

DATED *16th January 2018/20*

(1) SHAFTESBURY COVENT GARDEN LIMITED

and

(2) LLOYDS BANK PLC

and

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

A G R E E M E N T

relating to land known as

53 and 55 Monmouth Street (2 Ching Court) London WC2H 9DG

pursuant to

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

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

Section 111 of the Local Government Act 1972;

Section 1(1) of the Localism Act 2011

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

Tel: 020 7974 2176
CLS/COM/ESA.1800.1113

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THIS AGREEMENT is made the *16th* day of *January* 2018/20

B E T W E E N:

- A. **SHAFTESBURY COVENT GARDEN LIMITED** (Co. Regn. No. 03154145) whose registered office is at 22 Ganton Street, Carnaby, London, W1F 7FD (hereinafter called "the Owner") of the first part
- B. **LLOYDS BANK PLC** (Co. Regn. No. 2065) of 25 Gresham Street, London EC2V 7HN (hereinafter called "the Mortgagee") of the second part
- C. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third part

1. **WHEREAS**

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Second Property under Title Number NGL695194 subject to a charge to the Mortgagee.
- 1.2 For the purposes of this Agreement the parties acknowledge that the Owner is also registered at the Land Registry as the freehold proprietor with title absolute under title number NGL689937 (consisting of the First Property).
- 1.3 The Owner is the freehold owner of and is interested in the Second Property for the purposes of Section 106 of the Act.
- 1.4 The Second Planning Application for the Second Development of the Second Property was submitted to the Council and validated by the Council on 26 March 2019. The Council resolved to grant planning permission conditionally (for the Second Development) under reference number 2019/1646/P subject to conclusion of this Agreement.
- 1.5 The First Planning Application for the First Development of the First Property was submitted to the Council and validated on 29 March 2019 and the Council resolved to

grant permission conditionally under reference number 2019/1294/P subject to the conclusion of a separate legal agreement.

- 1.6 The Council is the local planning authority for the purposes of the Act and is the local authority for the purposes of Section 16 of the Greater London Council (General Powers) Act 1974 Section 111 of the Local Government Act 1972; and Section 1(1) of the Localism Act 2011 for the area in which the Second Property is situated and considers it expedient in the interests of the proper planning of its area that the development of the Second Property should be restricted or regulated in accordance with this Agreement.
- 1.7 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.8 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL695194 and dated 28 June 1996, 1 October 2004, 27 February 2014 and 12 February 2018 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 Act"	the Town and Country Planning Act 1990 (as amended)
2.2	"the Agreement"	this planning obligation made pursuant to Section 106 of the Act
2.3	"the First Development"	change of use of third floor unit from residential (Class C3) (1x 3-bed flat) to office (Class B1a) (in association with planning application ref: 2019/1646/P) as shown on drawing numbers:- 861: (PL)002 (OS Extract); (PL)920C; Cover letter (planning and heritage) by Rolfe Judd dated 08 March 2019
2.4	"the First Development Implementation Date"	the date of implementation of the First Development by the carrying out of a material operation as defined in Section 56 of the Act and references to "First

		Development Implementation" and "First Development Implement" shall be construed accordingly
2.5	"the First Planning Application"	a planning application in respect of the First Development of the First Property submitted to the Council and validated on 8 March 2019 for which a resolution to grant permission has been passed conditionally under reference number 2019/1294/P subject to conclusion of a separate legal agreement
2.6	"the First Property"	the third floor of 20 Shorts Gardens London WC2H 9AU as shown outlined in red on Plan 1
2.7	"Occupation Date"	the date when any part of the Second Development is occupied but this does not include occupation for the purposes of construction, fitting out, decoration, security, marketing or display and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
2.8	"the Parties"	mean the Council the Owner and the Mortgagee
2.9	"Plan 1"	the plan annexed hereto showing the First Property
2.10	"Plan 2"	the plan annexed hereto showing the Second Property
2.11	"Planning Obligations Monitoring Officer"	a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof
2.12	"the Planning Permission"	a planning permission granted for the Second Development substantially in the draft form annexed hereto
2.13	"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 Second Development is situated
2.14	"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

2.15	"the Second Development"	change of use of first, second and third floors from office (Class B1a) to residential to provide 2x 2 bedroom maisonettes (in association with planning application ref: 2019/1294/P as shown on drawing numbers:- 24474: 00; 01E-RevB; 02E; 03E; 01P-RevC. Cover Letter (including planning and heritage) by Rolfe Judd dated 21/03/2019
2.16	"the Second Development Implementation Date"	the date of implementation of the Second Development by the carrying out of a material operation as defined in Section 56 of the Act and references to "Second Development Implementation" and "Implementation of the Second Development" shall be construed accordingly
2.17	"the Second Planning Application"	a planning application in respect of the Second Development of the Second Property submitted to the Council and validated on 26 March 2019 for which a resolution to grant permission has been passed conditionally under reference number 2019/1646/P subject to conclusion of this Agreement
2.18	"the Second Property"	the first, second and third floors of the land known as 53-55 Monmouth Street (2 Ching Court) London WC2H 9DG shown outlined in red on Plan 2

3. **NOW THIS DEED WITNESSETH** as follows:-

- 3.1 This Agreement is made in pursuance of Section 106 of the Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and is also made in pursuance of Section 16 of the Greater London Council (General Powers) Act 1974 Section 111 of the Local Government Act 1972; and Section 1(1) of the Localism Act 2011 and shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Second Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.

- 3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies, corporations and other artificial persons.
- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction of interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7 and 8 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Second Development 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 Second Development shall be treated as being permanently designated as "car free" housing in accordance with Clause 4.1.1 and 4.1.2 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

4.1 **Car free**

- 4.1.1 To ensure that prior to Occupying any residential unit (forming part of the Second Development) each new occupier of the Second 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:

- (i) be granted a Residents' Parking Permit to park a vehicle in a Residents' Parking Bay; and
- (ii) buy a contract to park within any car park owned, controlled or licensed by the Council.

4.1.2 Not to Occupy or use (or permit the Occupation or use of) any residential unit (being part of the Second Development) at any time during which the occupier of the residential unit holds a Residents' Parking Permit to park a vehicle in a Residents' Parking Bay or is permitted to park a vehicle in any car park owned, controlled or licensed by the Council unless the occupier is the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970.

4.1.3 The Owner for itself and its successors in title to the Second Property hereby acknowledges that the provisions in Clauses 4.1.1 and 4.1.2 in this Agreement shall continue to have effect in perpetuity.

4.1.4 On or prior to the Occupation Date of the Second Development the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the residential units forming part of the Second 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 obligations in Clauses 4.1.1 and 4.1.2 of this Agreement.

4.2 Change of Use - Completion and Occupation Requirements

4.2.1 To notify the Council in writing on or before the Second Development Implementation Date.

4.2.2 To complete the Second Development in accordance with the Planning Permission within twenty-four (24) calendar months of the earliest of the First Development Implementation Date or the Second Development Implementation Date with such completion to be demonstrated by written notice from the Council to that effect.

4.2.3 Not to Occupy or permit Occupation of the Second Property for the purposes of the Second Development until the First Property is fitted out and ready for Occupation for

the purposes of the First Development and the Council has confirmed the same in writing to the Owner.

5. NOTICE TO THE COUNCIL/OTHER MATTERS

- 5.1 The Owner shall give written notice to the Council on or prior to the Second Development Implementation Date specifying that Implementation of the Second Development has taken or is about to take place.
- 5.2 Within seven days following completion of the works associated with the carrying out of the Second Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting planning reference 2019/1646/P the date upon which the Second Development will be ready for Occupation.
- 5.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access to any part of the Second Property or any reasonable requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.
- 5.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.
- 5.5 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its borough solicitor a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation but for

the avoidance of doubt the Planning Obligations Monitoring Officer will on request and if applicable confirm compliance in writing and no fee shall be payable.

6. **IT IS HEREBY AGREED AND DECLARED** by the Parties hereto that:-

- 6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Placeshaping Service, Urban Design and Development Team, 2nd Floor, 5 Pancras Square, London, N1C 4AJ and sent to planning obligations on PlanningObligations@camden.gov.uk quoting the planning reference number 2019/1646/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 Second Property and will following such registration furnish the Council forthwith with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the Second Property.
- 6.5 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and

regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.

- 6.6 Neither the Owner nor the Mortgagee nor their successors in title nor any person deriving title from them shall be bound by the obligations in this Agreement in respect of any period during which it no longer has an interest in the Second 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 before the Second Development Implementation Date this Agreement shall forthwith determine and cease to have effect and the Parties shall apply to the Land Registry to have the entry relating to the Agreement removed from the Charges Register of the title to the First Property.

7. MORTGAGEE EXEMPTION

- 7.1 The Mortgagee hereby consents to the Owner entering into this Agreement and agrees that the security of its charges over the Second Property shall take effect subject to this Agreement and to the same being registered at the Land Registry as provided in Clause 6.4 hereof and for the avoidance of doubt agrees that the Second Property shall be bound by the obligations in this Agreement.
- 7.2 The Parties agree that the obligations contained in this Agreement shall not be enforceable against any mortgagee or chargee of the whole or any part of the Second Property unless it takes possession of the Second Property as a mortgagee in possession in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

8. RIGHTS OF THIRD PARTIES

8.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owner and the Mortgagee have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY)
SHAFTESBURY COVENT GARDEN)
LIMITED in the presence of:-)
acting by a Director and its Secretary)
or by two Directors)

.....
Director

.....
Director/Secretary

EXECUTED AS A DEED BY)
attorney for LLOYDS BANK PLC)
by)
in the presence of:-)

.....
JENNIFER ESPINER

Jennifer Espiner
Associate Director

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

.....
Authorised Signatory



**FRESSON
AND TEE**
5th Floor Queens House
55-56 Lincolns Inn Fields
LONDON WC2A 3LJ
020 7391 7100 www.fresson.com



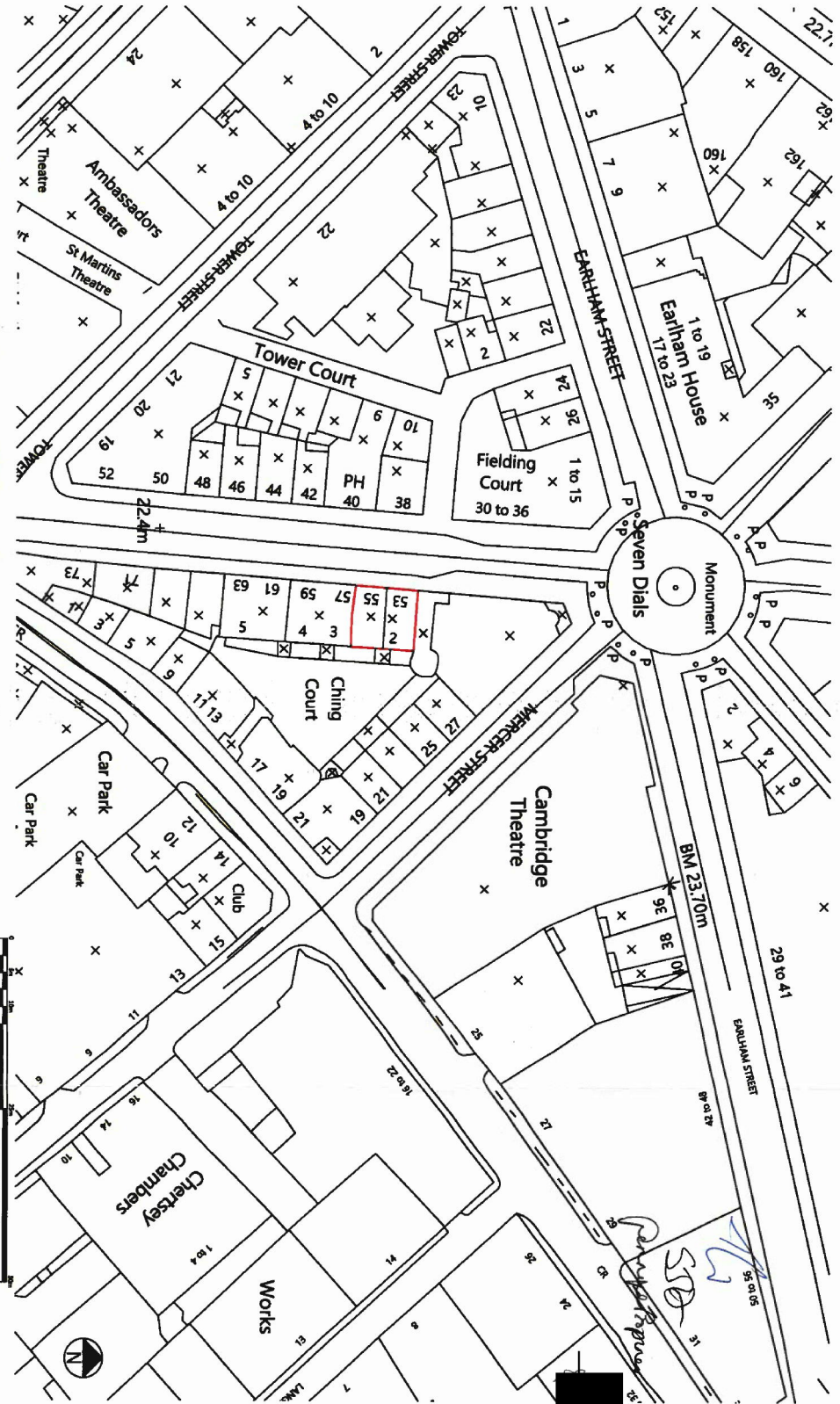
NOTES:
1. LOCATION PLAN @ 1:1250 AND HEIGHT UP
2. ALL SCALE/CHANGING TO BE CHECKED ON SITE.

DATE	BY	REVISION
12/11/18	12/11/18	12/11/18
12/11/18	12/11/18	12/11/18

PROJECT NAME	LOCATION PLAN
Proposed Change Of Use	

DATE	BY	REVISION
24/7/4	00	00
1:500@A3	NP	March 2019
53-55 Monmouth Street London, WCH1 9UG	Shaftsbury Court Garden Ltd	

PLAN 2





**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

Rolfe Judd Planning
Old Church Court
Claylands Road
Oval
London
SW8 1NZ

Application Ref: **2019/1646/P**

16 December 2019

Dear Sir/Madam

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

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:
53-55 Monmouth Street (2 Ching Court)
London
WC2H 9DG

PROPOSAL

Change of use of first, second and third floors from office (Class B1a) to residential to provide 2x 2bedroom maisonettes (in association with planning application ref: 2019/1294/P)

Drawing Nos: 24474: 00; 01E-RevB; 02E; 03E; 01P-RevC.

Cover Letter (including planning and heritage) by Rolfe Judd dated 21/03/2019.

DECISION
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 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 development hereby permitted shall be carried out in accordance with the following approved plans:

24474: 00; 01E-RevB; 02E; 03E; 01P-RevC.

Cover Letter (including planning and heritage) by Roife Judd dated 21/03/2019.

Reason:

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

- 4 The development hereby approved shall achieve a maximum internal water use of 110litres/person/day. The dwelling/s shall not be occupied until the Building Regulation optional requirement has been complied with.

Reason: To ensure the development contributes to minimising the need for further water infrastructure in an area of water stress in accordance with Policies CC1, CC2, CC3 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 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 Noise and Licensing Enforcement Team, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (Tel. No. 020 7974 4444 or search for 'environmental health' on the Camden website or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.

Executive Director Supporting Communities

- 3 This proposal may be liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL. Both CILs are collected by Camden Council after a liable scheme has started, and could be subject to surcharges for failure to assume liability or submit a commencement notice PRIOR to commencement. We issue formal CIL liability notices setting out how much you may have to pay once a liable party has been established. CIL payments will be subject to indexation in line with construction costs index. You can visit our planning website at www.camden.gov.uk/cil for more information, including guidance on your liability, charges, how to pay and who to contact for more advice.
- 4 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.

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

Yours faithfully

Supporting Communities Directorate

DECISION

Executive Director Supporting Communities



DATED

16th January 2019

(1) SHAFTESBURY COVENT GARDEN LIMITED

and

(2) LLOYDS BANK PLC

and

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

A G R E E M E N T

relating to land known as

53 and 55 Monmouth Street (2 Ching Court) London WC2H 9DG

pursuant to

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