

DATED

28 NOVEMBER

2019

(1) AS&K COMMERCIAL PROPERTIES LTD

-and-

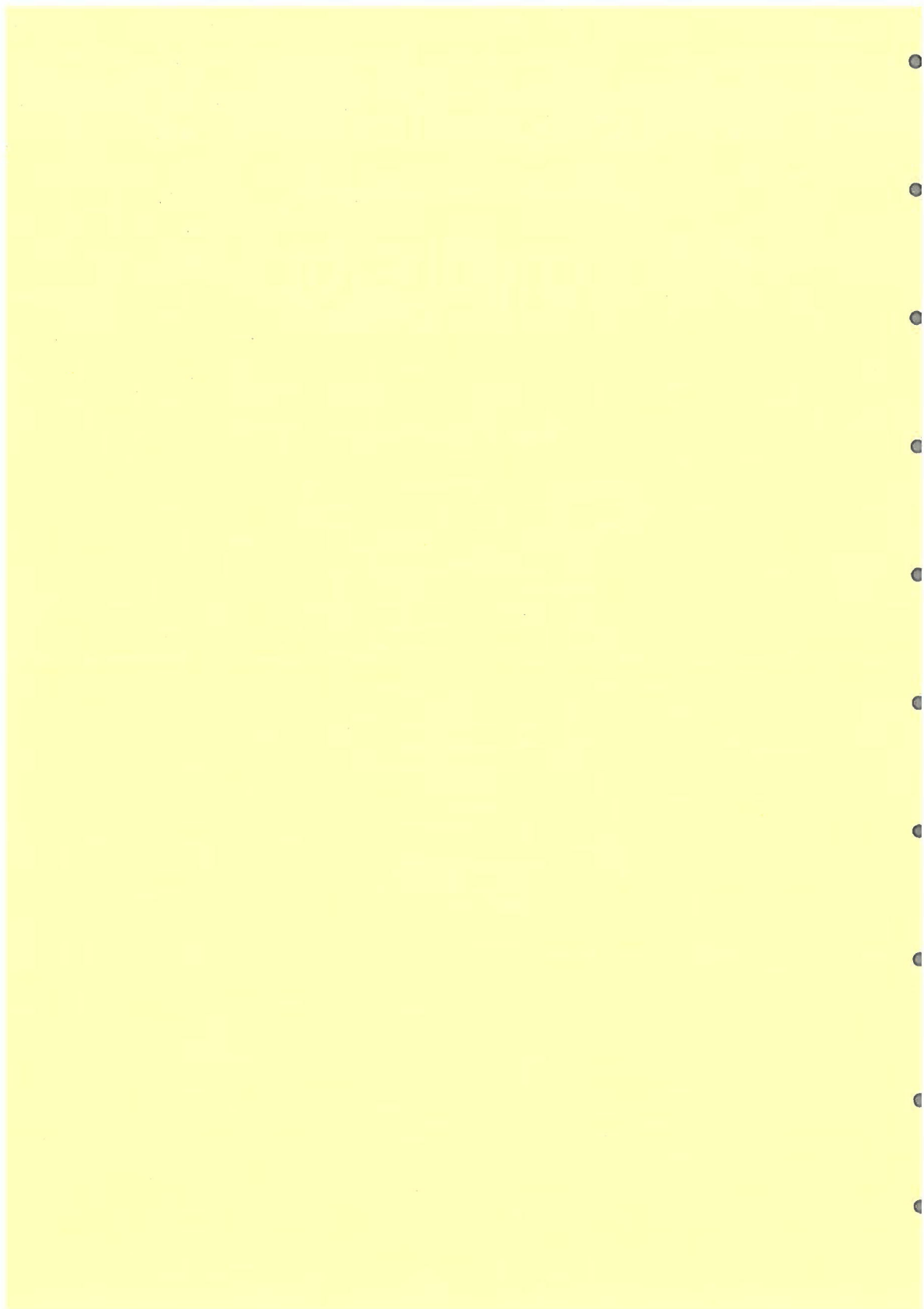
(2) THE MAYOR AND THE BURGESSES OF
THE LONDON BOROUGH OF CAMDEN

DEED OF VARIATION

Relating to the Agreement dated 10 March 2016
and the Deed of Variation dated 29 August 2018
Between the Mayor and the Burgesses of the
London Borough of Camden and
AS&K Commercial Properties Ltd
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
5 Underhill Street, London NW1 7HS

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

Tel: 020 7974 5680
CLS/COM/HM/DoV
FINAL 1800.1243



THIS DEED is made on the 28th day of NOVEMBER 2019

BETWEEN

1. **AS&K COMMERCIAL PROPERTIES LTD** (Co. Regn. No. 07931961) whose registered office is at 52 High Street, Pinner, England, HA5 5PW (hereinafter called "the Owner") of the first part
2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second part

WHEREAS:

- 1.1 The Council and the Owner entered into an agreement dated 10 March 2016 and a Deed of Variation dated 29 August 2018 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended)
- 1.2 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number 48374.
- 1.3 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.4 The Council is the local planning authority for the purposes of the Act and considers it expedient in the interests of the proper planning of its area that the Development of the Property should be restricted or regulated in accordance with this Deed.
- 1.5 A new Planning Application in respect of the Property and to amend the First Planning Permission as amended by the Second Planning Permission was submitted to the Council by the Owner and validated on 4 February 2019 for which the Council resolved to grant permission conditionally under reference 2019/0652/P subject to the conclusion of this Deed.
- 1.6 This Deed of Variation is made by virtue of the Town and Country Planning Act 1990 Section 106A (as amended) and is a planning obligation for the purposes of that section.

2.8.2 "Existing Agreement"

the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 10 March 2016 made between the Council and the Owner as varied by the Deed of Variation dated 29 August 2018 made between the Council and the Owner

2.8.3 "the First Planning Permission"

means the planning permission granted by the Council on 10 March 2016 referenced 2015/0034/P allowing the extensions and alterations to the existing building including erection of a single storey extension to the roof fronting Underhill Street to provide 1 x 3 bed self-contained flat (Class C3 use) with external roof terrace and metal privacy screen, erection of two storey lift shaft to the rear at first and second floor level, installation of external fire escape staircase from ground to second floor level, alterations to the ground floor front elevation to create a new ground floor residential entrance and office entrance fronting Underhill Street, replacement of ground floor window openings with doors to bin store area and office storage area, and installation of roof light on the roof of the single storey front/side extension of the existing office building (Class B1 use) as shown on drawing numbers

14.8396.01; 14.8396.02; 14.8396.03;
14.8396.04; 14.8396.05B; 14.8396.06B;
14.8396.07B; 14.8396.08B; Flood Risk
Assessment produced by Avis Appleton and
Associates dated 19th December 2014;
Sustainability Checklist dated 05th July 2011

2.8.4 "the Second Planning

Permission"

means the planning permission granted by the Council on 29 August 2018 referenced 2017/4332/P allowing variation to condition 3 of planning permission 2015/0034/P dated 10/03/2016, for extensions and alterations to the existing building including erection of a single storey extension to the roof fronting Underhill Street to provide 1 x 3 bed self-contained flat (Class C3 use); namely to include increase in the height of the extension by 0.17m, increase in footprint, installation of new windows in the southwestern side elevation and alterations to the design and fenestration of the single storey extension at roof level as shown on drawing numbers:14.8396.01;14.8396.02;14.8396.03;14.8396.04; 14.8396.05B; 101 rev D; 300 rev E; 301 rev D; Flood Risk Assessment produced by Avis Appleton and Associates dated 19th December 2014; Sustainability Checklist dated 05th July 2011

3. VARIATION TO THE EXISTING AGREEMENT

- 3.1 The following definitions contained in the Existing Agreement shall be varied as follows:

3.1.1 "Development"

The development permitted by the First Planning Permission as amended by the Second Planning Permission as amended by: variation of planning permission dated 10 March 2016 and 29 August 2018 to Vary condition 3 of planning permission 2015/0034/P dated 10/03/2016, for extensions and alterations to the existing building including erection of a single storey extension to the roof fronting Underhill Street to provide 1 x 3 bed self-contained flat

(Class C3 use); namely to include increase in the height of the extension by 0.17m, increase in footprint, installation of new windows in the southwestern side elevation and alterations to the design and fenestration of the single storey extension at roof level as shown on drawing numbers: 100 rev C; 101 rev H; 300 rev H; 301 rev H.

3.1.2 "Planning Permission"

the planning permission for the Development under reference number 2017/4332/P granted by the Council in the form of the draft annexed hereto

3.1.3 "Planning Application"

the application for Planning Permission in respect of the Development of the Property submitted to the Council on 29 August 2018 by the Owner and given reference number 2017/4332/P

3.2 The following definition shall be added to the Existing Agreement:-

3.2.1 "First Planning Permission"

means the planning permission granted by the Council on 10 March 2016 referenced 2015/0034/P allowing the extensions and alterations to the existing building including erection of a single storey extension to the roof fronting Underhill Street to provide 1 x 3 bed self-contained flat (Class C3 use) with external roof terrace and metal privacy screen, erection of two storey lift shaft to the rear at first and second floor level, installation of external fire escape staircase from ground to second floor level, alterations to the ground floor front elevation to create a new ground floor residential entrance and office entrance fronting Underhill Street, replacement of ground floor

window openings with doors to bin store area and office storage area, and installation of roof light on the roof of the single storey front/side extension of the existing office building (Class B1 use) as shown on drawing numbers

14.8396.01; 14.8396.02; 14.8396.03;
14.8396.04; 14.8396.05B; 14.8396.06B;
14.8396.07B; 14.8396.08B; Flood Risk
Assessment produced by Avis Appleton and
Associates dated 19th December 2014;
Sustainability Checklist dated 05th July 2011

**"3.2.2 "Second Planning
Permission"**

means the planning permission granted by the Council on 29 August 2018 referenced 2017/4332/P allowing variation to condition 3 of planning permission 2015/0034/P dated 10/03/2016, for extensions and alterations to the existing building including erection of a single storey extension to the roof fronting Underhill Street to provide 1 x 3 bed self-contained flat (Class C3 use); namely to include increase in the height of the extension by 0.17m, increase in footprint, installation of new windows in the southwestern side elevation and alterations to the design and fenestration of the single storey extension at roof level as shown on drawing numbers: 14.8396.01; 14.8396.02; 14.8396.03; 14.8396.04; 14.8396.05B; 101 rev D; 300 rev E; 301 rev D; Flood Risk Assessment produced by Avis Appleton and Associates dated 19th December 2014; Sustainability Checklist dated 05th July 2011

- 3.3 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2015/0034/P" or "Planning Permission reference 2017/4332/P" (as appropriate) shall be replaced with "Planning Permission reference 2019/0652/P".

3.4 In all other respects the Existing Agreement (as varied by this Deed) shall continue in full force and effect.

4. **COMMENCEMENT**

4.1 Without prejudice to the effect of Clause 3.5 in the Existing Agreement the provisions in this Deed shall take effect on the Implementation of the Planning Permission referenced 2019/0652/P.

5 **PAYMENT OF THE COUNCIL'S LEGAL COSTS**

5.1 The Owner agrees to pay the Council (on or prior to completion of this Deed) its reasonable legal costs incurred in preparing this Deed

6. **REGISTRATION AS LOCAL LAND CHARGE**

6.1 This Deed shall be registered as a Local Land Charge

IN WITNESS WHEREOF the Council has caused its Common Seal to be affixed and the Owner has caused this Deed to be executed as a Deed the day and year first above written.

**EXECUTED AS A DEED BY
AS&K COMMERCIAL PROPERTIES LTD
ACTING BY A DIRECTOR IN THE PRESENCE
OF:-**



Witness:-



Sign:

Print name:

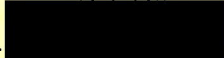
Address:

Occupation:

ROBERT COYNE
WELLS HOUSE
80 UPPER ST
LONDON N1 6ND
SOLICITOR

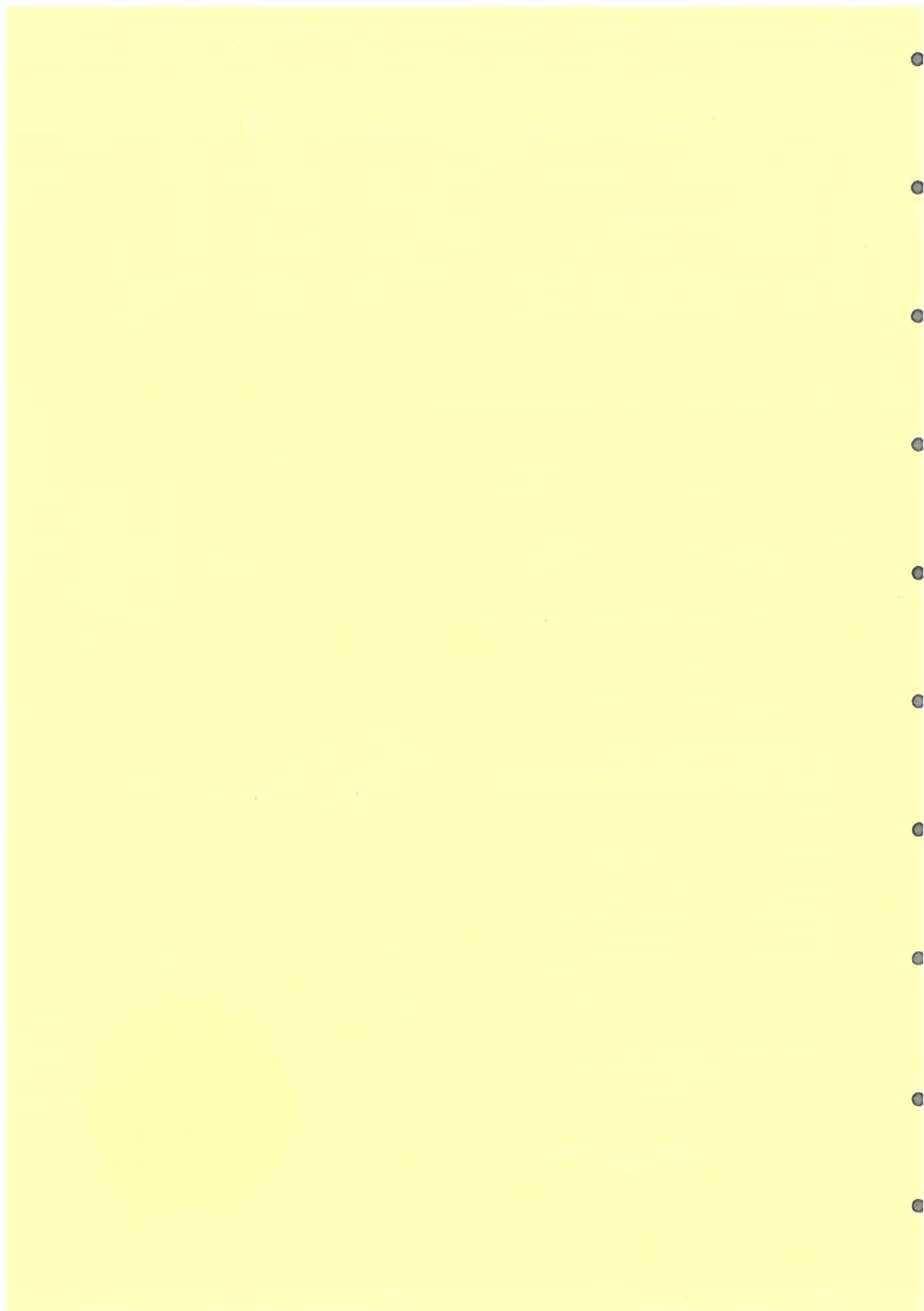
**THE COMMON SEAL OF THE MAYOR
AND BURGESSES OF THE LONDON
BOROUGH OF CAMDEN**
was hereunto affixed by Order:-

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Duly Authorised Officer







**Regeneration and Planning
Development Management**
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Tel 020 7974 4444

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

The House Designers
c/o Baufritz, Camboro Business Park
Oakington Road
Cambridge
Cambridge
CB3 0QH
United Kingdom

Application Ref: **2019/0652/P**

11 October 2019

Dear Sir/Madam

FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION
Town and Country Planning Act 1990 (as amended)

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:

**5-6
Underhill Street
London
NW1 7HS**

Proposal:

Variation to condition 3 (approved plans) of planning permission 2015/0034/P dated 10/03/2016 (as varied by 2017/4332/P dated 29/08/2018) for extensions and alterations to the existing building including erection of a single storey extension to the roof fronting Underhill Street to provide 1 x 3 bed self-contained flat (Class C3 use); namely to include increase in the height of the existing lift shaft by 0.5m, installation of a flank door on the side/rear elevation at second floor level to allow access to existing escape stairs fronting onto Underhill Street, alterations to fenestration on the front facade, and changes from glass balustrade on the Underhill Street elevation to integrated juliette balcony.

Drawing Nos: 100 rev C; 101 rev H; 300 rev H; 301 rev H.

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 shall be carried out in accordance with the following approved plans- 100 rev C; 101 rev H; 300 rev H; 301 rev H; Flood Risk Assessment produced by Avis Appleton and Associates dated 19th December 2014; Sustainability Checklist dated 5th July 2011.

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

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 and D2 of the London Borough of Camden Local Plan 2017.

- 3 The use of the roof as a terrace shall not commence until the screen, as shown on the approved drawings, has been constructed. The screen shall be permanently retained thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policies A1 and D1 of the London Borough of Camden Local Plan 2017.

- 4 The proposal shall be fully provided in accordance with the details hereby approved, prior to first occupation and thereafter retained and maintained in accordance with the approved scheme of maintenance.

Reason: To ensure that the green roof is suitably design and maintained in accordance with the requirements of A3 of the London Borough of Camden Local Plan 2017.

- 5 The refuse and recycling facilities hereby approved shall be provided prior to the first occupation of the new unit and permanently retained and maintained thereafter.

Reason: To ensure that sufficient provision for the storage and collection of waste has been made in accordance with the requirements of policy CC5 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Reason for granting permission-

The amendments comprise a series of minor changes to the elevations and internal layout of the 2015 approved scheme as amended in 2017 as a result of

working up details. Works have started on site to implement the 2015 scheme which is extant.

The proposal would include increasing the height of the existing lift shaft by 0.5m which would increase its height above the ridge of the approved single storey roof extension by 0.64m. Due to the location of the lift shaft at the rear of part of the building this increase in height would not appear apparent from street views and would not be considered harmful to the character or appearance of the existing building or the conservation area. The finish of the lift shaft has been revised from being part rendered and part clad in zinc to being all rendered. This would match the appearance of the remainder of the lift shaft and would be considered acceptable. The installation of a flank door on the side/rear elevation at second floor level with platform to allow access to existing escape stairs fronting onto Underhill Street would be a minor change to the side/ rear elevation which is not visible from street level. This amendment would not harm the character or appearance of the building or the surrounding conservation area. A glass balustrade on the Underhill Street elevation was originally approved as part of the 2017 scheme. The proposal would include changes to an integrated glass Juliette balcony to the windows on the Underhill Street elevation. This would be considered acceptable as it would not be visible from the street and would ensure that the front parapet of the building remains uncluttered.

Minor changes have been made to the fenestration on the Underhill Street elevation. The number of window openings has been reduced from 6 to 5 with one window being extended in width by one window pane. This is as a result of internal changes to the layout of the residential unit and would not harm the character or appearance of the extension, the host building or the surrounding area and would be considered acceptable.

Condition 3 of 2017 scheme required the submission of details of the facing materials including zinc cladding and the glazed safety screen. The applicant has submitted a sample of the zinc cladding during the course of the application. This has been reviewed by officers and is considered a high quality material to allow the main historic building to retain its quality and character. The changes from the glass balustrade to the installation of integrated glass Juliette balcony to the windows on the Underhill Street façade would therefore remove the need for the submission of this facing material. Consequently condition 3 of the 2017 would not be attached as part of this permission.

Condition 7 of the 2017 scheme required the submission of drawings showing the bin store and cycle store located on the ground floor to open inwards to ensure pedestrian safety was not impeded. The ground floor bin and cycle store doors on the proposed ground floor plans are shown to open inwards. Consequently condition 7 of the 2017 would not be attached as part of this permission.

2 Amenity

One objection was received from a local resident raising concerns about loss of light from the extended lift shaft. Given the increase in height of the lift shaft by 0.5m (h) it would not be considered to significantly reduce the level of daylight into the habitable rooms of neighbouring occupiers along Arlington Road to sustain a reason for refusal.

Concerns have been raised regarding noise from the lift shaft when it is in use. Lining of the lift shaft to absorb sound would be controlled by its design and would fall under Building Regulations. An informative has been attached to the permission advising the applicant to contact Building Control.

One objection has been received from a local resident about the window openings on the front elevation of the single storey roof extension and the overlooking and loss of privacy that will be experienced by residents at 142 Arlington Road. The number of window openings has reduced from 7 as part of the original approved scheme in 2015 to 5 as part of this proposal. The principle of habitable windows on the Underhill Street elevation of the building fronting onto 142 Arlington Road has already been established by the 2015 scheme which has been implemented. The proposed minor modifications to the width of one window opening by one window pane would not increase the level of overlooking between the properties.

No further objections have been received prior to making this decision. The planning history of the site has been taken into account when coming to this decision.

Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area, under s.72 of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

As such, the proposed development is in general accordance with policies G1, A1, A3, D1, D2, T3, CC1, CC2 and CC3 of the London Borough of Camden Local Plan 2017. The proposed development also accords with the London Plan 2016 and the National Planning Policy Framework 2019.

- 3 All of the conditions attached to application reference 2017/3206/P, dated 24/04/2018, have now been discharged.

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

Yours faithfully

Supporting Communities Directorate

Executive Director Supporting Communities

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DATED

28 NOVEMBER

2019

(1) AS&K COMMERCIAL PROPERTIES LTD

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 10 March 2016
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under section 106 of the Town and
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