

DATED

13 SEPTEMBER

2018

(1) AUBTINO LTD

-and-

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

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**DEED OF VARIATION**

Relating to the Agreement dated 15 October 2014  
Between the Mayor and the Burgesses of the  
London Borough of Camden  
and Alfred Yazdiha  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
relating to development at premises known as  
**LAND ADJOINING 221 BELSIZE ROAD LONDON NW6 4AA**

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

Tel: 020 7974 6007  
Fax: 020 7974 2962

Legal/JL/1800.649  
DoV v1

THIS DEED is made on the 13<sup>th</sup> day of SEPTEMBER 2018

**BETWEEN**

1. **AUBTINO LTD** (Co. Regn. No. 08455018) whose registered office is at Raei & Co, 7 The Broadway, Preston Road, Wembley, Middlesex, HA9 8JT (hereinafter called "the Owner") of the first part; and
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 and Alfred Yazdiha entered into an Agreement dated 15 October 2014 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 NGL846975 and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 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.
- 1.4 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 5 February 2018 for which the Council resolved to grant permission conditionally under reference 2017/7081/P subject to the conclusion of this Deed.
- 1.5 This Deed 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.
- 1.6 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 References in this Deed to the Owner and Mortgagee shall include their successors in title.
- 2.7 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 15 October 2014 made between the Council and Alfred Yazdiha

2.8.3 "the Original Planning

Permission"

means the planning permission granted by the Council on 5 October 2014 referenced 2013/3953/P

### **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"

the development permitted by the variation of condition 3 (approved plans) of planning permission reference 2013/3953/P dated 15/10/2014 (Erection of first, second floor and roof level extension to existing single-storey building and modifications to ground floor including alterations to front building line to create front garden, installation of new front boundary wall, and alterations to windows and doors all in connection with change of use of from retail (Class A1) to office/storage use (Class B1) at ground floor level, and to provide 2 x 1-bed flats (Class C3) at first and second floor levels), namely to infill gap between flank elevations of No.221 and 221a with recessed element to front of No.221a at first and second floor level, as shown on drawing numbers AY/12/2017/01, AY/12/2017/02, AY/06/2013/14, AY/05/2012/15 and AY/06/2013/16, Design and Access Statement, Construction management plan (June 2013), Environmental noise and vibration report (provided by soundtesting.co.uk), Lifetimes Homes statement and Sustainable Homes Assessment, Email received from Agent 08/04/2014 and Bike stand information page 1 and page 2

3.1.2 "the Planning Application" the planning application in respect of the Development of the Property submitted to the Council and validated on 5 February 2018 and given reference number 2017/7081/P

3.1.3 "the Planning Permission" the planning permission granted by the Council pursuant to the Planning Application for the Development in the form of the draft annexed hereto

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2013/3953/P" shall be replaced with "Planning Permission reference 2017/7081/P".

3.3 The draft planning permission reference 2017/7081/P annexed to this Agreement shall be treated as annexed to the Existing Agreement.

3.4 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 2017/7081/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 affixed and the Owner has executed this instrument as a Deed the day and year first above written.

EXECUTED AS A DEED BY  
AUBTINO LTD  
was hereunto affixed  
in the presence of:-

)  
)  
)  
)

[Redacted Signature]

Director

[Redacted Signature]

Director/Secretary

.....  
Witness Signature

Witness Name

Address

Occupation

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

)  
)  
)  
)

[Redacted Signature]

.....  
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)

Advanced Management UK LTD  
65 The Rideway Kenton  
Harrow  
HA3 0LW

Application Ref: 2017/7081/P

28 March 2018

Dear Sir/Madam

**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:  
**221A Belsize Road**  
**London**  
**NW6 4AA**

**Proposal:**

Variation of condition 3 (approved plans) of planning permission reference 2013/3953/P dated 15/10/2014 (Erection of first, second floor and roof level extension to existing single-storey building and modifications to ground floor including alterations to front building line to create front garden, installation of new front boundary wall, and alterations to windows and doors all in connection with change of use of from retail (Class A1) to office/storage use (Class B1) at ground floor level, and to provide 2 x 1-bed flats (Class C3) at first and second floor levels), namely to infill gap between flank elevations of No.221 and 221a with recessed element to front of No.221a at first and second floor level.

Drawing Nos: AY/12/2017/01, AY/12/2017/02, AY/06/2013/14, AY/05/2012/15 and AY/06/2013/16, Design and Access Statement, Construction management plan (June 2013), Environmental noise and vibration report (provided by soundtesting.co.uk), Lifetimes Homes statement and Sustainable Homes Assessment, Email received from Agent 08/04/2014 and Bike stand information page 1 and page 2.

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 2013/3953/P dated 15/10/2014.

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: AY/12/2017/01, AY/12/2017/02, AY/06/2013/14, AY/05/2012/15 and AY/06/2013/16, Design and Access Statement, Construction management plan (June 2013), Environmental noise and vibration report (provided by soundtesting.co.uk), Lifetimes Homes statement and Sustainable Homes Assessment, Email received from Agent 08/04/2014 and Bike stand information page 1 and page 2.

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

- 4 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 before the relevant part of the work is begun:

a) Details including sections at 1:10 of all windows (including jambs, head and cill), ventilation grills, external doors and gates;

b) Manufacturer's specification details of all facing materials (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 of the Camden Local Plan (2017).

Executive Director Supporting Communities



- 5 Before the development commences, details of the location, design and method of waste storage and removal including recycled materials, shall be submitted to and approved by the local planning authority in writing. The facility as approved shall be provided prior to the first occupation of any of the new units (office and 2 x flats) and permanently retained thereafter.

Reason: To ensure that sufficient provision for the storage and collection of waste has been made in accordance with the requirements of policies CC5, A1 and A4 of the Camden Local Plan (2017).

- 6 Before the development commences, details of secure and covered cycle storage area for 4 cycles shall be submitted to and approved by the local planning authority. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units (office and 2 x flats), 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.

- 7 The lifetime homes features and facilities, as indicated on the drawings and documents hereby approved shall be provided in their entirety prior to the first occupation of any of the new residential units.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy H6 of the Camden Local Plan (2017).

- 8 Prior to the commencement of the development hereby approved, details of the following shall be submitted to the Local Planning Authority and approved in writing:

Triple glazing – All windows on all floors facing the railway line should be incorporated with triple-glazing, be fixed shut and non-opening. The habitable rooms must remain as shown on the upper floorplans, as the habitable rooms must face onto the front of the building.

The development shall be constructed in accordance with these details to be provided and maintained as such thereafter.

Reason: To safeguard the amenity of future occupiers in accordance with the requirements of policies A1, A4 and D1 of the Camden Local Plan (2017).

- 9 Prior to the commencement of the development hereby approved, details of the following shall be submitted to the Local Planning Authority and approved in writing:

A noise report detailing mechanical ventilation must be provided to all units including the office. The scheme for sound insulation and attenuated ventilation shall ensure that noise, from external sources, does not exceed 35dB(A) LAeq, in any noise sensitive room. The development shall be constructed in accordance with these details to be provided and maintained as such thereafter.

Reason: To safeguard the amenity of future occupiers in accordance with the requirements of policies G1, CC1, D1,A1 and A4 of the London Borough of Camden Local Plan 2017.

- 10 No part of the flat roof area hereby approved shall be used as a roof terrace, and any access out onto this area shall be for maintenance purposes only.

Reason: In order to prevent any detrimental impacts of overlooking and noise and disturbance of the neighbouring premises in accordance with the requirement of policy A1 of the Camden Local Plan (2017).

Informative(s):

- 1 Reason for granting permission:

The proposed amendments seek to create a gap (approximately 0.3m wide and 0.6m deep) to the front of the property at first and second floor level to maintain a degree of visual separation between the host and adjoining buildings that was originally approved under permission 2013/3953/P dated 15/10/2014. It is considered that the proposed removal of the approved gap between the flank elevations of 221a and 221, and the introduction of a small recessed element to the front of the property, would have an acceptable impact on the character and appearance of the host property and neighbouring properties and the wider streetscene.

The proposed alterations would not harm neighbouring amenity in terms of loss of light, outlook or privacy.

No objections were received following statutory consultation. The site's planning history and relevant appeal decisions have been taken into account when coming to this decision. The full impact of the proposed scheme has already been assessed by virtue of the previous permission ref. 2013/3953/P dated 15/10/2014.

As such, the proposed development is in general accordance with policies A1 and D1 of the Camden Local Plan 2017, the London Plan 2016, and the National Planning Policy Framework 2012.

- 2 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).

Executive Director Supporting Communities

- DRAFT**
- 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 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.
  - 4 You are reminded that conditions 4 to 9 are outstanding and require details to be submitted and approved and may be subject to further enforcement action should any subsequent details be considered unacceptable.
  - 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.

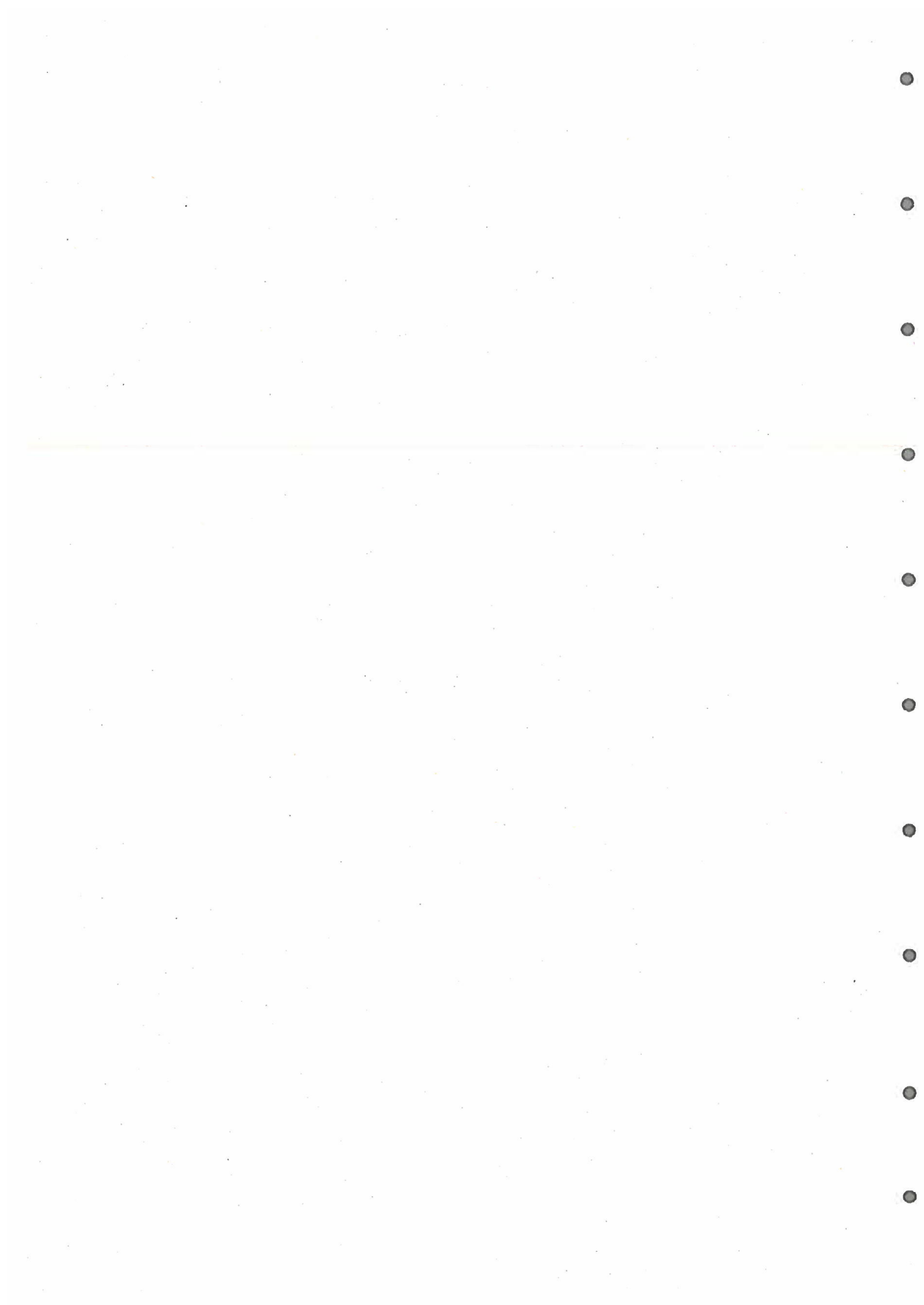
In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

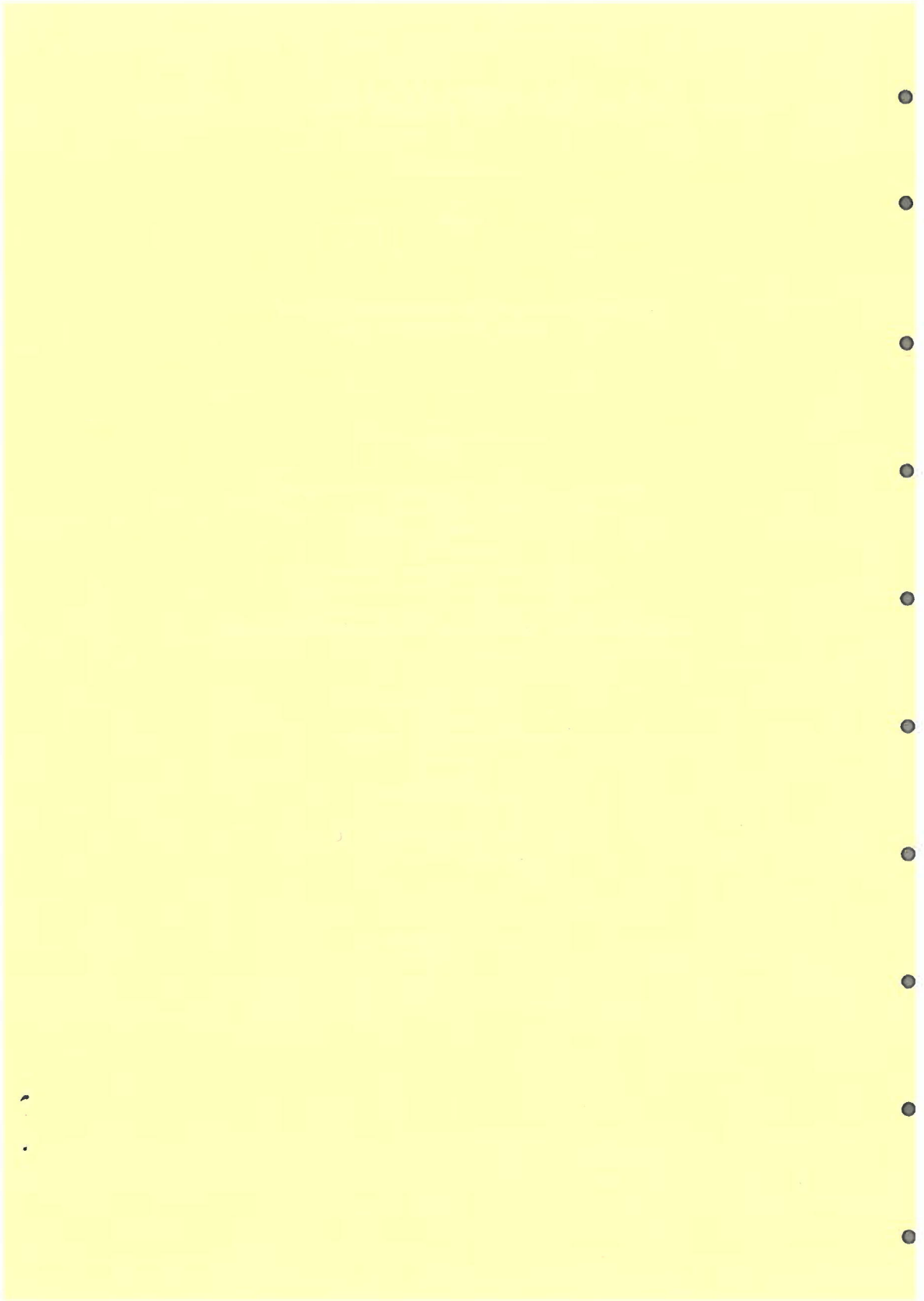
Supporting Communities Directorate

**DECISION**

Executive Director Supporting Communities







DATED

13 SEPTEMBER

2018

(1) AUBTINO LTD

-and-

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

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**DEED OF VARIATION**

Relating to the Agreement dated 15 October 2014  
Between the Mayor and the Burgesses of the  
London Borough of Camden  
and Alfred Yazdiha  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
relating to development at premises known as  
**LAND ADJOINING 221 BELSIZE ROAD LONDON NW6 4AA**

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