

DATED

22 October

2019

(1) MONARCH CONCEPT LIMITED

-and-

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

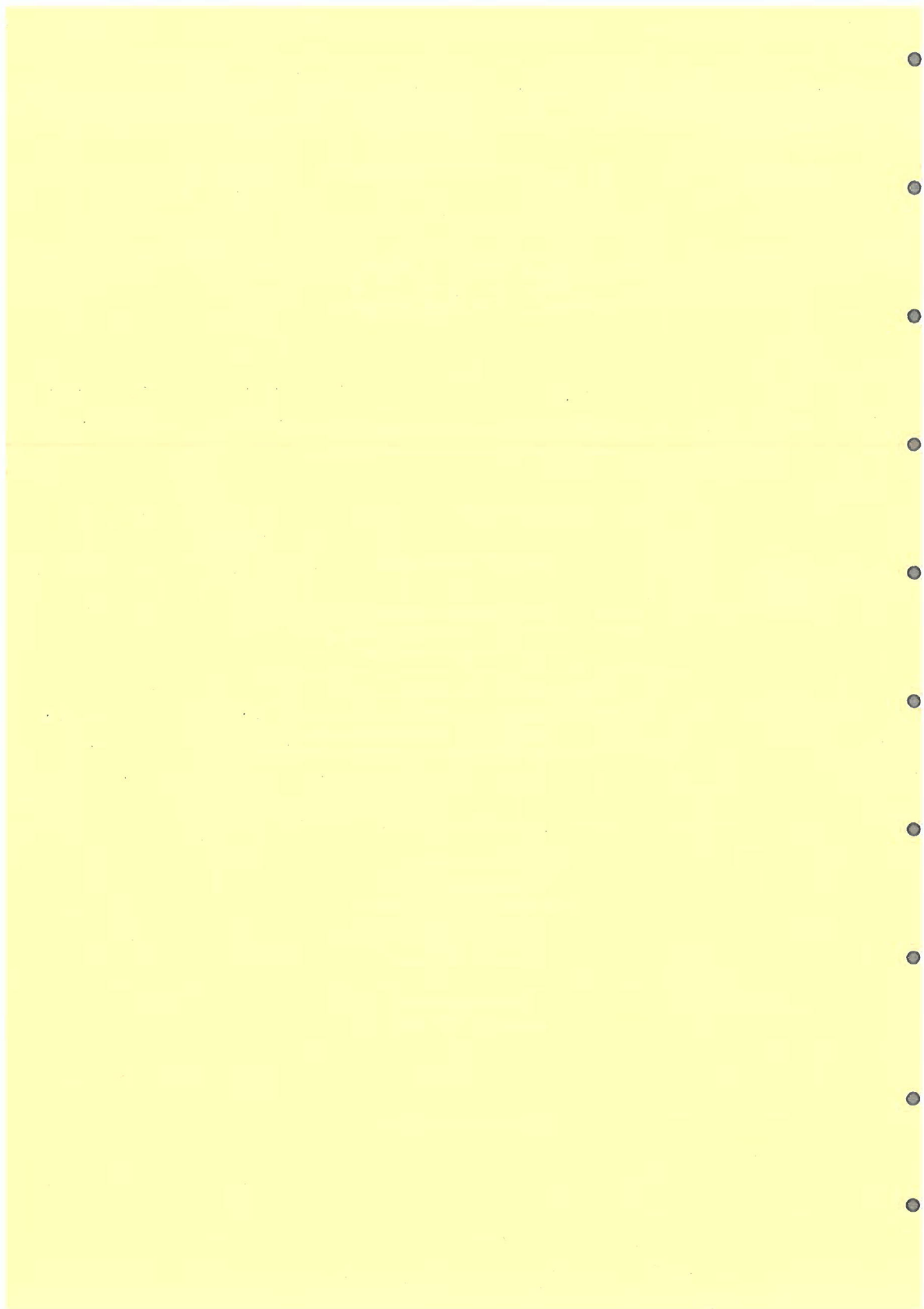
DEED OF VARIATION

Relating to the Agreement dated 5 June 2018
Between the Mayor and the Burgesses of the
London Borough of Camden,
Monarch Concept Limited and Bluestar Enterprise Limited
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
72 CRICKLEWOOD BROADWAY, LONDON NW2 3EP

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/1800.1217



THIS DEED is made on the 22nd day of October 2019

BETWEEN

1. **MONARCH CONCEPT LIMITED** (Co. Regn. No. 11005870) of 11a Empire Parade, Empire Way, Wembley HA9 0RQ (hereinafter called "the Owner") of the first part

3. **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, Monarch Concept Limited and Bluestar Enterprise Limited entered into an Agreement dated 5 June 2018 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 LN236785 subject to a charge to the Mortgagee.
- 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 12 April 2019 for which the Council resolved to grant permission conditionally under reference 2019/2035/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 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 5 June 2018 made between the Council, Monarch Concept Limited and Bluestar Enterprise Limited

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 5 June 2018 referenced 2017/6363/P allowing the change of use of approx.30sqm of retail (A1) floorspace to rear of shop into residential (C3), erection of single storey rear/side extension at ground floor level and conversion of existing maisonette at second and third floor levels in association with creation of 3 units (2x2-bed; 1x1-bed) (C3) as shown on drawing numbers:- 72CB/OSB; 72CB/01B; 72CB/02B; 72CB/03B; 72CB/04B; 72CB/05B; 72CB/06B; 72CB/07C; Design and Access Statement (prepared by Sterling Planning)

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 2017/6363/P dated 5 June 2018, as amended by: Variations to Conditions 2 (approved plans) and 4 (cycle storage) of planning permission ref. 2017/6363/P (dated 5.6.18) for Change of use

of approx.30sqm of retail (A1) floorspace to rear of shop into residential (C3), erection of single storey rear/side extension at ground floor level and conversion of existing maisonette at second and third floor levels in association with creation of 3 units (2x2-bed; 1x1-bed) (C3), namely to extend depth of rear extension and relocate cycle parking (retrospective) as shown on drawing numbers:-

Additional Drawings: 72CB/OSD; 72CB/02D; 72CB/04D; 72CB/05D; 72CB/06D; 72CB/07D; 72CB/08D

Superseded: 72CB/OSB; 72CB/02B; 72CB/03B; 72CB/04B; 72CB/05B; 72CB/06B; 72CB/07C

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2019/2035/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 April 2019 by the Owner and given reference number 2019/2035/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2017/6363/P" shall be replaced with "Planning Permission reference 2019/2035/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 2019/2035/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 and the Mortgagee have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY)
MONARCH CONCEPT LIMITED)
acting by a Director)
in the presence of:-/)

[Redacted Signature]

Director

[Redacted Signature]

Witness Signature

Witness Name: *CLARE WALLACE*

Address: *105 MORTIMER ROAD, NW10 5TU*

Occupation: *ADMINISTRATOR*

CONTINUATION OF THE DEED OF VARIATION IN RELATION TO 72 CRICKLEWOOD BROADWAY, LONDON NW2 3EP

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

Sterling Town Planning
Flat 25, College Yard
5 Gammons Lane
Watford
WD24 6BQ
United Kingdom

Application Ref: **2019/2035/P**

23 September 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:
72 Cricklewood Broadway
London
NW2 3EP

PROPOSAL
Proposal:

Variations to Conditions 2 (approved plans) and 4 (cycle storage) of planning permission ref. 2017/6363/P (dated 5.6.18) for Change of use of approx. 30sqm of retail (A1) floorspace to rear of shop into residential (C3), erection of single storey rear/side extension at ground floor level and conversion of existing maisonette at second and third floor levels in association with creation of 3 units (2x2-bed; 1x1-bed) (C3), namely to extend depth of rear extension and relocate cycle parking (retrospective)

Drawing Nos: Additional Drawings: 72CB/OSD; 72CB/02D; 72CB/04D; 72CB/05D;
72CB/06D; 72CB/07D; 72CB/08D

Superseded: 72CB/OSB; 72CB/02B; 72CB/03B; 72CB/04B; 72CB/05B; 72CB/06B;
72CB/07C

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. 2017/6363/P (dated 05/06/2018).

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 For the purposes of this decision, condition no.3 of planning permission 2017/6363/P (dated 5.6.18) 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: 72CB/OSD; 72CB/02D; 72CB/04D; 72CB/05D; 72CB/06D; 72CB/07D; 72CB/08D; 72CB/01B

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

- 4 For the purposes of this decision, condition no.4 of planning permission 2017/6363/P (dated 5.6.18) shall be replaced with the following condition:

REPLACEMENT CONDITION 4

The secure and covered storage facility for 5 cycles (as shown on drawing no. 72CB/07D) shall be provided in its entirety within one month of this decision.

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 and policy 8 of the Fortune Green West Hampstead Neighbourhood Plan 2015.

Informative(s):

- 1 Reasons for granting

The application seeks permission for an enlarged extension compared to what was initially consented. Whilst the extension is of a larger scale than what would be typically supported and does not demonstrate the level of design quality usually expected, the pre-existing situation was an entirely covered rear yard that was of a greater scale in terms of depth, height and width. The structure was also constructed using poor quality materials that had weathered badly and as such, appeared unsightly. Most of the rear yard areas along this side of Cricklewood Broadway have been entirely infilled in association with the commercial use at ground floor level although it appears there is a residential unit in the rear yard of no.68 next door. There are no design reasons as to why the scale and bulk is less appropriate for residential use in this location than it is for commercial use.

Some of the garden space has been lost for the ground / first floor unit and for the two units at upper floors entirely; however, this is common to other residential units at upper floor levels along Cricklewood Broadway that have no access to garden space due to the rear yards being infilled. The loss of amenity space is therefore not considered sufficient reason to not support the application.

The cycle parking for the two upper floor units would be relocated adjacent to an entrance gate accessed from Ebbfleet Road in the demise of the application site, whilst the cycle storage for the unit at ground floor level would be in the courtyard. Both would be covered, secure and accessible and as such, acceptable.

Given the existing high boundary walls, the enlarged extension would not cause any adverse impacts on the amenity of adjoining residential occupiers.

No objections have been received prior to making this decision. 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, T1, T2, D1 and D2 of the Camden Local Plan 2017 policies 1, 2 and 8 of the Fortune Green West Hampstead Neighbourhood Plan 2015. The proposed development also accords with the London Plan 2016 and the National Planning Policy Framework.

2. Your attention is drawn to the fact that there is a separate Deed of Variation 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.

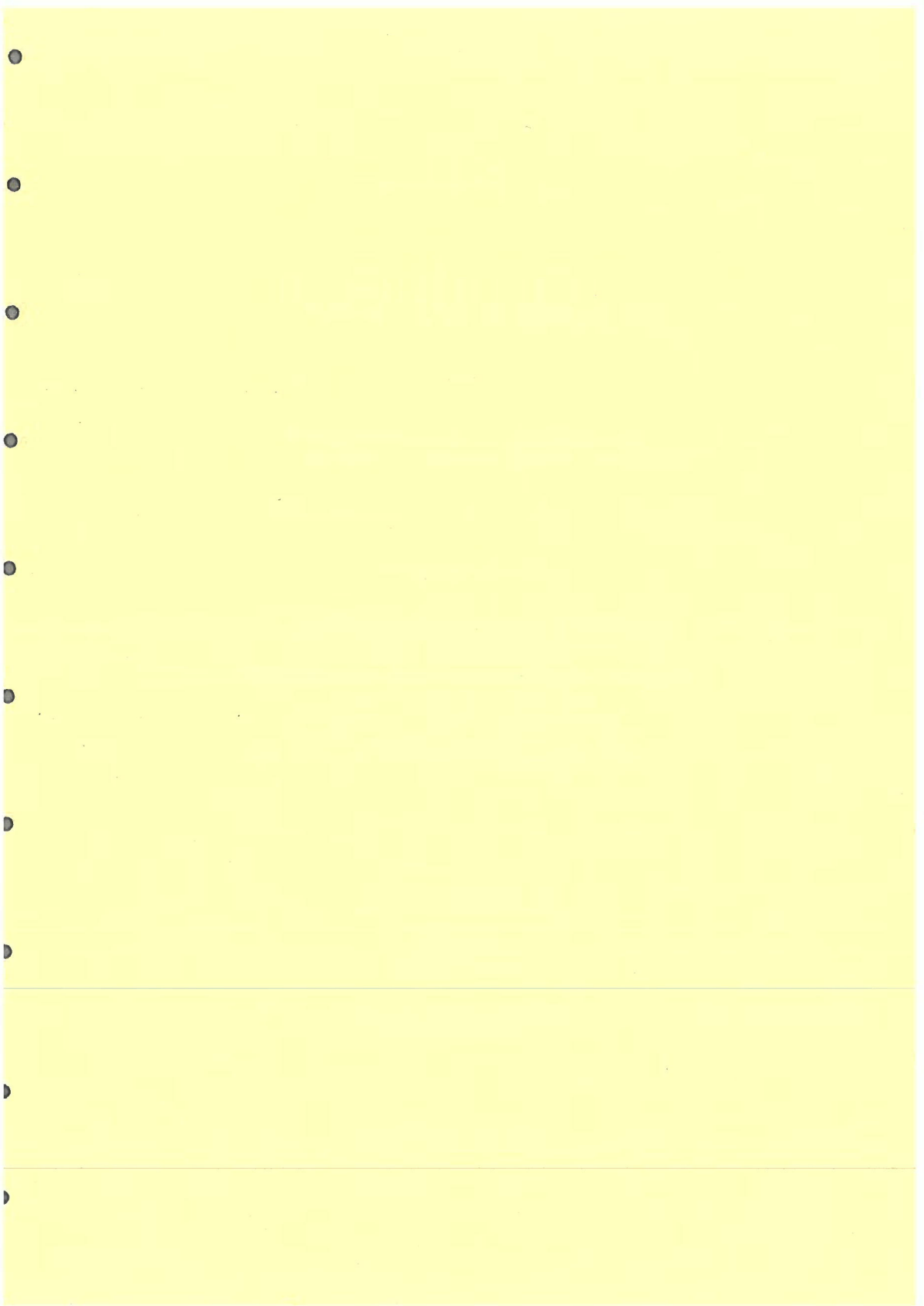
In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Supporting Communities Directorate

Executive Director Supporting Communities





DATED

22 October

2019

(1) MONARCH CONCEPT LIMITED

-and-

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

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