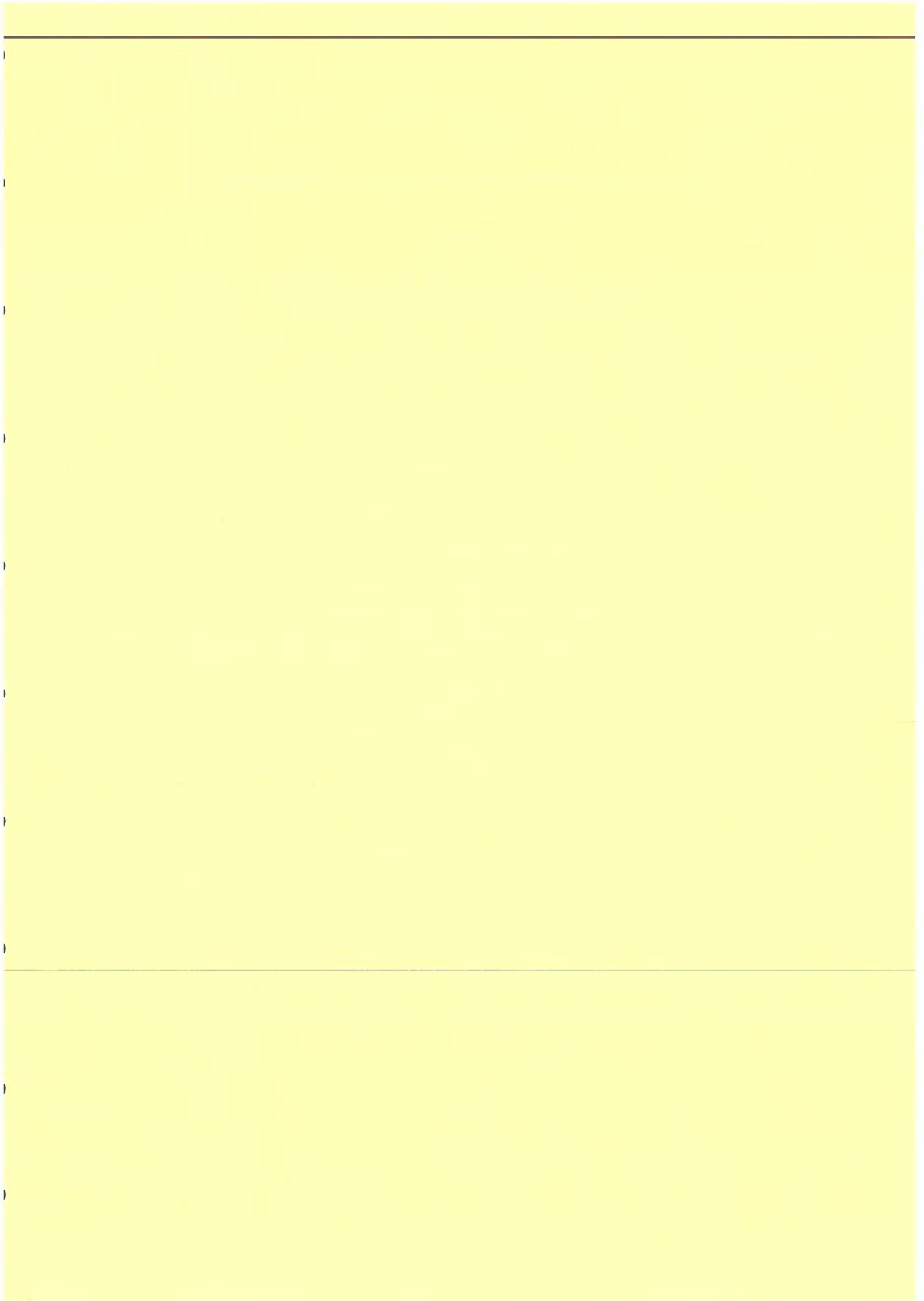
In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Supporting Communities Directorate

DECISION

Executive Director Supporting Communities



DATED

12 August

2019

(1) ANDREW CLIVE MARKEY and CAROLE ANN MARKEY

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 12 August 2015
Between the Mayor and the Burgesses of the
London Borough of Camden,
and Andrew Clive Markey and Carole Ann Markey
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
35 South Hill Park London NW3 2ST

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Head of Legal Services
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