

DATED

30 March

2012

(1) DOMAINE DEVELOPMENTS LIMITED

and

(2) NETWORK RAIL LIMITED

and

(3) BALLYMORE PROPERTIES LIMITED

and

(4) IBRC ASSET FINANCE PLC

and

(5) IRISH BANK RESOLUTION CORPORATION LIMITED

and

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

**A G R E E M E N T**

relating to land known as  
187-199 WEST END LANE  
LONDON NW6 2LJ

pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended) and  
Section 278 of the Highways Act 1980

Andrew Maughan  
Head of Legal Services  
London Borough of Camden  
Town Hall  
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London WC1H 9LP

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THIS AGREEMENT is made the 30<sup>th</sup> day of March 2012

**B E T W E E N:**

- i. **DOMAINE DEVELOPMENTS LIMITED** (Co. Regn. No. 4152665) whose registered office is at St John's House 5 South Parade Summertown Oxford OX2 7JL (hereinafter called "the First Freeholder") of the first part
- ii. **NETWORK RAIL INFRASTRUCTURE LIMITED** (Co. Regn. No. 2904587) whose registered office is at Kings Place 90 York Way London N1 9AG (hereinafter called "the Second Freeholder") of the second part
- iii. **BALLYMORE PROPERTIES LIMITED** (Co. Regn. No. 2260505) whose registered office is at St John's House 5 South Parade Summertown Oxford OX2 7JL (hereinafter called "the Interested Party") of the third part
- iv. **IBRC ASSET FINANCE PLC** (Co. Regn. No. 3091082) whose registered office is at 10 Old Jewry London EC2R 8DN (hereinafter called the "First Mortgagee") of the fourth part
- v. **IRISH BANK RESOLUTION CORPORATION LIMITED** (incorporated in Ireland) of and whose address for service in the United Kingdom is 10 Old Jewry London EC2R 8DN (hereinafter called "the Second Mortgagee") of the fifth part
- vi. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the sixth part

**1. WHEREAS**

- 1.1 The First Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of part of the Property under Title Number NGL800100 subject to a charge to the Mortgagee. and the Second Mortgagee

*[Handwritten signature]*

First *[initials]*

*[initials]*

*[Handwritten signature]*

*[Handwritten signature]*

- 1.2 The First Freeholder is the freehold owner of and is interested in part of the Property for the purposes of Section 106 of the Act.
- 1.3 The Second Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of part of the Property under Title Number NGL829579.
- 1.4 The Second Freeholder is the unregistered freehold owner of part of the Property.
- 1.5 The Second Freeholder is the freehold owner of and is interested in part of the Property for the purposes of Section 106 of the Act.
- 1.6 The Interested Party has entered into an Agreement for Sale in relation to the Property and is interested in the Property for the purposes of Section 106 of the Act.
- 1.7 The First Freeholder, the Second Freeholder and the Interested Party shall hereinafter be collectively referred to as **“the Owner”**.
- 1.8 A Planning Application for the development of the Property was submitted to the Council and validated on 15 December 2011 and the Council resolved to grant permission conditionally under reference number 2011/6129/P subject to conclusion of this legal Agreement.
- 1.9 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.
- 1.10 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.
- 1.11 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.12 The First Mortgagee as mortgagee under a legal charge contained in a Debenture dated 28 February 2003 registered under Title Number NGL800100 is willing to enter into this Agreement to give its consent to the same.

1.13 The Second Mortgagee as mortgagee under a legal charge contained in a Debenture dated 7 August 2008 registered under Title Number NGL800100 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 Accessibility Plan" a plan securing the following:-
- (a) the provision of three of the Intermediate Units as Wheelchair Accessible Units shown shaded red on Plan 5 fitted out in accordance with the Camden Wheelchair Housing Design Brief 2010 (adopted 6 April 2011) or any successor document;
  - (b) the provision of four Social Rented Units as Wheelchair Accessible Units shown shaded orange on Plan 5 fitted out in accordance with the Camden Wheelchair Housing Design Brief 2010 (adopted 6 April 2011) or any successor document;
  - (c) a plan showing the location of the Wheelchair Accessible Units within the Development;
  - (d) measures to ensure that any lift access to the Wheelchair Units is maintained at all times and in the event of routine maintenance or unexpected fault in relation to the lifts accessing the Wheelchair Unit(s)

that such works/repairs are carried out diligently and in a way that endeavours to minimise disruption to wheelchair users;

(e) measures to ensure the Development is easily accessible residents and visitors to the Development who are wheelchair users;

(f) provision of a key fob system or similar is used to ensure residents use the main service route to the Development in order to provide natural surveillance and prevent any perception of social division across the Property;

(g) principles of inclusive design inform and are fully integrated within the Development

2.2 "the Act"

the Town and Country Planning Act 1990 (as amended)

2.3 "the Additional Affordable Housing Provision"

the gross external area of an additional amount of units of Affordable Housing to be:-

(a) assessed against the First Viability Update Appraisal;

(b) provided as part of the Development;

(c) agreed with the Council as to number location and tenure of the units; and

(d) not exceed the Initial Affordable Housing Shortfall;

(e) in the event the First Viability Update Surplus does not exceed the Existing Value to an extent that would allow the conversion of an open market residential unit to a unit of Affordable Housing it may be agreed between the Parties that the additional provision shall be provided as a financial contribution

2.4 "the Additional Affordable Housing Provision Plan"

a plan securing the incorporation of any units forming the Additional Affordable Housing Provision within the Development setting out the location mix tenure and accessibility of the units within the Development

2.5 "the Additional Affordable Housing Viability Appraisal"

an assessment of the viability of the Development including the Additional Affordable Housing Provision to be undertaken by the Owner and submitted to the Council in accordance with the terms of this Agreement such assessment to be presented in substantially the same form as the First Viability Update Appraisal

2.6 "the Additional Training and Employment Contribution"

in the event that a minimum of 7 (seven) apprentices are not employed at the Development pursuant to clause 4.3.3, the sum of £7,000 (seven thousand pounds) for each apprentice out of the 7 (seven) apprentices not employed on the Site up to a maximum of £49,000 (forty-nine thousand pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of

receipt in conjunction with Kings Cross Construction to promote education and opportunities for jobs and employment to training within the London Borough of Camden

2.7 "Affordable Housing"

low cost housing including Social Rented Housing and Intermediate Housing that meets the needs of people who cannot afford to occupy homes available in the open market in accordance with Government policy statement PPS3 and successor documents

2.8 "Affordable Housing Units"

the 20 Intermediate Housing Units the 33 Social Rented Housing Units and the Additional Affordable Housing Provision within the Development to be constructed fitted out and occupied exclusively as Affordable Housing

2.9 "the Agreement"

this Planning Obligation made pursuant to Section 106 of the Act

2.10 "Air Quality Assessment"

an assessment undertaken by the Owner which shall include the following information:-

(a) technical details of the proposed CHP system including thermal capacity;

(b) maximum rate of fuel consumption in kilograms or cubic metres per hour;

(c) efflux velocity of flue gases at working;

(d) proposed height of flue above ground level;

(e) quantity of emissions released from the exhaust. This shall be expressed as the

emission rate for nitrogen oxides, carbon monoxide and particulate matter;

- (f) an assessment using dispersion modelling to demonstrate that the stack height of the CHP is sufficient to prevent emissions having a significant impact on the air quality objectives for nitrogen dioxide (NO<sub>2</sub>) and particulate matter (PM10)
- (g) outlining details of the modelling software chosen, emissions and stack parameters, building parameters, meteorological data, method used to calculate background and predicted concentrations
- (h) the location and grid reference of maximum pollution concentrations shall be identified, with distance from the stack
- (i) a full discussion of any potential breaches of air quality criteria; and a discussion of model sensitivity and variation
- (j) provision of a plan showing the termination point of all exhaust stacks associated with CHP ensuring the exhaust stack shall be located away from open-windows and air inlet vents

## 2.11 "Business Parking Bay"

a parking place designated by the Council by an order under the Road Traffic Regulation Act 1984 or other relevant legislation for use by businesses of the locality in which the Development is situated



- 2.12 "Business Parking Permit" a parking permit issued by the Council under section 45(2) of the Road Traffic Regulation Act 1984 allowing a vehicle to park in a Business Parking Bay
- 2.13 "the Certificate of Practical Completion" the certificate issued by the Owner's contractor architect or project manager certifying that the Development has been completed
- 2.14 "CHP" combined heat and power unit used to simultaneously generate both electricity and useful heat
- 2.15 "the Commercial Element" the retail financial and professional services and food and drink floorspace (Class A1, A2, A3 and A4) forming part of the Development
- 2.16 "the Community Facilities Contribution" the sum of £355,740 (three hundred and fifty five thousand seven hundred and forty pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt towards the maintenance improvement and/or extension of existing community facilities in the vicinity of the Property
- 2.17 "Completed" means completed to the stage at which a Certificate of Practical Completion may be issued and "Completion" shall be construed accordingly
- 2.18 "Construction Management Plan" a plan setting out the measures that the Owner will adopt in undertaking the construction of the Development using good site practices in accordance with the Council's Considerate Contractor Manual to ensure the Construction

Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network including (but not limited to):-

- (i) a statement to be submitted to Council giving details of the environmental protection highways safety and community liaison measures proposed to be adopted by the Owner in order to mitigate and offset potential or likely effects and impacts arising from the demolition of the Existing Buildings or structures on the Property and the building out of the Development;
- (ii) incorporation of the provisions set out in the First Schedule annexed hereto
- (iii) incorporation of the provisions set out in the Second Schedule annexed hereto
- (iv) effects on the health and amenity of local residences site construction workers local businesses and adjoining developments undergoing construction:
- (v) amelioration and monitoring measures over construction traffic including procedures for notifying the owners and or occupiers of the residences and businesses in the locality in advance of major operations delivery schedules and amendments to normal traffic arrangements (if any);

- (vi) the inclusion of a waste management strategy for handling and disposing of construction waste; and
  - (vii) 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
- 2.19 "the Construction Phase" the whole period between
- (i) the Demolition Date and
  - (ii) the date of issue of the Certificate of Practical Completion
- 2.20 "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
- 2.21 "the Deferred Affordable Housing Contribution" an amount calculated by either taking the:-
- (a) Second Affordable Housing Shortfall and multiplying it by £2,650 (two thousand six hundred and fifty pounds);
- or (where no Additional Affordable Housing Provision has been agreed) taking the:-
- (b) Initial Affordable Housing Shortfall and multiplying it by £2,650 (two thousand six hundred and fifty pounds)

- 2.22 "the Demolition Date" the date on which demolition of the Existing Buildings and site clearance commences
- 2.23 "the Development" redevelopment of site to create seven new buildings between five and twelve storeys in height to provide 198 residential units (Class C3), retail, financial and professional services and food and drink floorspace (Class A1, A2, A3 and A4), flexible employment/healthcare floorspace (Class B1/D1) along with associated energy centre, storage, parking, landscaping and new public open space (existing buildings to be demolished).(Class B1/D1) along with associated energy centre, storage, parking, landscaping and new public open space (existing buildings to be demolished) as shown on drawing numbers:- site location plan; MP\_01; MP\_02; MP\_03 A; MP\_04 A; MP\_05 A; MP\_06 A; MP08; PL\_01; PL\_02; PL\_03 A; PL\_04; PL\_05; PL\_06; PL\_07 C; ELE\_01; ELE\_02; ELE\_03; ELE\_04; ELE\_05; ELE\_06; ELE\_07 B; ELE\_08; SS\_01 A; SS\_02 A; SS\_03; SS\_04; BA01; BA02; BB01; BC01; BD01; BE01; BF01; BG01 A; BC02; RET01; Landscape and Public Realm Strategy November 2011
- 2.24 "the Education Contribution" the sum of £234,572 (two hundred and thirty four thousand five hundred and seventy two pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt for the provision of education needs arising in the London Borough of Camden
- 2.25 "the Employment Space Strategy" a strategy setting out a package of measures to be adopted by the Owner in the Occupation and

management of the Commercial Element of the Development to ensure the following hierarchy of delivery is secured:-

- i the Commercial Element shall be fitted out to Shell and Core and advertised for Occupation by business or community uses at the prevailing market rates;

in the event the Commercial Element (or any part thereof) is not let within six months of the first Occupation Date or demand for the Commercial Element is from small businesses who are not able to afford the fit out costs associated with letting the Commercial Element the following step will be undertaken by the Owner:-

- ii. at its own cost to fit out the remaining unlet Commercial Element floorspace ready for a tenant to take occupation and immediately commence trading in order to meet the identified market demand for the Commercial Element;

in the event the Commercial Element (or any part thereof) is not let within 12 months of the first Occupation Date and market research and/or market testing identifies it as being appropriate the following steps will be undertaken by the Owner:-

- iii. to use reasonable endeavours to locate a partner to deliver serviced office space or in the event an appropriate and qualified partner cannot be found then to make the

Commercial Element available for serviced offices until such time as a partner can be found or the Commercial Element is let;

at all times the Owner should have a reporting mechanism to the Council which shows actions and responses, evidence received in relation to the letting of the Commercial Element through the above hierarchy and will pay due regard to any recommendations made by the Council in the letting of the Commercial Element

2.26 "Energy Efficiency and Renewable Energy Plan"

a plan (including a post construction report) setting out a package of measures to be adopted by the Owner in the occupation and management of the Development with a view to reducing carbon energy emissions across the Development by at least 20% beyond the most recent Building Regulations incorporating (but not limited to) the following:-

- a) details and method of installation of the CHP unit including full energy calculations justifying the size of the CHP and limiting the use of electricity for any heating;
- b) an Air Quality Assessment prior to the use of CHP system;
- c) provision of a meter on the CHP unit so the Council can monitor how much energy is being derived from CHP;

- d) full details of any other on-site renewable energy technologies including the amount proportion and location of the same;
- e) separate metering of all low and zero carbon technologies to enable the monitoring of energy and carbon emissions and savings;
- f) individual heating controls and separate metering within each unit
- g) an appropriate electronic control system to monitor the Development's heating cooling and the hours of use of plant;
- h) 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

2.27 "Existing Buildings"

the buildings existing at the Property as at the date of this Agreement

2.28 "Existing Value"

the value of the Property as at the date hereof assessed as being £3,576,000 (three million five hundred and seventy six thousand pounds)

2.29 "the First Viability Update Appraisal"

an assessment to be undertaken by the Owner and submitted to the Council in accordance with the terms of this Agreement such assessment to:-

- (a) be presented substantially in the same form as the Owner's viability assessment submitted on 6<sup>th</sup> January 2012 (entitled

*The HCA Economic Appraisal Tool*) or such other form as agreed by the Council in writing; and

- (b) be based on the same percentage developer's return on market housing value and the same percentage contractor's return on affordable housing cost as the Owner's viability assessment submitted on 6<sup>th</sup> January 2012 or such alternative percentages as agreed by the Council in writing

with a view inter alia to evidence to the Council's reasonable satisfaction the residual site value of the Property such assessment shall include (but not be limited to) the following:-

- (c) a copy of the Owner's viability assessment submitted on 6<sup>th</sup> January 2012 (entitled *The HCA Economic Appraisal Tool*);
- (a) payment of £5,000 (five thousand pounds) to cover the Council's costs in verifying the material and information contained within the appraisal and the Additional Affordable Housing Appraisal;
- (b) details of any grant funding received in relation to the Development whether related to Affordable Housing or any other aspect of the Development;
- (c) any further information the Council acting reasonably requires



- 2.30 "First Viability Update Surplus" a positive figure calculated by taking the residual value of the Development as shown in the First Viability Update Appraisal and subtracting the Existing Value
- 2.31 "the Highways Contribution" the sum of £30,599 (thirty thousand five hundred and ninety nine pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt for the carrying out of the Highway Works
- 2.32 "the Highways Works" works to the public highway and associated measures these to include costs associated with the following:-
- (a) the reinstatement of the footway adjoining the Property on West End Lane; and
  - (b) any other works the Council acting reasonably requires as a direct result of the Development
- all works will be subject to final measure 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 excludes any statutory undertakers costs
- 2.33 "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 save that for the purposes of this Agreement the following shall

be deemed not to be material operations: archaeological works, site or soil investigations, ground investigations site survey works, works of decontamination, demolition and the erection of hoardings and fences and references to "Implementation" and "Implement" shall be construed accordingly

2.34 "the Implementation Longstop Date"

the date 18 (eighteen) months after the date of Planning Permission

2.35 "Initial Affordable Housing Shortfall"

the figure of 3,374m<sup>2</sup> being 50% of the total residential gross external area forming part of the Development less the gross external area of the Affordable Housing Units

2.36 "Intermediate Housing"

Affordable Housing which is above target rents but is substantially below open market levels and is affordable to people who at the commencement of their occupancy are in need of intermediate housing in terms set out in paragraph 3.51 of the London Plan (subject to annual reviews) to include shared ownership and other sub-market rent as agreed in writing by the Council

2.37 "Intermediate Housing Scheme"

the scheme setting out provision of Intermediate Housing within the Development submitted by the Owner and to be approved by the Council in writing ensuring the Intermediate Housing Units are occupied on the following basis:-

(a) Shared Ownership with an initial equity share offer of at least 25 percent and a

rent level of 2 percent (per annum) on the retained equity (unless otherwise agreed in writing by the Council) such levels to be retained in perpetuity subject to incremental increases linked to the Retail Price Index in accordance with Homes and Communities Agency guidance

(b) for all other Intermediate Housing products provision will be on terms to be agreed by the Council in consultation and in consideration of its own policies and those contained in the London Plan with particular reference to paragraph 3.51 (or its successor policies)

2.38 "Intermediate Housing Units"

the 20 (twenty) units of Intermediate Housing forming part of the Development comprising 10 (ten) x studio/1 (one)-bed and 10 (ten) x 2 (two)-bed flats the same as shown edged in orange on Plan 2 and any Intermediate Housing agreed as part of the Additional Affordable Housing Provision

2.39 "King's Cross Construction"

the Council's flagship skills construction training centre providing advice and information on finding work in the construction industry

2.40 "the Level Plans"

plans demonstrating the levels at the interface of the Development the boundary of the Property and the Public Highway

2.41 "Local Procurement Code"

the code annexed to the Third Schedule hereto

2.42 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly

2.43 "the Parking Management Plan" a plan setting out a package of measures to be adopted by the Owner in the management of parking on the Development to ensure the following:-

- (a) parking at the Property is limited to the car parking spaces provided as part of the Development;
- (b) the three disabled parking bays located outside western most block (identified as Block G on the approved plans) are reserved for residents of or visitors to the Wheelchair Accessible Units only at a nil cost to the occupants of the Wheelchair Accessible Units;
- (c) there is no parking on the service lane to the Property;
- (d) there is no parking on the landscaped areas of the Development; and
- (e) the reduction of impact of traffic both on the Development and emanating from the Development into the wider community

2.44 "the Parties" mean the Council the First Freeholder the Second Freeholder the Interested Party the First Mortgagee and the Second Mortgagee

- 2.45 "Plan 1" the plan marked "Plan 1" annexed hereto showing the Property
- 2.46 "Plan 2" the drawing numbered PL\_05 marked "Plan 2" annexed hereto showing the Intermediate Units
- 2.47 "Plan 3" the drawings numbered PL\_04, PL\_05, PL\_06 and PL\_97\_REVC all marked "Plan 3" annexed hereto showing the Social Rented Housing Units
- 2.48 "Plan 4" the plan marked "Plan 4" annexed hereto showing the Public Open Space Area the Station Enhancement Area and the Station Retail Unit
- 2.49 "Plan 5" the two plans marked "Plan 5" annexed hereto showing the Wheelchair Accessible Units
- 2.50 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 15 December 2011 for which a resolution to grant permission has been passed conditionally under reference number 2011/6129/P subject to conclusion of this Agreement
- 2.51 "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
- 2.52 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto

- 2.53 "Private Residential Unit" the C3 market housing forming part of the Development and for the avoidance of doubt shall exclude the Affordable Housing Units.
- 2.54 "the Property" the land known as 187-199 West End Lane London NW6 2LJ the same as shown shaded pink and blue on Plan 1
- 2.55 "the Public Open Space Area" the park area opening onto West End Lane created as part of the Development which will be open to the public in accordance with the Public Open Space Plan as shown shaded green on Plan 4
- 2.56 "Public Open Space Plan" a plan setting out a package of measures to be adopted by the Owner for the management of public access to the Public Open Space Area (although not so as to create any public highway rights) at no cost to the public incorporating the elements set out in the Fifth Schedule hereto
- 2.57 "the Public Transport Contribution" the sum of £900,000 (nine hundred thousand pounds) which sum shall be increased or decreased by an amount equivalent to the percentage increase or decrease in the Building Cost Information Service Index ("the Index") or in the event that the Index ceases to be published such other index as shall replace the Index or which the parties shall agree most closely resembles the Index from the date of this Agreement until the date on which the sum is payable to be paid by Owner to the Council in accordance with clause 4.14 of this Agreement

- 2.58 "Reasonable Endeavours" where there is a reasonable endeavours obligation on the part of the Owner in this Agreement the Owner shall be bound to attempt to fulfil the relevant obligation by the expenditure of such effort and/or sums of money and the engagement of such professional advisers as in all the circumstances may be reasonable and where the Owner cannot fulfil the objective of the obligation in full or in part then on the other Party's request the Owner shall provide an explanation of the steps it has undertaken in carrying out its reasonable endeavours obligations
- 2.59 "Registered Provider" a registered provider of Affordable Housing registered as such by the Regulator
- 2.60 "Regulator" means the Office for Tenants and Social Landlords (also known as the Tenant Services Authority or TSA) and any successor organisation
- 2.61 "Residents Parking Bay" a parking place designated by the Council by an order under the Road Traffic Regulation Act 1984 or other relevant legislation for use by residents of the locality in which the Development is situated
- 2.62 "Residents Parking Permit" a parking permit issued by the Council under section 45(2) of the Road Traffic Regulation Act 1984 allowing a vehicle to park in Residents Parking Bays

2.63 "Second Affordable Housing Shortfall"

the gross external area calculated by taking the Initial Affordable Housing Shortfall and subtracting the Additional Affordable Housing Provision

2.64 "the Second Viability Update Appraisal "

an assessment to be undertaken by the Owner and submitted to the Council in accordance with the terms of this Agreement such assessment to:-

- (a) be presented substantially in the same form as the Owner's viability assessment submitted on 6<sup>th</sup> January 2012 (entitled *The HCA Economic Appraisal Tool*) or such other form as agreed by the Council in writing; and
- (b) be based on the same percentage developer's return on market housing value and the same percentage contractor's return on affordable housing cost as the Owner's viability assessment submitted on 6<sup>th</sup> January 2012 or such alternative percentages as agreed by the Council in writing

with a view inter alia to evidence to the Council's reasonable satisfaction the residual site value of the Property such assessment shall include (but not be limited to) the following:-

- (c) a copy of the Owner's viability assessment submitted on 6<sup>th</sup> January 2012 (entitled *The HCA Economic Appraisal Tool*);



- (d) receipted invoices; certified costs; certified copies of sales contracts; and best estimates of costs yet to be incurred and value of any unsold space and any other evidence reasonably required by the Council to show any revenue and/or costs incurred in relation to the Development;
- (e) a solicitor's certification confirming the sales of the residential units forming part of the Development were arm's length third party bona fide transactions and not:-
  - (i) designed to reduce the revenue received from sales of the residential units forming part of the Development;
  - (ii) confined to transactions between the Owner and subsidiary companies of the Owner;
  - (iii) transactions between the Owner and its employees; or
  - (iv) transactions including deferred consideration coverage or loans or finance deals from the Owner;
- (f) payment of £5,000 (five thousand pounds) to cover the Council's costs in verifying the material and information contained within the Second Viability Update Appraisal;
- (g) details of any grant funding received in relation to the Development whether related to Affordable Housing or any other aspect of the Development;

(h) any further information the Council acting reasonably requires

2.65 "the Second Viability Update Surplus

a positive figure calculated by taking the residual value of the Development as shown in the Second Viability Update Appraisal and subtracting the Existing Value

2.66 "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) procedures for non-compliance with the Service Management Plan with individual occupiers of the Commercial Element including forfeiture of Occupation in the event of breach
- (k) details of arrangements for refuse storage and servicing; and
- (l) 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

2.67 "Shared Ownership"

a low-cost home ownership programme managed in accordance with Communities and Local Government and Homes and Communities Agency guidance and requirements under which a Registered Provider develops new properties or refurbishes existing properties which are made available as Affordable Housing on the basis of part rent and part sale

2.68 "Shell and Core"

the Commercial Element shall be completed to the following specification together with all main service entries ready for final fit out which shall where appropriate include the following:

- (a) provision of all floor wall and ceiling finishes including suspended ceilings;
- (b) raised access floors;
- (c) provision of staff toilets; and
- (d) the provision of technical and electrical services into the accommodation areas (including air conditioning heating lighting fire alarms and controls)
- (e) finishes to cores and receptions

2.69 "Social Rented Housing"

Affordable Housing units available for rent in perpetuity such that:-

- (a) the total cost of rent and service and management charges meets targets for Social Rented Housing set by the Regulator from time to time;

(b) is consistent with Camden Supplementary Planning Document "Affordable Housing and Housing in Mixed-Use Development" and the requirements of the London Plan in relation to Social Rented Housing; and

(c) the units are managed by a Registered Provider who has entered into a standard nominations agreement with the Council providing for nominations to the Council in respect of all such units within the Development

2.70 "Social Rented Housing Units"

the 33 (thirty-three) units of Social Rented Housing forming part of the Affordable Housing Units comprising 1 (one) x studio/1 (one)-bed; 8 (eight) x 2(two)-bed; 20 (twenty) x 3 (three)-bed and 4 (four) x 4 (four)-bed units the same as shown edged in orange on Plan 3 and any Social Rented Housing agreed as part of the Additional Affordable Housing Provision

2.71 "the Station Enhancement Area"

the area shown shaded yellow on Plan 4

2.72 "the Station Retail Unit"

the retail unit forming part of the Commercial Element of the Development shown shaded red on Plan 4 to be provided by the Owner to TfL under the terms of this Agreement for use as an entrance to any expansion to the West Hampstead Overground Station which has been built over the Station Enhancement Area

2.73 "the Sustainability Plan"

a plan including a post construction review securing the incorporation of sustainability measures in the carrying out of the Development in its fabric and in its subsequent management and occupation which shall:-

- (a) be based on a Building Research Establishment Environmental Assessment Method assessment with a target of achieving a Very Good Excellent or Outstanding rating and attaining at least 60% of the credits in each of Energy and Water and 40% of the credits in Materials categories;
- (b) an assessment under the Code for Sustainable Homes achieving at least Level 4 (Excellent) and attaining at least 50% of the credits in each of the Energy Water and Materials categories;
- (c) include a pre-Implementation review by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Sustainability Plan are achievable and satisfy the aims and objectives of the Council's strategic policies on sustainability contained within its Development Plan; and
- (d) measures to secure a post construction review of the Development by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Sustainability Plan have been achieved in the Development and will be maintainable in the Development's future management and occupation

2.74 "TfL"

means Transport for London

- 2.75 "TfL Notice" a notice given by TfL to the Owner in writing to the Owner to request the transfer of the leasehold interest in the Station Retail Unit to TfL
- 2.76 "TfL Notice Period" means a minimum of 24 (twenty four) months from the issue of the TfL Notice or such earlier timeframe as shall be agreed by TfL and the Owner
- 2.77 "the Training and Employment Contribution" the sum of £10,000 (ten thousand pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt towards the cost of the apprentice placement training and support and mentoring service provided by Kings Cross Construction and to other training and employment support projects in the London Borough of Camden
- 2.78 "the Travel Plan Co-ordinator" an appropriately qualified and/or experienced person appointed by the Owner to deliver the objectives of the Travel Plan and be responsible for the coordination, implementation, reporting and review of the Travel Plan with a view to securing an ongoing process of continuous improvement
- 2.79 "the Travel Plan" a plan setting out a package of measures to be adopted by the Owner in the management of the Property with a view to inter alia reducing trips in motor vehicles to and from the Property and promoting the use of environmentally friendly transport incorporating (but not limited to) the following:-

- (a) the elements set out in the Fourth Schedule hereto;
- (b) provision for an initial substantial review of the plan within 6 (six) months of full Occupation Date of the Development ensuring the plan is updated upon receipt of results of the review and further approved in writing by the Council;
- (c) a mechanism for monitoring and reviewing of the plan annually for a period of five years following the initial substantial review referred to in (b) above and further approved in writing by the Council;
- (d) a mechanism for reviewing the plan after the end of the 5 (five) year period referred to in (c) above when required;
- (e) provision for the appointment of Travel Plan Co-ordinator prior to the Occupation Date and a mechanism in place to advise the Council of direct contact details and any subsequent changes in the post;

2.80 "West Hampstead Policy Contribution"

the sum of £30,000 (thirty thousand pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt towards the implementation of policy documents to support the development management of West Hampstead



2.81 "Wheelchair Accessible Units"

the residential units within the Development that meet the minimum requirements of Part M of the Building Regulations 2000 (as amended) as amended from time to time

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 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 the provisions in this Agreement shall come into effect on the date hereof save for the covenants undertakings and obligations contained within clauses <sup>4.1-3 and 4.18</sup> 4.18 to 4.20 of this Agreement which 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.

- 3.8 The Parties acknowledge that the Development shall be treated as being permanently designated as "car free" housing in accordance with Clause 4 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

4.1 **AFFORDABLE HOUSING**

- 4.1.1 On or prior to Implementation to submit to the Council for approval the Intermediate Housing Scheme.
- 4.1.2 Not to Implement nor permit Implementation until such time as the Council has approved the Intermediate Housing Scheme as demonstrated by written notice to that effect.
- 4.1.3 To commence all works of construction conversion and fitting out necessary to make the Affordable Housing Units as approved by the Council suitable for occupation as Affordable Housing and thereafter to proceed with and complete such works in a good and workmanlike manner using good quality materials to the reasonable satisfaction of the Council (as demonstrated by written notification to that effect) in accordance with the specification approved by a Registered Provider.
- 4.1.4 To ensure that the Affordable Housing Units shall not be otherwise used, occupied and shall be retained in perpetuity for no purpose other than (i) for the provision of Social Rented Housing for occupation by tenants at rental levels being in accordance with the targets set by the Regulator and (ii) for the provision of Intermediate Housing for occupation in accordance with the Intermediate Housing Scheme as the case may be.
- 4.1.5 Not to Occupy or allow Occupation of any part of the Development until such time as:

- (i) the Affordable Housing Units have been transferred or demised to a Registered Provider approved by the Council for a term of no less than 125 (one hundred and twenty-five) years;
- (ii) the works of construction conversion and fitting out of the Affordable Housing Units have been Completed in accordance with the requirement of Sub-Clause 4.1.3 hereof.

4.1.6 To ensure that the Affordable Housing Units are constructed, Occupied and used solely as Affordable Housing pursuant to the objects and purpose of the Council so as to provide accommodation for the households in need of Affordable Housing in accordance with the definition of the eligible persons criteria as agreed by the Government, the Homes and Community Agency (or successor bodies) or the Council from time to time.

4.1.7 The Registered Provider or the Council shall not dispose of its interest in the freehold or leasehold of the Affordable Housing Units or any part thereof (except by way of mortgage) other than to any other Registered Provider registered with the Regulator or any other body organisation or company registered with the Charity Commissioners for England and Wales and approved by the Homes and Communities Agency or the Regulator or the Council.

## 4.2 **CONSTRUCTION MANAGEMENT PLAN**

4.2.1 On or prior to the Demolition Date to provide the Council for approval a draft Construction Management Plan.

4.2.2 Not to allow demolition or works of site clearance until such time as the Council has approved the Construction Management Plan as demonstrated by written notice to that effect.

4.2.3 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 can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network.

4.2.4 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 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.

### 4.3 LOCAL EMPLOYMENT

4.3.1 In carrying out the works comprised in the Construction Phase of the Development the Owner shall use its reasonable endeavours to ensure that no less than 20% (twenty percent) of the work force is comprised of residents of the London Borough of Camden.

4.3.2 In order to facilitate compliance with the requirements of sub-clause 4.3.1 above the Owner shall use all reasonable endeavours to work in partnership with (i) King's Cross Construction; and (ii) take the following specific measures to ensure:-

- a) all contractors and sub-contractors provide information about all vacancies arising as a result of the Construction Phase of the Development to King's Cross Construction;
- b) King's Cross Construction is notified of all vacancies, arising from the building contract for the Development for employees, self-employees, contractors and sub-contractors;
- c) that King's Cross Construction is supplied with a full labour programme for the lifetime of the Development (with six-monthly updates) demonstrating (i) what skills and employment are needed through the life of the programme, and (ii) measures to ensure that these needs are met as far as possible through the provision of local labour from residents of the London Borough of Camden; and

- d) the Council is provided with a detailed six-monthly labour return for monitoring the employment and self employment profile of all workers referred by Kings Cross Construction and employed during the Construction Phase.

4.3.3 The Owner shall use all reasonable endeavours to ensure that at all times during the Construction Phase no less than seven construction trade apprentices shall be employed at the Development always ensuring each apprentice shall be:-

- (i) recruited through the Kings Cross Construction Centre;
- (ii) employed for a period of not less than 52 weeks; and
- (iii) paid at a rate not less than the national minimum wage.

4.3.4 If the Owner is unable to provide the apprentices in accordance with clause 4.3.3 of this Agreement for reasons demonstrated to the written satisfaction of the Council it shall:-

- (a) forthwith pay to the Council the Additional Training and Employment Contribution for each apprentice not then employed at the Development; and
- (b) shall not Occupy or permit Occupation until such time as the Additional Training and Employment Contribution pursuant to clause 4.3.4 (a) above has been paid; and
- (c) will notify the Council of any further reduction in the number of apprentices employed at the Development; and
- (d) in the event that replacement apprentices cannot be employed within 2 (two) weeks of such notice shall forthwith pay the Additional Training and Employment Contribution for the further reduction in the number of apprentices to the Council; and
- (e) for the avoidance of doubt the Additional Training and Employment Contribution is to be paid in addition to the Training and Employment Contribution and not in substitution of the same.

4.3.5 Notwithstanding the provisions in clause 4.3.4 of this Agreement, during the Construction Phase the Owner shall use all reasonable endeavours to provide training opportunities on site for employees resident within the London Borough of Camden and to provide a six-monthly statement setting out the details of candidates employed to Kings Cross Construction.

#### 4.4 **LOCAL PROCUREMENT**

4.4.1 Prior to Implementation to agree a programme during the Construction Phase to provide opportunities for local businesses to bid/tender for the provision of goods and service to the Development in accordance with the Council's Local Procurement Code.

4.4.2 On or prior to Implementation to meet with the Council's Labour Market and Economy Service's Local Procurement Team at least one month in advance of tendering contracts to agree the specific steps that will be taken to give effect to the Local Procurement Code.

4.4.3 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in accordance with the requirements of the Local Procurement Code and in the event of non compliance with this sub-clause the Owner shall forthwith take any steps required to remedy such non-compliance.

4.4.4 To use reasonable endeavours to provide opportunities for local businesses to bid/tender for the provision of facilities management services and other post construction supply of goods and services.

#### 4.5 **PARKING MANAGEMENT PLAN**

4.5.1 On or prior to the Implementation Date to submit to the Council for approval the draft Parking Management Plan.

4.5.2 Not to Occupy nor permit Occupation until such time as the Council has approved the Parking Management Plan as demonstrated by written notice to that effect.

4.5.3 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 Parking 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 Parking Management Plan.

#### **4.6 ENERGY EFFICIENCY AND RENEWABLE ENERGY PLAN**

4.6.1 On or prior to the Implementation Date to submit to the Council for approval the Energy Efficiency and Renewable Energy Plan.

4.6.2 Not to Implement nor permit Implementation until such time as the Council has approved the Energy Efficiency and Renewable Energy Plan as demonstrated by written notice to that effect.

4.6.3 Not to Occupy or permit the Occupation of the Development until a satisfactory post-completion review has been submitted to and approved by the Council in writing confirming that the measures incorporated in the Energy Efficiency and Renewable Energy Plan as approved by the Council have been implemented in the construction of the Development.

4.6.4 Following 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 Energy Efficiency and Renewable Energy 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 Energy Efficiency and Renewable Energy Plan.

#### **4.7 PUBLIC OPEN SPACE PLAN**

4.7.1 On or prior to the Implementation Date to submit to the Council for approval the draft Public Open Space Plan.

4.7.2 Not to Occupy nor permit Occupation until such time as the Council has approved the Public Open Space Plan as demonstrated by written notice to that effect.

4.7.3 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 Public Open Space 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 Public Open Space Plan.

#### **4.8 THE SERVICE MANAGEMENT PLAN**

4.8.1 On or prior to the Implementation Date to submit to the Council for approval the Service Management Plan.

4.8.2 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.

4.8.3 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.

#### **4.9 SUSTAINABILITY PLAN**

4.9.1 On or prior to the Implementation Date to submit to the Council for approval the Sustainability Plan.

4.9.2 Not to Implement nor permit Implementation until the Sustainability Plan has been approved by the Council as demonstrated by written notice to that effect.

4.9.3 Not to Occupy or permit the Occupation of the Development until a satisfactory post-completion review has been submitted to and approved by the Council in writing confirming that the measures incorporated in the Sustainability Plan as approved by the Council have been incorporated into the Development.

4.9.4 Following 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 Sustainability Plan as approved by the Council and shall not occupy or permit occupation of the Development otherwise than in strict accordance with the requirements of the Sustainability Plan.



#### **4.10 THE TRAVEL PLAN**

- 4.10.1 On or prior to the Implementation Date to submit to the Council for approval the Travel Plan.
- 4.10.2 Not to Occupy or permit Occupation of any part of the Development until such time as the Council has approved the Travel Plan as demonstrated by written notice to that effect.
- 4.10.3 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 Travel 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 Travel Plan.

#### **4.11 THE ACCESSIBILITY PLAN**

- 4.11.1 On or prior to the Implementation Date to submit to the Council for approval the Accessibility Plan.
- 4.11.2 Not to Implement nor permit Implementation until the Accessibility Plan has been approved by the Council as demonstrated by written notice to that effect.
- 4.11.3 Not to Occupy or permit the Occupation of the Development until the Council has confirmed in writing that the measures incorporated in the Accessibility Plan have been incorporated into the Development.
- 4.11.4 Following 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 Accessibility Plan as approved by the Council and shall not occupy or permit occupation of the Development otherwise than in strict accordance with the requirements of the Accessibility Plan.

#### **4.12 COMMUNITY FACILITIES CONTRIBUTION**

- 4.12.1 On or prior to the Implementation Date to pay to the Council the Community Facilities Contribution in full.

4.12.2 Not to Implement or to permit Implementation until such time as the Council has received the Community Facilities Contribution in full.

#### 4.13 **EDUCATION CONTRIBUTION**

4.13.1 On or prior to the Implementation Date to pay to the Council the Education Contribution in full.

4.13.2 Not to Implement or to permit Implementation until such time as the Council has received the Education Contributions in full.

#### 4.14 **PUBLIC TRANSPORT CONTRIBUTION**

4.14.1 On or prior to the Implementation Date to pay to the Council the Public Transport Contribution in full.

4.14.2 Not to Implement or to permit Implementation until such time as the Council has received the Public Transport Contribution in full.

4.14.3 On receipt of the Public Transport Contribution the Council will as soon as reasonably practicable pay the Public Transport Contribution to TfL on the basis that TfL will apply the Public Transport Contribution towards improving West Hampstead Overground Station by such means as (for example) expanding West Hampstead Overground Station into the Station Enhancement Area PROVIDED THAT if the entirety of the Public Transport Contribution has not been expended or committed for expenditure by TfL within two years of the date on which it received the Public Transport Contribution the unexpended or uncommitted part of the Public Transport Contribution will be returned to the Council who will apply it towards transport and public realm improvements in the vicinity of the Development.

#### 4.15 **WEST HAMPSTEAD POLICY CONTRIBUTION**

4.15.1 On or prior to the Implementation Date to pay to the Council the West Hampstead Policy Contribution in full.

4.15.2 Not to Implement or to permit Implementation until such time as the Council has received the West Hampstead Policy Contribution in full.

#### 4.16 **HIGHWAYS**

4.16.1 On or prior to the Implementation Date to:-

- (i) pay to the Council the Highways Contribution in full; and
- (ii) submit to the Council the Level Plans for approval.

4.16.2 Not to Implement or to allow Implementation until such time as the Council has:-

- (i) received the Highways Contribution in full; and
- (ii) approved the Level Plans as demonstrated by written notice to that effect.

4.16.3 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.

4.16.4 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.

4.16.5 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.

#### 4.17 **THE COMMERCIAL ELEMENT**

4.17.1 On or prior to the Implementation Date to submit to the Council for approval the Employment Space Strategy.

4.17.2 Not to Occupy or permit Occupation of the Private Residential Units until such time as:-

- (a) the Council has approved the Employment Space Strategy as demonstrated by written notice to that effect; and

(b) The Commercial Element has been constructed and fitted out to a Shell and Core Specification.

4.17.3 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 Employment Space Strategy 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 Employment Space Strategy.

#### 4.18 **THE WEST HAMPSTEAD OVERGROUND STATION**

4.18.1 That in the event that the TfL Notice is served and on expiry of the TfL Notice Period not to Occupy or permit Occupation of the Station Retail Unit until the Owner has offered to transfer with vacant possession a leasehold interest in the Station Retail Unit to TfL at a peppercorn rent for a term of years to be agreed but no less than 99 years and on other terms to be agreed but so as to allow the conversion and use of the Station Retail Unit as part of the entrance to any expansion to West Hampstead Overground Station to be built over the Station Enhancement Area

4.18.2 The Station Enhancement Area shall be safeguarded by the Owner and protected from any development until such time as either:

(a) TfL notify the Owner that there is no longer any requirement to safeguard the Station Enhancement Area; or

(b) The proviso in clause 4.14.3 of this Agreement takes effect

whichever is the earlier.

#### 4.19 **CAR FREE**

##### **Residential**

4.19.1 To ensure that prior to occupying any residential unit forming part of the Development each new resident of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to be granted a Residents Parking Permit to park a

vehicle in a Residents Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.

4.19.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.19.1 above will remain permanently.

4.19.3 On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the residential units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those residential units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.19.1 of this Agreement.

#### **Commercial**

4.19.4 To ensure that prior to occupying any part of the Development each new occupant of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to be granted a Business Parking Permit to park a vehicle in a Business Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.

4.19.5 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.19.4 above will remain permanently.

4.19.6 On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.19.4 of this Agreement.

#### **4.20 FURTHER VIABILITY APPRAISALS**

##### **First Viability Update Appraisal**

4.20.1 If the Planning Permission has not been Implemented by the Implementation Longstop Date then the Council shall serve notice on the Owner requiring the Owner to submit the First Viability Update Appraisal to the Council for approval within 20 (twenty) working days of receipt of such notice.

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4.20.2 / If the Planning Permission has not been implemented by the Implementation Longstop Date  
Not to Implement nor permit Implementation until such time as the Council has approved the First Viability Update Appraisal as demonstrated by written notice to that effect.

4.20.3 In the event the approved First Viability Update Appraisal demonstrates a First Viability Update Surplus then the Owner shall within 20 (twenty) days submit to the Council for approval the following:-

(a) the Additional Affordable Housing Viability Appraisal;

(b) the Additional Affordable Housing Provision; and

(c) the Additional Affordable Housing Provision Plan.

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4.20.4 / If the Planning Permission has not been implemented by the Implementation Longstop Date  
Not to Implement nor permit Implementation until such time as the Council has approved the Additional Affordable Housing Provision, the Additional Affordable Housing Provision Plan and the Additional Affordable Housing Viability Appraisal as demonstrated by written notice to that effect.

4.20.5 After the Occupation Date the Owner shall ensure the units forming part of the Additional Affordable Housing Provision shall be provided as Affordable Housing in perpetuity in accordance with the terms in Clause 4.1 of this Agreement.

#### **Second Viability Update Appraisal**

4.20.6 The Owner shall use Reasonable Endeavours to Complete the Development within 30 (thirty) months of the Implementation Date.

4.20.7 If the Development has not been Completed within 30 (thirty) months of the Implementation Date the Council shall serve notice on the Owner requiring the Owner to submit the Second Viability Update Appraisal to the Council within 20 (twenty) working days of receipt of such notice.

4.20.8 For the avoidance of doubt the Parties acknowledge the following sub-Clauses in this Clause 4.20 shall only apply in the event the Owner has not Completed the Development within thirty (30) months of the Implementation Date

- any additional
- 4.20.9 Not to Occupy ~~more than one hundred~~ private residential units until such time as the Second Viability Update Appraisal has been submitted to the Council for approval in writing.
- 4.20.10 Upon the issue of the approval of the Second Viability Update Appraisal the Council will provide to the Owner the following:-
- (a) a certificate specifying the sum ("the Assessment Certified Sum") reasonably and properly expended by the Council in assessing the ~~Post Construction Viability Plan~~; and ~~the~~ <sup>Second Viability Update Appraisal</sup>
- (b) a certificate specifying the sum ("the Viability Certified Sum") properly assessed by the Council in accordance with the provisions of Clause 4 of this Agreement as being recoverable from the Deferred Affordable Housing Contribution under the terms of this Agreement.
- 4.20.11 If the Assessment Certified Sum exceeds the payment made under clause 2.64(f) of this Agreement then the Owner shall within twenty-eight (28) days of the issuing of the said certificate pay to the Council the amount of the excess.
- 4.20.12 In the event the Second Viability Update Appraisal shows a Second Viability Update Surplus that is less than two times the Deferred Affordable Housing Contribution the Viability Certified Sum shall be half of the Second Viability Update Surplus.
- 4.20.13 In the event the Second Viability Update Appraisal shows a Second Viability Update Surplus that is greater than or equal to two times the Deferred Affordable Housing Contribution the Viability Certified Sum shall be the full amount of the Deferred Affordable Housing Contribution.
- 4.20.14 The Owner shall within twenty eight (28) days of receipt of the Viability Certified Sum pay to the Council the sum specified within the Viability Certified Sum.
- additional
- 4.20.15 Not to Occupy or permit Occupation of any ~~more than one hundred~~ private residential units until such time as the Council has confirmed receipt of the Viability Certified Sum in writing.

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 or any part of it the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting planning reference 2011/6129/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 obligation) provide through its Head of Legal Services 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 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 reference 2011/6129/P.

5.7 Payment of the financial contributions pursuant to Clause 4 of this Agreement shall be made by the Owner to the Council sending the full amount in the form of a Banker's Draft 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 Contribution relates quoting the Income Code ZN361 ZL065 or by Electronic Transfer directly to the Co-Operative Bank plc of 1 Islington High Street London N1 9TR quoting Sort Code 08-90-33 and London Borough of Camden General Account No. 61030019 and to inform the Planning Obligations Monitoring Officer of such payment quoting the above details as if the payment had been made by Banker's Draft.

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 (other than the Public Transport Contribution) 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 AllRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AllRP figure published before the date such payment or application is made ("Y") less the last published AllRP 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.

- 5.11 Any sums paid by the Owner to the Council (excluding the Deferred Affordable Housing Contribution and in the event the Council has not received any unexpended sums from TfL the Public Transport Contribution) under the terms of this Agreement which are not used or allocated to be used for the purposes for which they were paid within ten (10) years of the first Occupation Date shall be repaid to the Owner by the Council within twenty eight (28) days of receipt of written request for the same from the Owner.

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 reference number 2011/6129/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 First Freeholder, the Second Freeholder, the Interested Party the First Mortgagee nor the Second 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 or is modified (other than by agreement with or at the request of the Owner) this Agreement shall forthwith determine and cease to have effect.
- 6.9 Subject to the provisions of paragraph (i) – (iii) below the restrictions contained in Clause 4.1 hereof shall not be binding upon a mortgagee or chargee (“the Chargee”) of the Registered Provider of the Affordable Housing Units nor any receiver appointed by such Chargee or on any person deriving title from such Chargee in possession PROVIDED that the following conditions have been satisfied:
- i) In the event of the Registered Provider entering into liquidation or having a receiver or administrative receiver appointed or such steps are taken or legal proceedings are initiated for its winding up or defaults on any other terms of the mortgage or charge so that the Chargee exercises its power of sale then any

Chargee of the Affordable Housing Units or any such receiver or administrative receiver shall give notice to the Council of its intention to dispose ("the Default Notice").

- ii) In the event of receipt of a Default Notice the Council shall be at liberty for a period of three calendar months from receipt of the Default Notice ("the Specified Period") to seek to identify another Registered Provider to agree to take a transfer of the Affordable Housing Units.
- iii) If the Council having failed to locate another Registered Provider ready able and willing to take a transfer of the Affordable Housing Units within the Specified Period then should the Chargee or any such receiver or administrative receiver take possession of the Affordable Housing Units as appropriate otherwise enforce its security on relation to the same at any time thereafter then the Specified Period shall be deemed to have elapsed and the obligations of any Chargee and the terms of this Agreement shall be determined in relation to the Affordable Housing Units and shall cease to bind the Affordable Housing Units ALWAYS PROVIDED that any person claiming title from a Chargee, receiver or administrative receiver who has obtained title to the Affordable Housing Units after the procedure set out in this sub Clause has been followed shall not be bound by the obligations contained in Clause 4.1 hereof as will any person deriving title therefrom.

6.10 For the purposes of Clause 6.9(i) of this Agreement service of the Default Notice on the Council must be sent to each and all of the following recipients (or their successor position or title) quoting the address of the property and planning reference 2011/6129/P for the Default Notice to be properly served:-

- (a) The Chief Executive;
- (b) The Director of Culture and Environment;
- (c) The Assistant Director Regeneration and Planning;
- (d) The Planning Obligations Monitoring Officer; and
- (e) The Head of Legal Services.

6.11 Any tenant (or person claiming title from such tenant or any successors in title thereto and their respective mortgagees and chargee) of a Registered Provider at the

Property who exercises a right to acquire pursuant to the Housing Act 1996 (or any statutory successor thereto) shall be released from the obligations of Clause 4.1.

- 6.12 The relevant Registered Provider shall use all reasonable endeavours to apply the monies received by the Registered Provider in respect of the sale to such tenant for the provision of Affordable Housing within the London Borough of Camden in the first instance or, in the event the Registered Provider can show to the Council's reasonable written satisfaction that such funds are unable to be applied within the London Borough of Camden, within the North London Region (or successor region).

## 7. **MORTGAGEE EXEMPTION**

- 7.1 The First Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 hereof and for the avoidance of doubt agrees to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.
- 7.2 The Second Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 hereof and for the avoidance of doubt agrees to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.

## 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 and the Second Mortgagee have caused their respective Common Seals to be hereunto affixed and the First Freeholder the Second Freeholder the Interested Party and the First Mortgagee have executed this instrument as their Deed the day and year first before written

**THE FIRST SCHEDULE**  
**Construction Management Plan**  
**Air Quality and Carbon Reduction**

Requirements to control and minimise NO<sub>x</sub>, PM<sub>10</sub>, CO<sub>2</sub> emissions from construction sites and avoid nuisance and dust complaints.

A method statement shall be prepared and adopted as part of the Construction Management Plan to minimise gaseous and particulate matter emissions generated during the Construction Phase. The method statement shall identify the specific measures which will be implemented to control air pollution emissions during each of the following stages of the Construction Phase: (a) demolition; (b) ground breaking; and (c) construction/build.

The Construction Phase shall be carried out in accordance with the Best Practise Guidance Note "Control of dust and emissions from construction and demolition" published by London Councils, 2006. The risk rating of the site shall be defined in the method statement and determined using the risk assessment methodology in the Best Practise Guidance. Techniques to control dust from construction activities and emissions from vehicles and plant, and undertake air quality monitoring, shall conform to the 'medium' or 'high' risk categories outlined in the Best Practice Guidance.

The following best practise measures shall be included as a minimum in the method statement:-

A - Techniques to control PM<sub>10</sub> and NO<sub>x</sub> emissions from vehicles and plant

- a) Low emission plant fitted with catalysts, diesel particulate filters or similar devices shall be used;
- b) Plant shall be well maintained, with routine servicing of plant and non-road mobile machinery (NRMM) to be completed in accordance with the manufacturers recommendations;
- c) Avoid the use of diesel or petrol powered generators and use mains electricity or battery powered equipment;
- d) Non-road mobile machinery (NRMM) shall use ultra low sulphur tax-exempt diesel and be fitted with appropriate exhaust after-treatment such as catalysts, diesel particulate

filters as stated on the approved list managed by the Energy Saving Trust. Details of the plant and control equipment shall be included in the method statement.

- e) All construction vehicles shall comply with the Euro 4 emissions standard and where possible use low emission fuels and alternative technology.
- f) Plant and vehicles shall be located way from the closest receptors or house in closed environments where possible.

#### B - Techniques to control dust emissions from construction and demolition

- a) Keep site fencing, barriers and scaffolding clean using wet methods;
- b) Buildings to be demolished shall be wrapped
- c) Provide easily cleaned hard standing for vehicles and clean using wet sweeping methods;
- d) Provide the use of wheel-wash facilities near the site exit. Fit wheel-washes with rumble grids to dislodge accumulated dust and mud prior to leaving the site to avoid carrying dust or mud off the site;
- e) Inspect internal haul routes for integrity and instigate necessary repairs to the surface as soon as reasonably practicable;
- f) Routinely clean the Public Highways and accesses using wet sweeping methods especially during dry periods;
- g) Impose and signpost maximum speed limits of 10 mph on surfaced haul routes and work areas within the Site;
- h) Ensure all vehicles carrying loose or potentially dusty material to or from the site are fully sheeted;
- i) Store materials with the potential to produce dust away from site boundaries;
- j) Sheet, seal or damp down stockpiles of excavated material held on site;
- k) Any loose materials brought onto the site shall be protected by appropriate covering
- l) The site shall be dampened down during the working day and again at the end of the day to reduce the amount that is re-suspended dust.
- m) Ensure water suppression is used during demolition operations;
- n) Ensure mobile crushing and screening plant and cement batching plant which are regulated under the Local Air Pollution Prevention and Control regime operate in compliance with a Part B Permit. This shall be submitted to the local authority prior to operation.
- o) Site personnel shall be trained in dust mitigation and a manager shall be present for managing dust on site.



### C - Air Quality Monitoring

- a) Throughout the Construction Phase continuous particulate matter (PM10) monitoring shall be undertaken. Two instruments will be deployed at the site boundary in a transect orientated to the prevailing wind direction, with a third monitor located at the nearest sensitive receptor. One monitor shall be co-located with an anemometer.
- b) Adequate quality assurance/quality control procedures shall be in place including monitor maintenance and calibration as well and data checking. PM10 data shall be collected automatically on an hour basis.
- c) A trigger action level for PM10 concentrations of  $200\mu\text{g.m}^{-3}$  (15 minute average) shall be used to identify incidences of elevated dust emissions at the site boundary. The development site shall comply with the trigger action throughout the demolition and construction phases.
- d) An on-site alert system (email or SMS) shall be in place to notify appropriate staff that the trigger action level has been reached. Immediate and appropriate measures can be put in place to rectify abnormal particulate emissions. A procedure shall be established to deal with abnormal dust emissions. All incidences of abnormal particulate emissions leading to breaches of the trigger action level, shall be documented in the site log book (date and time), with details of the action take to remediate dust emissions.
- e) An e-mail specifying details of any alert to be sent out to the Council's air quality officer as soon as practicable following any breach of the site trigger action level.
- f) An electronic report shall be submitted to the Council's air quality officer every three months summarising the following information from each monitoring site – 24 hour average PM10 concentration, date and time of any breach of the trigger action level with the 15 minute mean concentration, prevailing wind direction and details of the cause of elevated dust emissions and mitigation measures.
- g) The Council shall be notified of any changes to the location and operation of dust PM10 monitoring instrumentation.

- h) A 24-hour phone hotline shall be set up so that residents can complain about high dust or PM10 levels directly to the developer.

The following items shall be included in the method statement:

- a) A specific timetable identifying the start and finish dates of each phase, including dust generating activities and PM10 monitoring.
- b) An inventory of stationary and fugitive dust, PM10 and NOx emission sources with an explanation of how these will be mitigated in accordance with the London Council's Best Practise Guidance.
- c) A map identifying the location of dust generating activities, plant equipment associated with emissions to air and PM10 monitors.
- d) An air quality monitoring protocol prepared in accordance with the requirements of section C.

#### D - Techniques to reduce CO<sub>2</sub> emissions from construction vehicles

A commitment from the Owner that contractors' vehicles involved in construction and demolition work will adopt 'green fleet management practices' that will result in a 10% reduction in tail-pipe CO<sub>2</sub> emissions over the duration of the construction phase. A green fleet management plan included in the method statement identifying measures to improve vehicle efficiency and reduce CO<sub>2</sub> emissions from construction vehicles. This could include the use of fuel monitoring equipment in vehicles, eco-driver training, accreditation with FORS (Freight Operator Recognition Scheme run by TfL) or SAFED (Safe and Fuel Efficient Driving run by the DfT) and use of low carbon vehicles such as hybrid electric, electric and bio-methane.

**THE SECOND SCHEDULE**  
**Construction Management Plan**  
**Highway Measures**

A Construction Management Plan outlines how construction work will be carried out and how this work will be serviced (e.g. delivery of materials, set down and collection of skips), with the objective of minimising traffic disruption and avoiding dangerous situations and minimising the impact on local amenity. A Construction Management Plan should cover both demolition and construction phases of development. Details of the Construction Management Plan will relate to the scale and kind and location of the development and they should assess the impact on transport and on local amenity including road user amenity. Should any one of these criteria be considered not to be relevant, then specific justification, as to why that particular criterion is not relevant, will need to be provided. The Construction Management Plan should demonstrate that the following has been considered and where necessary the impacts mitigated:

*(Note the term 'vehicles' used here refers to all vehicles associated with the implementation of the development, e.g. demolition, site clearing, delivering of plant, material and construction, staff parking etc)*

- i. A brief description of the site, surrounding area and development proposals for which the Construction Management Plan applies.
- ii. Proposed start and end dates for each phase of construction.
- iii. The proposed working hours within which vehicles will arrive and depart.
- iv. The access arrangements for vehicles.
- v. Proposed routes for vehicles between the site and the Transport for London Road Network (TLRN). Consideration should also be given to weight restrictions, low bridges and cumulative affects of construction on the highway. A map of the TLRN can be downloaded from the following site:-  
[http://www.tfl.gov.uk/assets/downloads/TFL\\_Base\\_Map\\_Master.pdf](http://www.tfl.gov.uk/assets/downloads/TFL_Base_Map_Master.pdf)
- vi. Typical sizes of all vehicles and the approximate frequency and times of day when they will need access to the site, for each phase of construction.
- vii. Swept path drawings for any tight manoeuvres on vehicle routes to the site.
- viii. Details (including accurate scaled drawings) of any highway works necessary to enable construction to take place.
- ix. Parking and loading arrangement of vehicles and delivery of materials and plant to the site.

- x. Details of proposed parking bays suspensions and temporary traffic management orders.
- xi. Proposed overhang (if any) of the public highway (scaffolding, cranes etc.).
- xii. Details of hoarding required or any other occupation of the public highway.
- xiii. Details of how pedestrian and cyclist safety will be maintained, including any proposed alternative routes (if necessary), and any Banksman arrangements.
- xiv. Details of how traffic associated with the Development will be managed in order to reduce congestion.
- xv. Details of any other measures designed to reduce the impact of associated traffic (such as the use of construction material consolidation centres).
- xvi. Details of how any significant amounts of dirt or dust that may be spread onto the public highway will be cleaned or prevented.
- xvii. Details of consultation on a draft Construction Management Plan with local residents, business, local groups (e.g. residents/tenants and business associations) and Ward Councillors. Details should include who was consulted, how the consultation was conducted and the comments received in response to the consultation. In response to the comments received, the Construction Management Plan should then be amended where appropriate and where not appropriate a reason should be given why not. The revised Construction Management Plan should also include a list of all the comments received. You are advised to check your proposed approach to consultation with the Council before carrying it out.
- xviii. Details of any Construction Working Group that will be set up, addressing the concerns of surrounding residents, as well as contact details for the person responsible for community liaison on behalf of the developer, and how these contact details will be advertised to the community.
- xix. Details of any schemes such as the "Considerate Contractors Scheme" that the project will be signed up to should form part of the consultation and be notified to the Council. Contractors will also be required to follow the "Guide for Contractors Working in Camden" also referred to as "Camden's Considerate Contractor's Manual"
- xx. Details of other construction sites in the local area and how your Construction Management Plan takes into consideration the cumulative effects of construction local to your site.
- xxi. Any other relevant information with regard to traffic and transport.
- xxii. The Construction Management Plan should also include the following statement:

*"The agreed contents of the Construction Management Plan must be complied with unless otherwise agreed with the Council. The project manager shall work with the Council to review this Construction Management Plan if problems arise in relation to the construction of the Development. Any future revised plan must be approved by the Council and complied with thereafter."*

**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**

## **THE THIRD SCHEDULE LOCAL PROCUREMENT CODE**

### **1. INTRODUCTION**

The use of local procurement agreements is a useful tool in helping the Council to improve economic prosperity and diversity in the local area which is a key aim of the Camden Community Strategy and Unitary Development Plan (adopted June 2006). The sourcing of goods and services locally will also help to achieve a more sustainable pattern of land use and reduce the need to travel. The use of section 106 Agreements attached to the grant of planning permission will be used as a mechanism to secure appropriate levels of local procurement of goods and services.

A fuller explanation of the policy background and the justification for the use of local procurement agreements and when they will be required is contained with Sections 32 and 33 of the Camden Planning Guidance (adopted December 2006) which can be viewed on the Council's web site. This document is in line with the objectives of other organizations such as the London Development Agency and Government Office for London.

The purpose of this code is to maximise the opportunities available to Local Businesses in Camden from larger property developments taking place in Camden both during and after the Construction Phase. The Local Procurement Code describes how the Owner/Developer in partnership with Camden Labour Market & Economy Service will ensure that Local Businesses benefit directly from the opportunities arising from both the Construction Phase of the Development and the end use of the Property.

The requirements of the Local Procurement Code apply to the developer, main contractor and subcontractors appointed by them as well as tenants subsequently occupying the building. The code is designed to support developers and contractors in fulfilling their commitments to the planning agreements by clarifying what is required from the outset. Although the wording is emphatic, Camden Labour Market & Economy Service seeks to work in partnership with contractors to assist them in meeting specifications and in finding suitable local companies. They will provide a

regularly updated pre-screened directory of local companies in construction, fitting-out and furnishing trades in support of local procurement agreements.

## 2) **MAIN REQUIREMENTS OF THE CODE**

### A) **CONSTRUCTION.**

We will request that the developers meet with London Borough of Camden's Labour Market & Economy Service's Local Procurement Team ("the Local Procurement Team") at least 1 month in advance of tendering contracts to clarify how the Local Procurement Code will work and the co-operation required from the developer, main contractor and subcontractors.

The Council will seek to ensure that the developer inserts the following clauses in the tender documentation issued to the main contractor:

#### 2.1 **Actions & Responsibilities of Main Contractor**

1. The main contractor will provide the Local Procurement Team with information on the estimated timing of their procurement programme and a schedule of works packages to be let ("the Procurement Schedule") and to provide updates of the Procurement Schedule as and when it is updated or revised.
2. The main contractor will work with the Local Procurement Team to: include local companies on their tender lists wherever possible and to aim to achieve the procurement of construction contracts and goods and services from companies and organisations based in Camden towards a target of 10% of the total value of the construction contract.
3. The main contractor is required to provide regular monitoring information to the Local Procurement Team every six to eight weeks during the Construction Phase, via e-mail, phone, fax or liaison meeting providing details of:
  - all local companies which are sent a tender enquiry or a tender invitation detailing the date and the works package or items concerned;

- the outcome of all works packages tendered, where there is a local company on the tender list, stating whether the local company was unsuccessful, successful or declined to tender and the contract value in the case of a contract being awarded to a local company.
- All local wholesalers and building materials suppliers which are asked to provide prices and the value of any purchases of materials and other wholesaler supplies procured.

(The Local Procurement Team can provide a pro forma local procurement log to assist in the monitoring process)

- Full contact details of all subcontractors appointed (whether local or from elsewhere)

4. The main contractor should include a written statement in the tender documentation sent out to sub contractors informing them of their Section 106 requirement obligations as set out in section 2.2 below and ensure cooperation is agreed as a prerequisite to accepting sub contract tenders
5. The main contractor should provide an opportunity for the Local Procurement Team to brief subcontractors on the requirements of the Local Procurement Code.
6. The main contractor will identify any actions that are required in order to overcome known barriers to Local Businesses to accessing their supply chain in respect of the Construction Phase.

## **2.2 Actions And Responsibilities of Sub-Contractors**

1. All sub-contractors appointed will be required to work with the Local Procurement Team and to aim to achieve the procurement of construction goods and services from companies and organisations based in Camden towards a target of 10% of the total value of their construction sub-contract. (A regularly updated sub-directory of local suppliers will be supplied to subcontractors by the Local Procurement Team).



2. All subcontractors are required to provide regular monitoring information either to the main contractor or directly to the Local Procurement Team every six to eight weeks during the Construction Phase, via e-mail, phone, fax or liaison meeting providing details of :
- All local wholesalers and building materials suppliers which are asked to provide prices and the value of any subsequent purchases of materials and other wholesaler supplies procured.
  - All local companies which are sent a tender enquiry or a tender invitation detailing the date and the works package concerned and the outcome of all sub-contracts tendered.

**B. POST CONSTRUCTION: FITTING OUT BY TENANTS AND FACILITIES MANAGEMENT**

**Fitting out by tenants**

Where the tenants of a development are responsible for fitting out the building(s), we will require the developers to inform them that they also fall under the provisions of this Agreement on local procurement and provide guidance in writing to their tenants setting out the above clauses contained in section 2 above, which will apply to them as the developer, their main contractor and subcontractors.

**Facilities Management**

The developer and their agents shall use reasonable endeavours to provide opportunities for local businesses to bid/tender for the provision of facilities management services and other post construction supply of goods and services.

The Council will assist the developer, occupier and their contractors in identifying suitable local companies to bid for facilities management contracts and to source local goods and services.

## THE FOURTH SCHEDULE THE TRAVEL PLAN

### **PART I: Components of the Travel Plan**

The Travel Plan will be a basis for promoting sustainable travel to and from the Property.

Planning Policy Guidance note 13 (PPG13 (transport)) states that... "The Government wants to help raise awareness of the impacts of travel decisions and promote the widespread use of travel plans amongst businesses, schools, hospitals and other organisations."

For further advice on developing a Travel Plan see the DfT's travel plan website: ([www.transportenergy.org.uk](http://www.transportenergy.org.uk)), Transport for London's travel plan guidance website ([www.tfl.gov.uk/workplacetravelplanning](http://www.tfl.gov.uk/workplacetravelplanning)) or Camden's Travel Plan partner website: [www.camden.gov.uk/wtp](http://www.camden.gov.uk/wtp)

The Owner will implement the Travel Plan where appropriate in partnership with the Council and/or with public transport operators.

### **In drawing up the Travel Plan ("the Plan) the Owner shall ensure that provisions relating to the following matters are contained within the Plan:-**

- 1. Public Transport and walking**
  - a. Review the public transport needs of occupiers and visitors and consider potential park and ride type services or shuttle-type services for occupiers, or suggest further enhancements to the scheduled London Bus network
  - b. Provide in-house public transport information and ensure that this is regularly updated (both Transport for London and National Rail travel information is available from their respective websites: [www.tfl.gov.uk](http://www.tfl.gov.uk)/[www.nationalrail.co.uk](http://www.nationalrail.co.uk))
  - c. Consider provision of interest-free annual season ticket/travelcard loans for travel on buses, the underground, trains and trams for any commercial occupiers of the Development
  - d. Encourage walking through the provision of information on the best pedestrian routes to and from the Property for occupiers and visitors

**2. Taxis and Minicabs**

Consideration must be given to the provision and management of Taxi access to the Property

**3. Traffic Restraint**

The Plan must seek to reduce the volume and impact of vehicles generated by the Development

**4. On-Street Parking Controls**

The plan should aim to contain the transport impacts of the site (including parking, loading and unloading) to within the curtilage of the site and reduce the impact of the site on surrounding on-street parking.

**5. Parking and Travel**

A review of occupier's travel should have the principal aim of reducing non-essential single occupant driver trips to the site and increasing the proportion of trips undertaken by bicycle and on foot. With regards to car travel and car parking, this should include:

- a. a review and/ or development of criteria to reduce car allowances and include measures to limit the use of car parking and permits in and around the Property.
- b. a review of any on-site parking charges
- c. consideration and/or review of pool vehicles for work related trips including more environmentally friendly vehicles and alternative forms of transport for some trips.
- d. consider the use of partial homeworking/teleworking/teleconferencing where feasible and appropriate

**6. Traffic Management**

An assessment must be made of the impacts of the proposed car park access changes on existing internal congested traffic flows and seek further enhancements to internal traffic flow to better manage congestion

**7. Cycling**

The following cycle measures must be provided in sufficient quantity in line with annual travel surveys to be subsequently carried out:

- a. secure and well-lit workplace cycle parking

Consideration shall also be given to providing the following, especially in commercial developments:

- b. changing and showering facilities
- c. cycle allowance for work-related journeys
- d. cycle and equipment loans and insurance
- e. cycle repair facilities
- f. cycle pool for work-related journeys
- g. a Bicycle Users Group (BUG) to progress cyclists issues on site
- h. work with the Council to improve cycle routes to/from the Property

**8. Facilities for Goods Movement and Servicing**

A Servicing Management Plan for the site must seek to:

- a. identify the number and type of servicing vehicles required for the Property;
- b. Limit the size of vehicle where a larger vehicle will create servicing conflicts;
- c. Manage the timing of deliveries to avoid conflict with other servicing vehicles, conflict with loading or parking restrictions in the area or conflict with heavy pedestrian or traffic flows
- d. encourage suppliers and delivery contractors to use alternatively-fuelled vehicles (such as electric and LPG vehicles and cycles) – organisations can apply to the Energy Saving Trust ([www.est.org.uk](http://www.est.org.uk)) for alternatively- fuelled vehicle grants

**PART II: Review and Monitoring of the Travel Plan**

The Owner shall ensure that the Plan contains arrangements for the review and monitoring of the Travel Plan and that this is carried out on an ongoing basis and at least once every year following the initial substantial review undertaken six months following the Occupation Date. These arrangements will deal with the matters set out below establishing firm timescales for the taking of each step, specific targets to be adopted for the measuring of the effectiveness of each measure and a reporting mechanism to the Council. It is

acknowledged that it will be appropriate to amend the Travel Plan by agreement in the light of developing circumstances.

1. **Review the Property's Transport Accessibility**

The first stage will be to review the Property's accessibility by all modes. An accessibility report will be produced and this will form the basis for the next stages.

2. **Consultation with occupiers**

This will involve meeting occupiers of the Property to promote the concept of a Travel Plan. The meetings will seek to identify a common set of objectives for encouraging walking, cycling and public transport usage combined with reducing reliance on the private car.

3. **User Consultation and Travel Surveys**

This stage will be based around consultation. It will be extremely important to secure the support of occupiers and users of the Development if the Plan is to succeed. This stage will include occupier and user travel surveys to examine the use of existing modes of travel, attitudes towards sustainable modes of transport and the most effective measures to promote sustainable transport for commuting journeys and business journeys. The Owner will consult with the Council at this stage.

4. **Implementation**

Stages 1 to 3 will provide the base information for the review of the Travel Plan.

5. **Monitor and Review**

The Travel Plan will secure an ongoing process of continuous improvement. Each version of the Travel Plan shall set out a mechanism of next steps to be tackled in line with results collated from the surveys and shall also set out a

mechanism for reporting back to the Council on an annual basis on how effectively the Travel Plan is being in maximising the use of sustainable transport.

**THE FIFTH SCHEDULE  
THE PUBLIC OPEN SPACE PLAN TERMS**

The terms on which the Public Open Space Area shall be owned, managed and used shall be as follows:

- a. It will be owned, managed and maintained by the Owner of the Development. There will be no cost to be borne by the Council for maintenance of the Public Open Space Area. It will be kept clean and drained and, if appropriate, lit.
- b. It will be a facility for the benefit of those in the wider community, both residents and workforce.
- c. The Public Open Space Area will be open from dawn to dusk every day including weekends and holidays.
- d. It will never be closed for any private function.
- e. It may be closed as necessary for essential maintenance or to ensure public safety.
- f. The planting will be kept in good order and properly maintained and replaced where necessary.
- g. The landscaping will include some provision of seating.
- h. If desirable, reasonable rules may be imposed and revised from time to time by the owner to regulate the use of the Public Open Space Area so long as none of them are inconsistent with the objectives set out in the remaining paragraphs. These may be established under a "walkways" arrangement.
- i. Persons behaving in a disorderly or antisocial manner may be asked to leave. This will include anyone playing a musical instrument without authorisation or broadcasting music, or anyone begging.
- j. The Public Open Space Area is to be provided for the lifetime of the Development.

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO  
187-199 WEST END LANE LONDON NW6 2LJ

EXECUTED AS A DEED BY NETWORK RAIL LIMITED *affixing the Common Seal of*  
~~acting by a Director and its Secretary~~ INFRASTRUCTURE LIMITED *in the*  
~~or by two Directors~~ *presence of*

SEAL NO. 31036

*W. Hubbard*  
.....

Director

*Authorised Signatory as approved*  
.....

Director/Secretary *by resolution of the board of*  
Network Rail Infrastructure

Limited on 28 September 2011

EXECUTED AS A DEED BY )  
DOMAINE DEVELOPMENTS LIMITED )  
acting by a Director and its Secretary )  
or by two Directors *in the presence of* )

.....

Director

*D. Laxcock*  
.....

Director/Secretary *witness*

*name of witness*  
*D Laxcock,*  
*address*  
*LONDON SW15 2EQ.*

EXECUTED AS A DEED BY )  
BALLYMORE PROPERTIES LIMITED )  
acting by a Director and its Secretary )  
or by two Directors *in the presence of* )

.....

Director

*D. Laxcock*  
.....

Director/Secretary *witness*

*name of witness*  
*D Laxcock,*  
*address*  
*LONDON SW15 2EQ.*



CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO  
187-199 WEST END LANE LONDON NW6 2LJ

EXECUTED AS A DEED BY )  
IBRC ASSET FINANCE PLC )  
acting by a Director ~~and its Secretary~~ )  
~~or by two Directors~~ AS TRUSTEE FOR THE )  
IRISH NATIONAL ASSET MANAGEMENT AGENCY )

*[Handwritten signature]*  
Frank Parker

.....  
Director

~~Director/Secretary~~ WITNESS *[Signature]*  
WITNESS NAME: FRANK HINE  
ADDRESS: LONDON

PRESENT when the <sup>OFFICIAL</sup> COMMON SEAL of )  
IRISH BANK RESOLUTION )  
CORPORATION LIMITED )  
was affixed hereto )

MAUREEN HARRIS

.....  
~~Director~~ AUTHORIZED SIGNATORY

*[Handwritten signature]*  
Frank Parker

GORDON PARKER

.....  
~~Director/Secretary~~ AUTHORIZED SIGNATORY

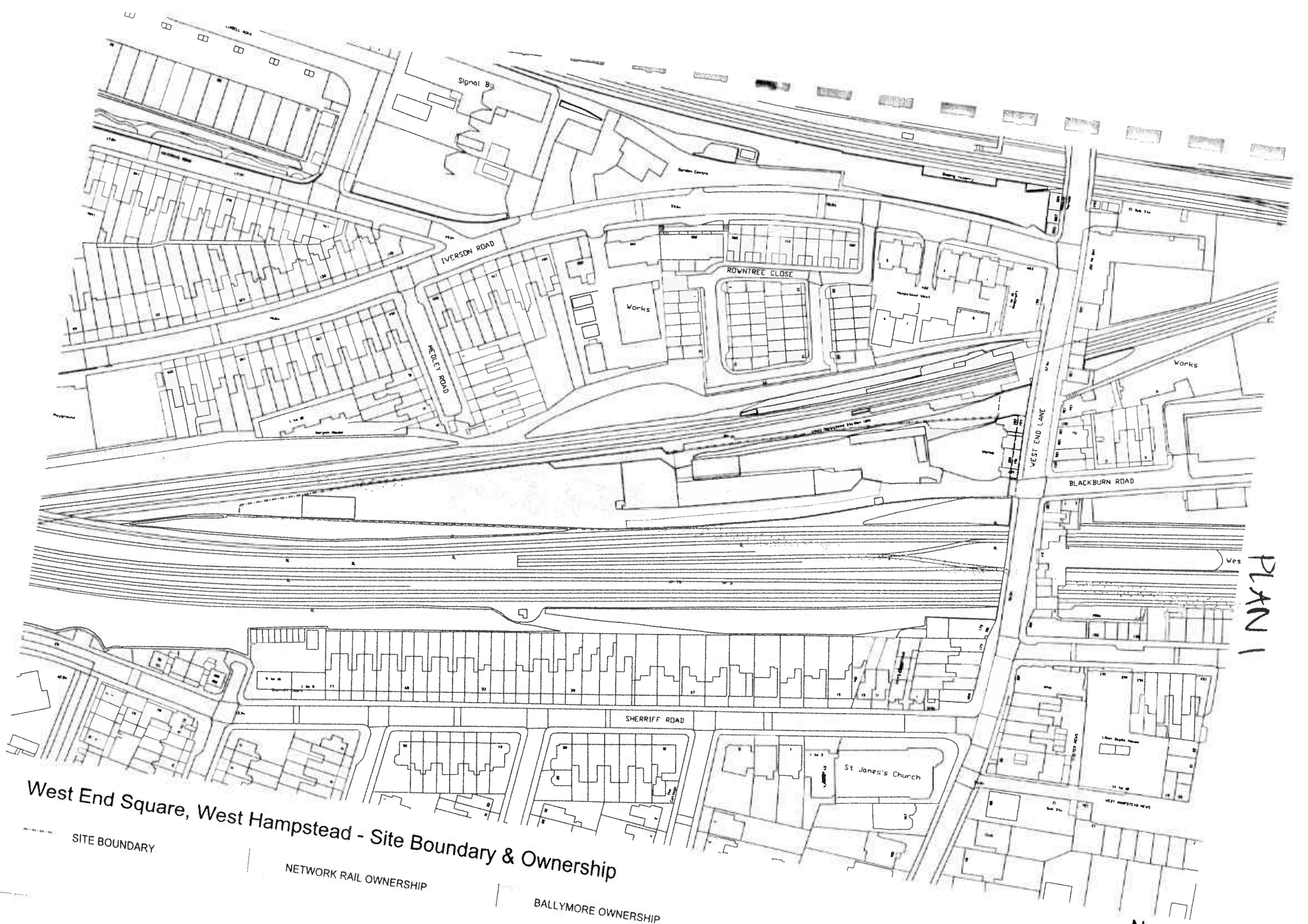
DATE 30 MARCH 2012

LOCATION: LONDON

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

.....  
*[Handwritten signature]*  
Authorized Signatory





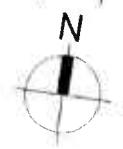
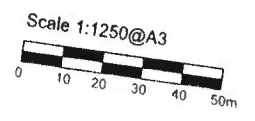
PLAN 1

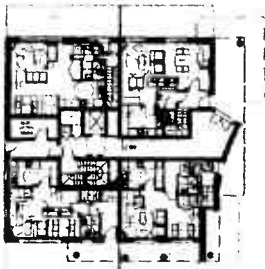
West End Square, West Hampstead - Site Boundary & Ownership

SITE BOUNDARY

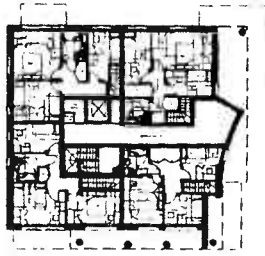
NETWORK RAIL OWNERSHIP

BALLYMORE OWNERSHIP





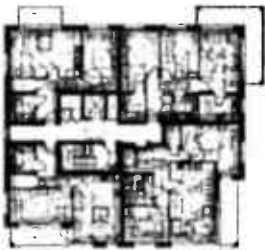
GROUND FLOOR PLAN



FIRST FLOOR  
(upper duplex level)



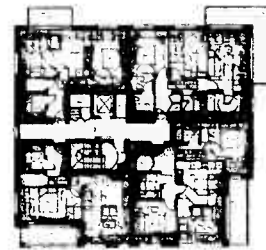
SECOND FLOOR PLAN



THIRD FLOOR PLAN



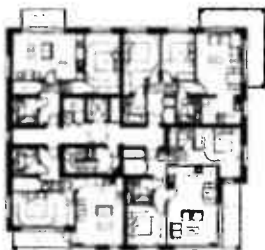
FOURTH FLOOR PLAN



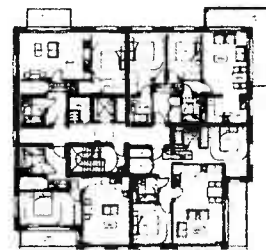
FIFTH FLOOR PLAN



SIXTH FLOOR PLAN



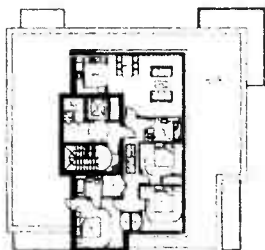
SEVENTH FLOOR PLAN



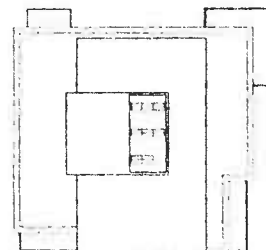
EIGHTH FLOOR PLAN



NINTH FLOOR PLAN



TENTH FLOOR PLAN



ROOF PLAN

NOTES

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KEY



REVISIONS

Date	Rev	Description



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West End Square, West Hampstead

JOHN THOMPSON & PARTNERS

00437 RA EH

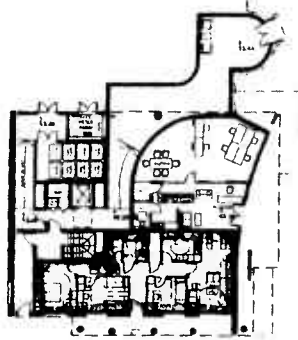
Block E Plans

1:200 @A1 1:400 @A3 30/11/2011

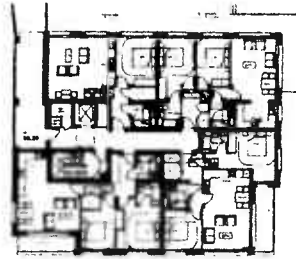
PI 05

PLAN L

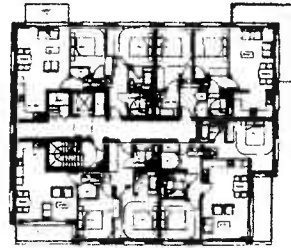
INTERMEDIATE



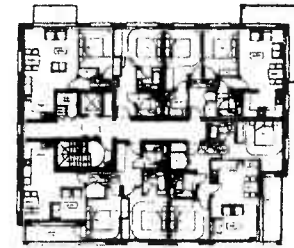
GROUND FLOOR PLAN



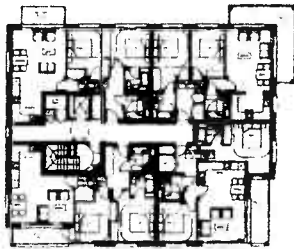
FIRST FLOOR PLAN



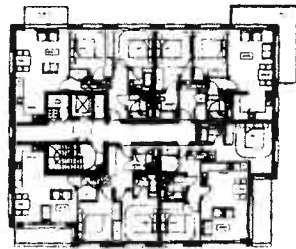
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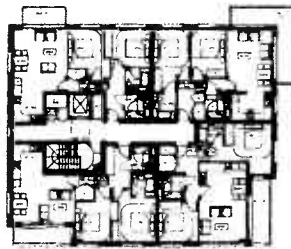
THIRD FLOOR PLAN



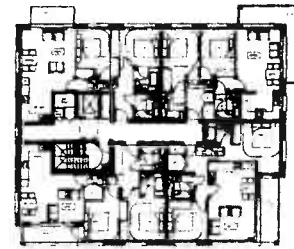
FOURTH FLOOR PLAN



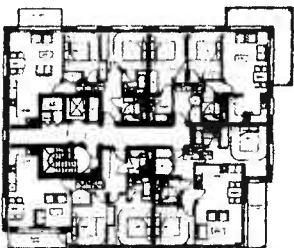
FIFTH FLOOR PLAN



SIXTH FLOOR PLAN



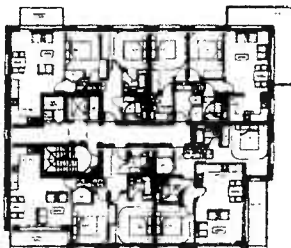
SEVENTH FLOOR PLAN



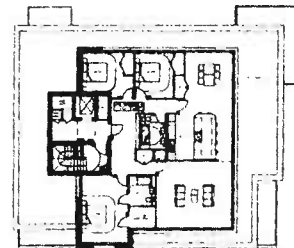
EIGHTH FLOOR PLAN



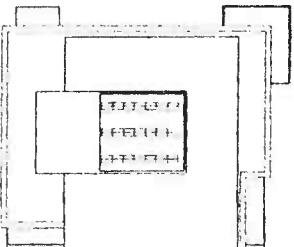
NINTH FLOOR PLAN



TENTH FLOOR PLAN



ELEVENTH FLOOR PLAN



ROOF PLAN

NOTES

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Date	Rev.	Description



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West End Square, West Hampstead

JOHN THOMPSON & PARTNERS

00437	RA	EH
1:200 @A1	1:400 @A3	30/11/2011
PL_04		

Block D Plans

Social Rented

PLAN 3



GROUND FLOOR PLAN



FIRST FLOOR  
(upper duplex level)



SECOND FLOOR PLAN



THIRD FLOOR PLAN



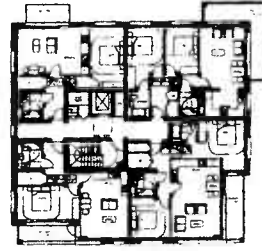
FOURTH FLOOR PLAN



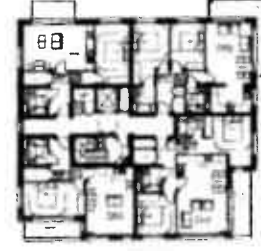
FIFTH FLOOR PLAN



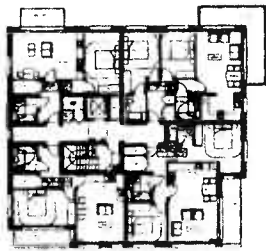
SIXTH FLOOR PLAN



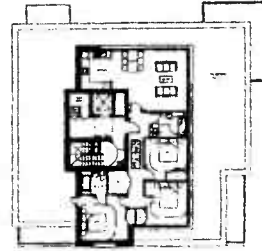
SEVENTH FLOOR PLAN



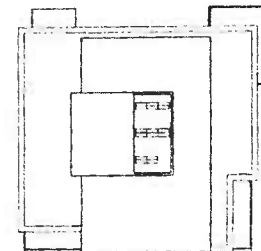
EIGHTH FLOOR PLAN



NINTH FLOOR PLAN



TENTH FLOOR PLAN



ROOF PLAN

*Social Rental*

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West End Square, West Hampstead

JOHN THOMPSON & PARTNERS

00437 RA EH  
1:200 @A1 1:400 @A3 10/11/2013

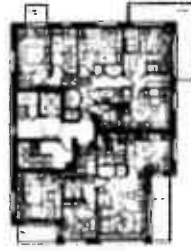
Block E Plans

PL\_05

PLAN 3



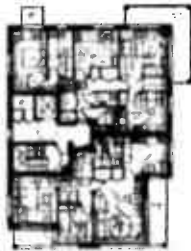
GROUND FLOOR PLAN



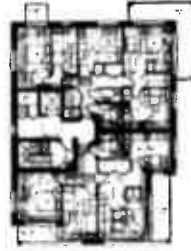
FIRST FLOOR PLAN



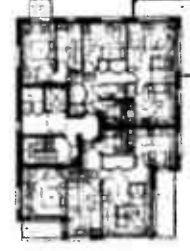
SECOND FLOOR PLAN



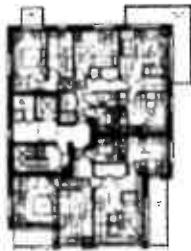
THIRD FLOOR PLAN



FOURTH FLOOR PLAN



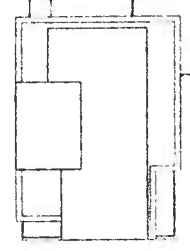
FIFTH FLOOR PLAN



SIXTH FLOOR PLAN



SEVENTH FLOOR PLAN



ROOF PLAN

NOTES

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KEY



REVISIONS

Date: / / Description:

PLAN 3



Network Rail Infrastructure Limited and Domains Development Limited



23-25 Green Square Street, London EC1V 0DN T: +44 (0)20 7017 1700 F: +44 (0)20 7017 1701 W: www.jtp.co.uk

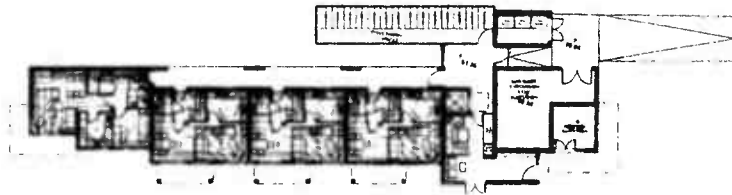
West End Square, West Hampstead

JOHN THOMPSON & PARTNERS

00437	RA	EH
1:200 @ A1	1:400 @ A3	30/11/2011
PL_06		

Block F Plans

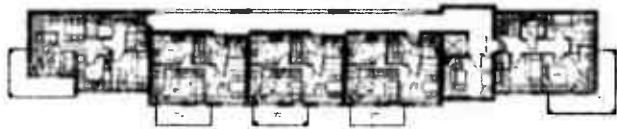
Social Rented



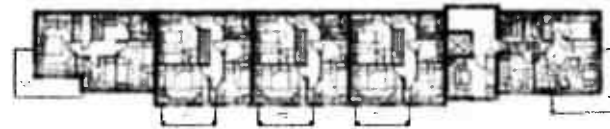
GROUND FLOOR PLAN



FIRST FLOOR PLAN



SECOND FLOOR PLAN



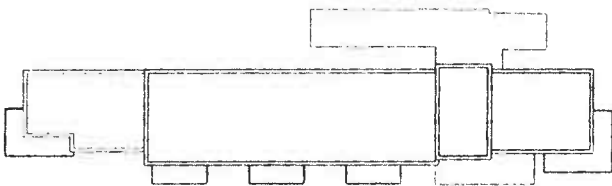
THIRD FLOOR PLAN



FOURTH FLOOR PLAN



FIFTH FLOOR PLAN



ROOF PLAN

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KEY



REVISIONS

Date	Rev	Description
11.02.12	A	Floor plan updated with area removed to south side of block.
07.02.12	B	Community garden room added to stair room.
16.02.12	C	Rev 1 used. Revs added to 2/4/4/4 used. Revs. units.

PLAN 5



Network Rail Infrastructure Limited and Domane Development Limited



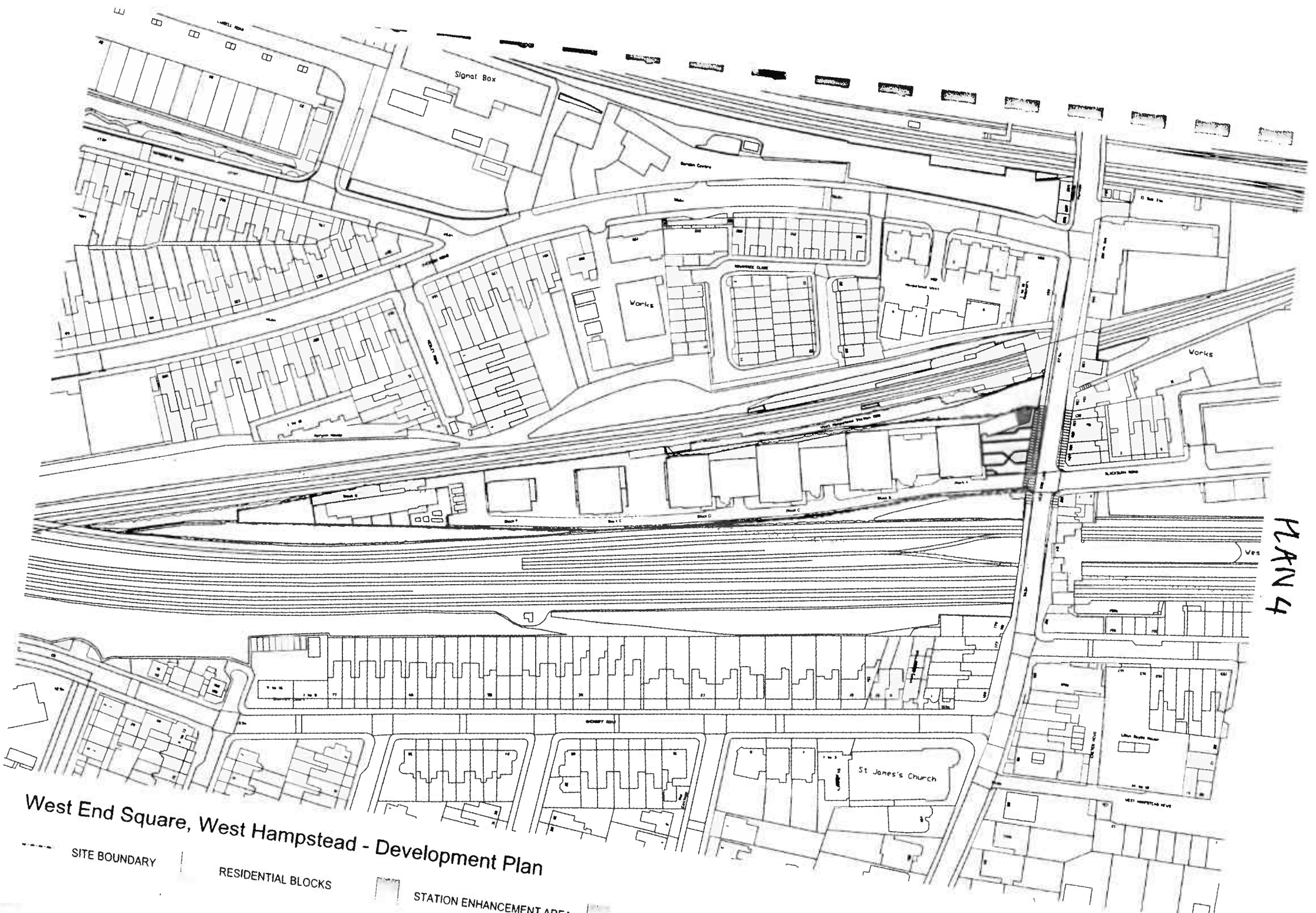
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West End Square, West Hampstead	JOHN THOMPSON & PARTNERS
00457	RA EH
1:200 @A1 1:400 @A3	14/12/2011
PL 07 REV C	C

Social Review

Block G Plans

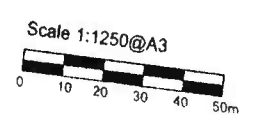




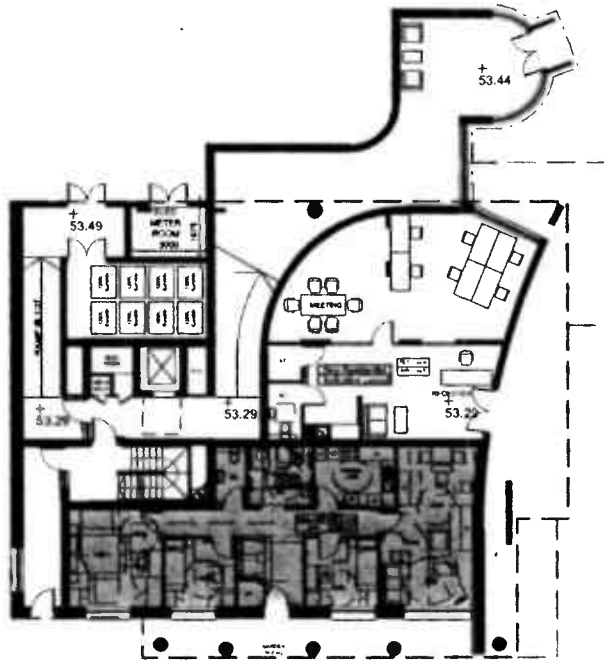
PLAN 4

West End Square, West Hampstead - Development Plan

- SITE BOUNDARY
- RESIDENTIAL BLOCKS
- STATION ENHANCEMENT AREA
- PUBLIC OPEN SPACE
- STATION RETAIL UNIT







Block D  
 Social Rented Wheelchair Units :  
 Ground Floor Unit D01



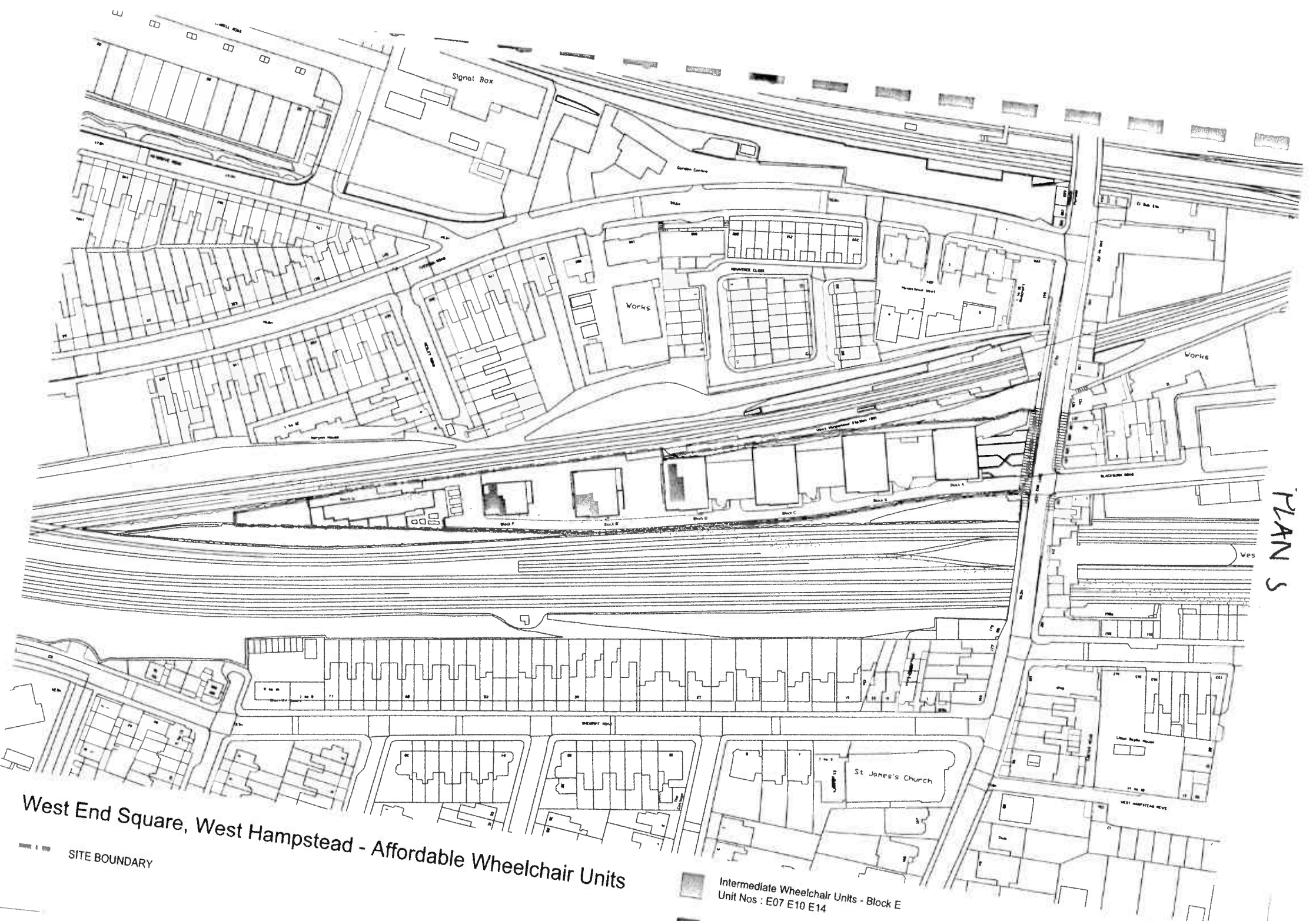
Block E  
 Intermediate Wheelchair Units :  
 2nd Floor Unit E07  
 3rd Floor Unit E10  
 4th Floor Unit E14



Block F  
 Social Rented Wheelchair Units :  
 1st Floor Unit F03  
 2nd Floor Unit F05  
 3rd Floor Unit F07

PLAN S



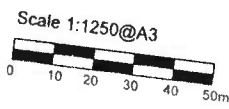


PLANS

West End Square, West Hampstead - Affordable Wheelchair Units

1:1250 SITE BOUNDARY

- Intermediate Wheelchair Units - Block E  
 Unit Nos : E07 E10 E14
- Social Rented Wheelchair Units - Block D & F  
 Unit Nos : D01, F03, F05 & F07



GVA  
10 Stratton Street  
LONDON  
W1J 8JRApplication Ref: **2011/6129/P**

29 March 2012

Dear Sir/Madam

**DRAFT**  
**FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION**  
Town and Country Planning Acts 1990 (as amended)**DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT**Address:  
**187-199 West End Lane**  
**London**  
**NW6 2LJ**

## Proposal:

**DECISION**  
Redevelopment of site to create seven new buildings between five and twelve storeys in height to provide 198 residential units (Class C3), retail, financial and professional services and food and drink floorspace (Class A1, A2, A3 and A4), flexible employment/healthcare floorspace (Class B1/D1) along with associated energy centre, storage, parking, landscaping and new public open space (existing buildings to be demolished).(Class B1/D1) along with associated energy centre, storage, parking, landscaping and new public open space (existing buildings to be demolished).

Drawing Nos: Site location plan; MP\_01; MP\_02; MP\_03 A; MP\_04 A; MP\_05 A; MP\_06 A; MP08; PL\_01; PL\_02; PL\_03 A; PL\_04; PL\_05; PL\_06; PL\_07 C; ELE\_01; ELE\_02; ELE\_03; ELE\_04; ELE\_05; ELE\_06; ELE\_07 B; ELE\_08; SS\_01 A; SS\_02 A; SS\_03; SS\_04; BA01; BA02; BB01; BC01; BD01; BE01; BF01; BG01 A; BC02; RET01; Landscape and Public Realm Strategy November 2011.

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 this permission.

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

- 2 None of the market residential units shall be occupied until all the units in block G and block F indicated on the approved plans have been completed and are available for occupation. None of the market residential units in blocks B, C, D and E shall be occupied until the affordable units in blocks D and E have been completed and are available for occupation.

Reason: To ensure that the development includes the provision of affordable housing in accordance with policy CS6 (Providing quality homes) of the London Borough of Camden Local Development Framework Core Strategy and policy DP3 (Contributions to the supply of affordable housing) of the London Borough of Camden Local Development Framework Development Policies.

- 3 No development shall take place until full details of hard and soft landscaping and means of enclosure of all un-built, open areas have been submitted to and approved by the Council. Such details shall include details of any proposed earthworks including grading, mounding and other changes in ground levels. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To enable the Council to ensure a reasonable standard of visual amenity in the scheme in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 4 All hard and soft landscaping works shall be carried out to a reasonable standard in accordance with the approved landscape details by not later than the end of the planting season prior to the occupation for the permitted use 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 Council gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a satisfactory standard of visual amenity in the scheme in accordance with

the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 5 Notwithstanding the provisions of Class D of the Schedule of the Town and Country Planning (Use Classes) Order, 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, the premises indicated for D1 use on the approved plans shall not be used for any other purpose in Class D1 other than to provide a dentists or healthcare facility.

Reason: To ensure that the future occupation of the building does not adversely affect the immediate area by reason of noise and traffic congestion in accordance with policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 6 Before development commences, a scheme of mitigation against noise and vibration with the development, including details of acoustic screening and sprung foundations, shall be submitted to, and approved in writing by, the local planning authority. The scheme of mitigation shall include details of how noise and vibration levels within each unit shall comply with the relevant standards. The development shall thereafter not be carried out other than in complete compliance with the approved scheme and no unit shall be occupied until the mitigation measures relevant to that unit have been installed.

Reason: To safeguard the amenities of the future occupants of the development in accordance with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 7 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 Council and the approved facility shall therefore be provided prior to the first occupation of any of the new units and permanently maintained and retained thereafter.

Reason: To safeguard the amenities of the site and the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 8 No development shall commence until a written detailed scheme of assessment consisting of site reconnaissance, conceptual model, risk assessment and proposed schedule of investigation has been submitted to, and agreed by, the local planning authority. The scheme of assessment must be sufficient to assess the scale and nature of potential contamination risks on the site and shall include details of the number of sample points, the sampling methodology and the type and quantity of analyses proposed. The documentation submitted must comply with the standards of

the Environment Agency's Model Procedures for the Management of Contamination (CLR11). The development shall be carried out in accordance with the approved scheme.

Reason: To protect future occupiers of the development from the possible presence of ground contamination arising in connection with the previous industrial/storage use of the site in accordance with policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 9 Before development commences, a site investigation shall be undertaken in accordance with the approved scheme of assessment and the written results provided to the planning authority for their approval. Laboratory results must be provided as numeric values in a formatted electronic spread sheet. Before development commences a remediation scheme shall be agreed in writing with the planning authority and the scheme as approved shall be implemented before any part of the development hereby permitted is occupied.

Additional significant contamination discovered during development shall be fully assessed and any necessary modifications made to the remediation scheme shall be submitted to the Local Planning Authority for written approval. Before any part of the development hereby permitted is occupied the developer shall provide written confirmation that all works were completed in accordance with the revised remediation scheme.

Reason: To protect future occupiers of the development from the possible presence of ground contamination arising in connection with the previous industrial/storage use of the site in accordance with policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 10 Before the development commences, details of the proposed cycle storage areas shall be submitted to and approved by the Council. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and thereafter permanently maintained and retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 of the London Borough of Camden Local Development Framework Development Policies.

- 11 The development hereby permitted shall be carried out in accordance with the following approved plans Site location plan; MP\_01; MP\_02; MP\_03 A; MP\_04 A; MP\_05 A; MP\_06 A; MP08; PL\_01; PL\_02; PL\_03 A; PL\_04; PL\_05; PL\_06; PL\_07 C; ELE\_01; ELE\_02; ELE\_03; ELE\_04; ELE\_05; ELE\_06; ELE\_07 B; ELE\_08; SS\_01 A; SS\_02 A; SS\_03; SS\_04; BA01; BA02; BB01; BC01; BD01; BE01; BF01; BG01 A; BC02; RET01; Landscape and Public Realm Strategy November 2011.

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



- 12 Full details in respect of the biodiversity roofs in the areas indicated on the approved roof plan shall be submitted to and approved by the Council before the relevant part of the development commences. The approved details shall be implemented within one year of the completion of the relevant part of the development and shall be permanently retained and maintained thereafter.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies CS13, CS15 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

- 13 The development hereby permitted shall not be commenced until detailed design and method statements and assurances (in consultation with London Underground) for all of the following have been submitted to and approved in writing by the local planning authority.
- o retaining structures, foundations, basement and ground floor structures
  - o protection from vehicle incursion
  - o fencing design, erection and maintenance adjacent to LU land
  - o wall design, erection and maintenance adjacent to LU land on the approach to West End Lane
  - o accommodation of existing London Underground structures
  - o use of tall plant and erection of scaffolding
  - o London Underground's right of access to its property
  - o details of the management company have been provided.

All works shall be completed in accordance with the approved details.

Reason: To safeguard the safety and structural stability of the adjoining railway network in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy.

- 14 The details of the following shall be submitted to, and approved in writing by, the Local Planning Authority before any work is commenced on the relevant part of the development.
- a) Shopfronts; including sections, elevations and materials
  - b) Facing materials of all buildings and podiums
  - c) Details including sections at 1:10 of all windows and door frames.
  - d) Details including materials of all balconies and roof terraces.
  - e) Details of the glazed corridors

The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To safeguard the appearance of the site and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the

- 15 A Sample panel of, the facing brickwork demonstrating the proposed colour, texture, face-bond and pointing shall be provided on site and approved by the Local Planning Authority before the relevant parts of the works are commenced and the development shall be carried out in accordance with the approval given. The sample panel should be no less than 1x1m The sample panel shall be retained on site until the work has been completed.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 16 Before any A3 or A4 use commences, any extract ventilating system shall be provided with acoustic isolation and sound attenuation in accordance with the scheme approved by the Council. The acoustic isolation shall thereafter be maintained in effective order to the reasonable satisfaction of the Council. In the event of no satisfactory ventilation being provided, no primary cooking shall take place on the premises.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 17 Notwithstanding the submitted plans and the provisions of Class A of the Schedule of the Town and Country Planning (Use Classes) Order, 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, the commercial units shall not be used otherwise than as indicated in the approved drawing RET01. No more than three of the units shall have a use within Class A2.

Reason: To ensure that the future occupation of the premises does not have an adverse impact on the vitality and viability of the West Hampstead Town Centre, in accordance with policy CS12 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.



- 18 The commercial units hereby approved shall be completed in accordance with the approved drawing PL01 and shall not be combined to form larger units.

Reason: To ensure that adequate provision is made for small and independent shops in accordance with policy DP10 of the London Borough of Camden Local Development Framework Development Policies.

- 19 Any A3 or A4 use hereby permitted shall not be carried out outside the following times: 08:00hrs to 23:00hrs Monday to Thursday and 08:00hrs to 24:00hrs Friday and Saturday.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 and DP12 of the London Borough of Camden Local Development Framework Development Policies.

- 20 Notwithstanding the approved plans, prior to the occupation of any of the units a scheme shall be submitted to, and approved in writing by, the Local Planning Authority indicating the position of parking spaces to be set aside for car club bays. The parking spaces shall thereafter only be used for the parking of car club vehicles unless the Local Planning Authority gives written consent for any variation.

Reason: To ensure the development provides adequate car club facilities in accordance with the requirements of policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP18 of the London Borough of Camden Local Development Framework Development Policies

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which 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, Argyle Street WC1H 8EQ, (tel: 020-7974 2363).
- 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 Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> 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.
- 3 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

- 4 The correct street number or number and name must be displayed permanently on the premises in accordance with regulations made under Section 12 of the London Building (Amendments) Act 1939.
- 5 You are advised that the biodiversity information/ecological assessment provided as part of this application will be made available to Greenspace Information for Greater London [GIGL], the capital's environmental records centre. This will assist in a key principle of PPS9 (Biodiversity and Geological Conservation) by building up the data base of up to date ecological information and this will help in future decision making
- 6 Reasons for granting planning permission.

The proposed development is in general accordance with the London Borough of Camden Local Development Framework Core Strategy with particular regard to CS1 - Distribution of growth, CS2 - Growth Areas, CS5 - Managing the impact of growth and development, CS6 - Providing quality homes, CS7 - Promoting Camden's centres and shops, CS8 - Promoting a successful and inclusive Camden economy, CS10 - Supporting community facilities and services, CS11 - Promoting sustainable and efficient travel, CS13 - Tackling climate change through providing higher environmental standards, CS14 - Promoting high quality places and conserving our heritage, CS15 - Protecting and improving our parks and open spaces and encouraging biodiversity, CS16 - Improving Camden's health and well-being, CS17 - Making Camden a safer place, CS18 - Dealing with waste and encouraging recycling and CS19 - Delivering and monitoring the Core Strategy and with the London Borough of Camden Local Development Framework Development Policies with particular regard to DP1 - Mixed use development, DP2 - Making full use of Camden's capacity for housing, DP3 - Contributions to the supply of affordable housing, DP5 - Homes of different sizes, DP6 - Lifetime homes and wheelchair homes, DP10 - Helping and promoting small and independent shops, DP11 - Markets, DP12 - Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses, DP13 - Employment sites and premises, DP15 - Community and leisure uses, DP16 - The transport implications of development, DP17 - Walking, cycling and public transport, DP18 - Parking standards and the availability of parking, DP19 - Managing the impact of parking, DP20 - Movement of goods and materials, DP21 - Development connecting to the highway network, DP22 - Promoting sustainable design and construction, DP23 - Water, DP24 - Securing high quality design, DP26 - Managing the impact of development on occ

- 7 Furthermore the proposal accords with the specific policy requirements in respect of the following principle considerations: The proposed development would provide a high density residential led scheme in close proximity to excellent public transport links and including a large component of affordable housing suitable for families. The development would fulfil a number of objectives for the site set out in the draft SADP, including the provision of a wider pavement along the front of the site,

financial contributions towards improved access to West Hampstead Overground Station, retail units with residential above to enhance the West Hampstead Town Centre, local energy generation and new open space. Employment floorspace would be retained, including a unit with the potential to provide additional healthcare facilities. Further benefits would include the reduction in traffic and air pollution arising from the site and significant financial contributions towards local community facilities and schools.

- 8 If a revision to the postal address becomes necessary as a result of this development, application under Part 2 of the London Building Acts (Amendment) Act 1939 should be made to the Camden Contact Centre on Tel: 020 7974 4444 or Environment Department (Street Naming & Numbering) Camden Town Hall, Argyle Street, WC1H 8EQ.
- 9 The applicant is advised to contact London Underground Infrastructure Protection in advance of preparation of final design and associated method statements, in particular with regard to: demolition; drainage; excavation; construction methods; security; boundary treatment; safety barriers; landscaping and lighting

Yours faithfully

Culture and Environment Directorate

**DECISION**

DATED 30<sup>th</sup> March 2012

*[Handwritten initials and signature]*

(1) DOMAINE DEVELOPMENTS LIMITED

and

(2) NETWORK RAIL LIMITED <sup>with</sup> INFRASTRUCTURE

and

(3) BALLYMORE PROPERTIES LIMITED

and

(4) IBRC ASSET FINANCE PLC

and

(5) IRISH BANK RESOLUTION CORPORATION LIMITED

and

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

**AGREEMENT**  
relating to land known as  
187-199 WEST END LANE  
LONDON NW6 2LJ  
pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended) and  
Section 278 of the Highways Act 1980

Andrew Maughan  
Head of Legal Services  
London Borough of Camden  
Town Hall  
Judd Street  
London WC1H 9LP

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Fax: 020 7974 2962