

DATED

7 August

2019

(1) ROSE MATILDA YOUNG and LESLEY DENISE WIGGETT

and

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

A G R E E M E N T

relating to land known as

St Martin's Tavern, 35 Pratt Street, Camden Town, NW1 OBG

pursuant to

Section 106 of the Town and Country Planning Act 1990 (as amended);

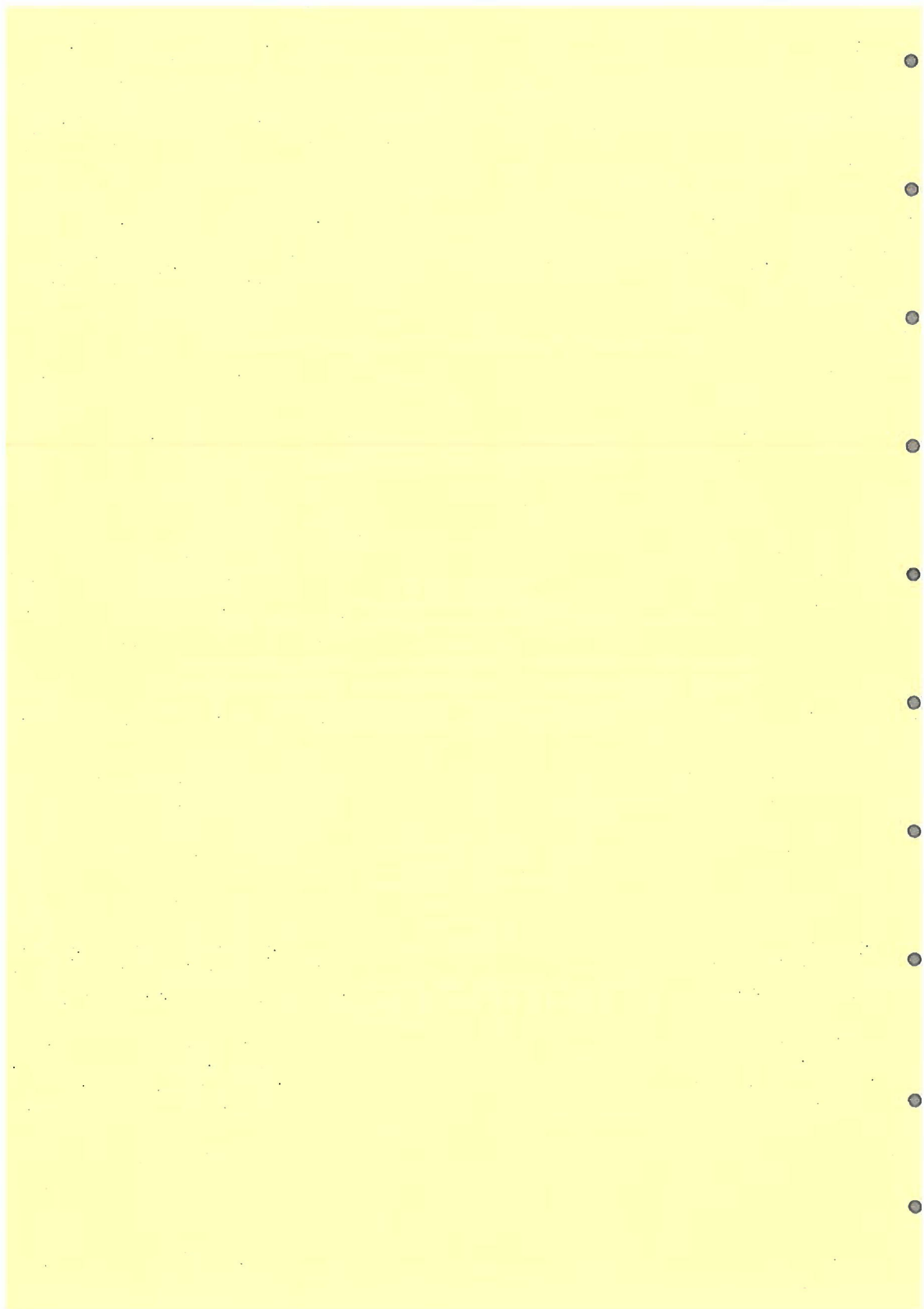
Section 16 of the Greater London Council (General Powers) Act 1974;

Section 111 of the Local Government Act 1972;

Section 1(1) of the Localism Act 2011

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

Tel: 020 7974 4125
CLS/COM/OO.1800.1205



THIS AGREEMENT is made the 7th day of August 2019

B E T W E E N:

A. **ROSE MATILDA YOUNG and LESLEY DENISE WIGGETT** of 71 Beverley Drive, Edgware HA8 5NQ and care of Graham White & Co, 94 High Street, Bushey WD23 3HD (hereinafter called "the Owner") of the first part

B. **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

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 LN107061.

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 part of the Property was submitted to the Council and validated on 16 August 2018 under reference number 2018/3951/P.

1.4 The Council refused the Planning Application on 30 April 2019.

1.5 An appeal under section 78 of the Act in respect of the refusal of the Planning Application was submitted to the Planning Inspectorate and was given reference number APP/X5210/W/19/3229023.

1.6 The Council is the local planning authority for the purposes of the Act and is the local authority for the purposes of Section 16 of the Greater London Council (General Powers) Act 1974 Section 111 of the Local Government Act 1972; and Section 1(1) of the Localism Act 2011 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.

- 1.7 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

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 Development" change of use from a restaurant (Use Class A3) to a hot food takeaway (Use Class A5), installation of extraction and ventilation equipment and associated works as shown on drawing numbers:- B10413-AEW-PJ003029-XX-DR-0005-[A]_Location Plan; B10413-AEW-PJ003029-ZZ-DR-0001-[B]_Existing GA Plan; B10413-AEW-PJ003029-XX-DR-0002-[B]_Existing Elevations; B10413-AEW-PJ003029-XX-DR-0006-[H]_Block Plan; B10413-AEW-PJ003029-ZZ-DR-0003-[F]_Proposed GA Plan; B10413-AEW-PJ003029-XX-DR-0004-[F]_Proposed Elevations; Plant Noise Assessment (Report 18/0393/R01) prepared by Cole Jarman, dated 28/08/2018; BB10336-AEW-PJ003192-XX-SP-0002 - PROPOSED VENTILATION SYSTEM ANNEX C DOCUMENT, Date 02.08.2018; B10413-AEW-PJ0023755-XX-SP-0001-[B] - PROPOSED VENTILATION SYSTEM dated 22.11.2018; B10413-PJ003029-ME-RM23755-9438_Preventative Maintenance Contract, dated 13th November 2018
- 2.4 "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

- 2.5 "Inspector" means the Inspector appointed by the Secretary of State to determine the Planning Appeal
- 2.6 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.7 "the Parties" mean the Council and the Owner
- 2.8 "the Planning Appeal" the appeal under section 78 of the Act in respect of the refusal of the Planning Application with reference number APP/X5210/W/19/3229023
- 2.9 "the Planning Application" a planning application in respect of the development of part of the Property submitted to the Council and validated on 16 August 2018 under reference number 2018/3951/P
- 2.10 "Planning Obligations Monitoring Officer" a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof
- 2.11 "the Planning Permission" any planning permission granted for the Development by the Secretary of State under reference APP/X5210/W/19/3229023 pursuant to the appeal against the refusal of the Planning Application
- 2.12 "the Property" the land known as St Martin's Tavern, 35 Pratt Street, Camden Town, NW1 0BG the same as shown shaded grey on the plan annexed hereto

2.13 "Secretary of State" the Secretary of State for Housing Communities and Local Government (or such nominee or representative thereof)

2.14 "the Service Management Plan" a plan setting out a package of measures to be adopted by the Owner and approved by the Council from time to time for the management of the deliveries and servicing to the Development securing the minimisation of conflicts between service vehicle and car and pedestrian movements and the minimisation of damage to amenity from such servicing and deliveries which shall include inter alia the following:-

(a) a requirement for delivery vehicles to unload from a specific suitably located area;

(b) details of the person/s responsible for directing and receiving deliveries to the Property;

(c) measures to avoid a number of delivery vehicles arriving at the same time;

(d) likely frequency and duration of servicing movements and measures to be taken to avoid any conflicts;

(e) likely nature of goods to be delivered;

(f) the likely size of the delivery vehicles entering the Property;

(g) measures taken to ensure pedestrian management and public safety during servicing including a statement setting out how highway safety will be maintained during servicing movements

(h) measures taken to address servicing movements on and around the Property with a view inter alia to combining

and/or reducing servicing and minimise the demand for the same

(i) provision of swept path drawings to ascertain manoeuvring when entering and exiting the Property in accordance with the drawings submitted and agreed with the Council;

(j) details of arrangements for refuse storage and servicing; and

(k) identifying means of ensuring the provision of information to the Council and provision of a mechanism for review and update as required from time to time

2.15 "the Waste and Recycling Management Plan"

a plan setting out a package of measures to be adopted by the Owner and approved by the Council to minimise production of the trade waste caused by the operation of the Development and management disposal of such waste produced with a view to inter alia reducing waste and promoting the use of recycling and sustainable forms of waste disposal, such draft plan to include inter alia the following:-

(a) details of a litter picking programme which must include the area to be covered and the times and frequency of litter picking;

(b) measures to ensure commitment to recycling;

(c) measures to manage trade waste, including the timing when waste will be deposited on the street for collection in relation to scheduled collection times; and

(d) proposals for a review of the plan (once approved) where appropriate in light of changing circumstances

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 16 of the Greater London Council (General Powers) Act 1974 Section 111 of the Local Government Act 1972; and Section 1(1) of the Localism Act 2011 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 of 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 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 SERVICE MANAGEMENT PLAN

- 4.1.1 On or prior to Implementation to submit to the Council for approval the Service Management Plan.
- 4.1.2 Not to Occupy or permit Occupation of any part of the Development until such time as the Council has approved the Service Management Plan as demonstrated by written notice to that effect.
- 4.1.3 After the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Service Management Plan as approved by the Council from time to time and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Service Management Plan.

4.2 WASTE AND RECYCLING MANAGEMENT PLAN

- 4.2.1 On or prior to Implementation of the Development to submit a draft of the Waste and Recycling Management Plan to the Council.
- 4.2.2 Not to Occupy or permit Occupation of any part of the Development until such time as the Council has approved the Waste and Recycling Management Plan as demonstrated by written notice to that effect.
- 4.2.3 After the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Waste and Recycling Management Plan as approved by the Council from time to time and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Waste and Recycling Management Plan.

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 Development 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 planning reference 2018/3951/P the date upon which the Development will be 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 obligation) provide through its 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 2018/3951/P.

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, Placeshaping Service, Urban Design and Development Team, 2nd Floor, 5 Pancras Square, London, N1C 4AJ and sent to planning obligations on PlanningObligations@camden.gov.uk quoting the planning reference number 2018/3951/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 of the Planning Permission 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 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 This Agreement shall determine and cease to have any further effect if:
- (i) the Planning Appeal is dismissed;
 - (ii) the Planning Permission is quashed, revoked or otherwise withdrawn or modified at any time so as to render this Agreement irrelevant, impractical or unviable; or
 - (iii) the Planning Permission expires before effluxion of time for the Implementation of the Development.
- 6.9 In the event that the Inspector or Secretary of State expressly declares when determining the Planning Appeal that any individual covenant or obligation within this Agreement is not a material planning consideration for the purposes of determining the Planning Appeal then without prejudice to the legal effect of the remainder of this Agreement said individual obligation shall not take effect.

7. **MORTGAGEE EXEMPTION**

- 7.1 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.

8. **JOINT AND SEVERAL LIABILITY**

8.1 All Covenants made by the Owner(s) 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)
ROSE MATILDA YOUNG)
in the presence of:)

.....
Witness Signature 

Witness Name: CATHERINE LYA HOLME
Address: 65 BEVERLEY DRIVE, EDGWARE, MIDDLESEX HA8 5N
Occupation: RETIRED

EXECUTED AS A DEED BY)
LESLEY DENISE WIGGETT)
in the presence of:)

.....
Witness Signature 

Witness Name: CATHERINE LYA HOLME
Address: 65 BEVERLEY DRIVE, EDGWARE, MIDDLESEX, HA8 5NQ
Occupation: RETIRED

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO ST MARTIN'S TAVERN, 35 PRATT STREET, CAMDEN TOWN, NW1 OBG

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



..... [Redacted Signature]

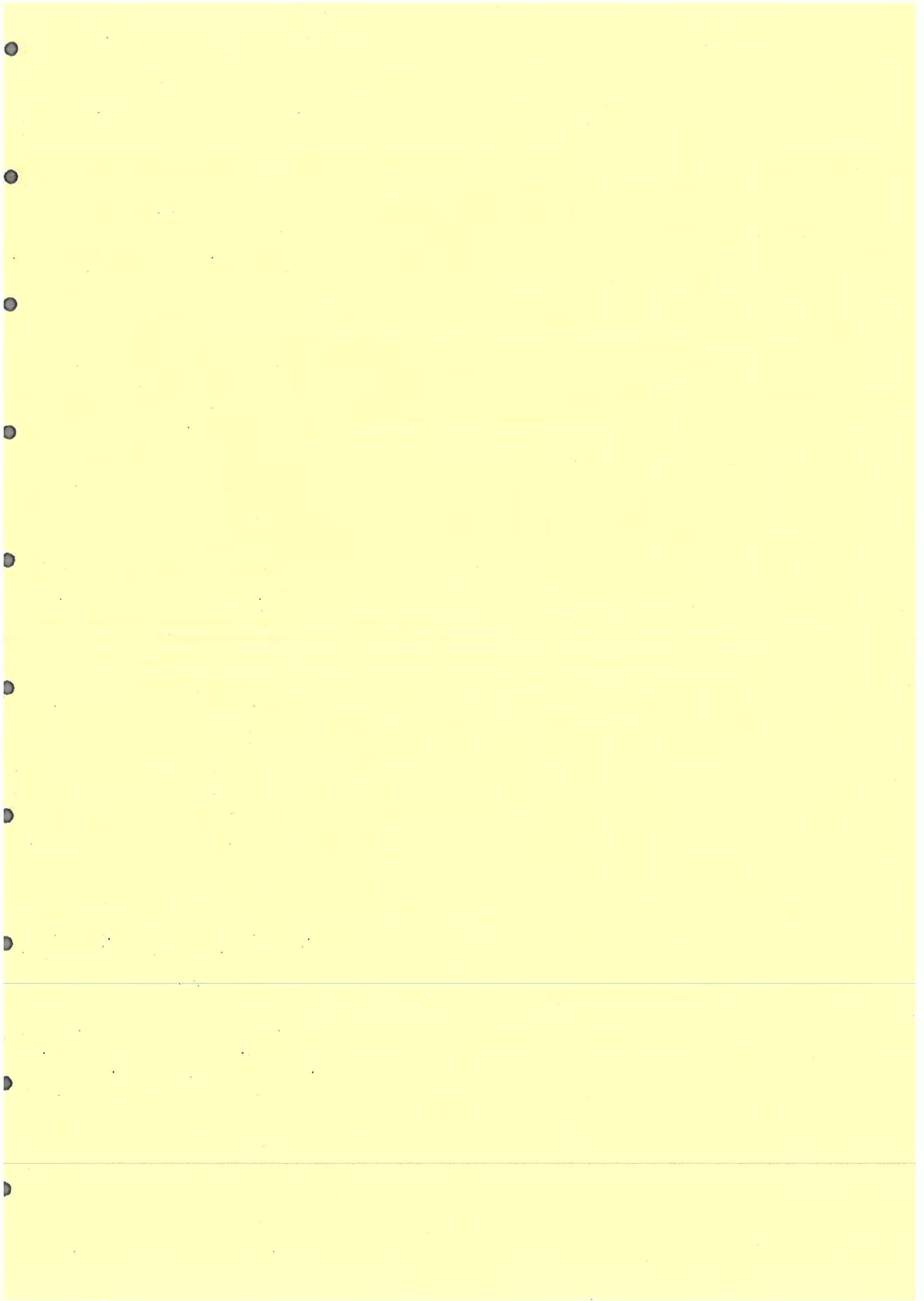
Authorised Signatory

NORTHGATE SE GIS Print Template



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DATED

7 August

2019

(1) ROSE MATILDA YOUNG and LESLEY DENISE WIGGETT

and

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

A G R E E M E N T

relating to land known as

St Martin's Tavern, 35 Pratt Street, Camden Town, NW1 OBG

pursuant to

Section 106 of the Town and Country Planning Act 1990 (as amended);

Section 16 of the Greater London Council (General Powers) Act 1974;

Section 111 of the Local Government Act 1972;

Section 1(1) of the Localism Act 2011

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