

DATED

20 March

2020

(1) JOHN THOMAS CAWLEY AND CATHERINE TERESA CAWLEY

-and-

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

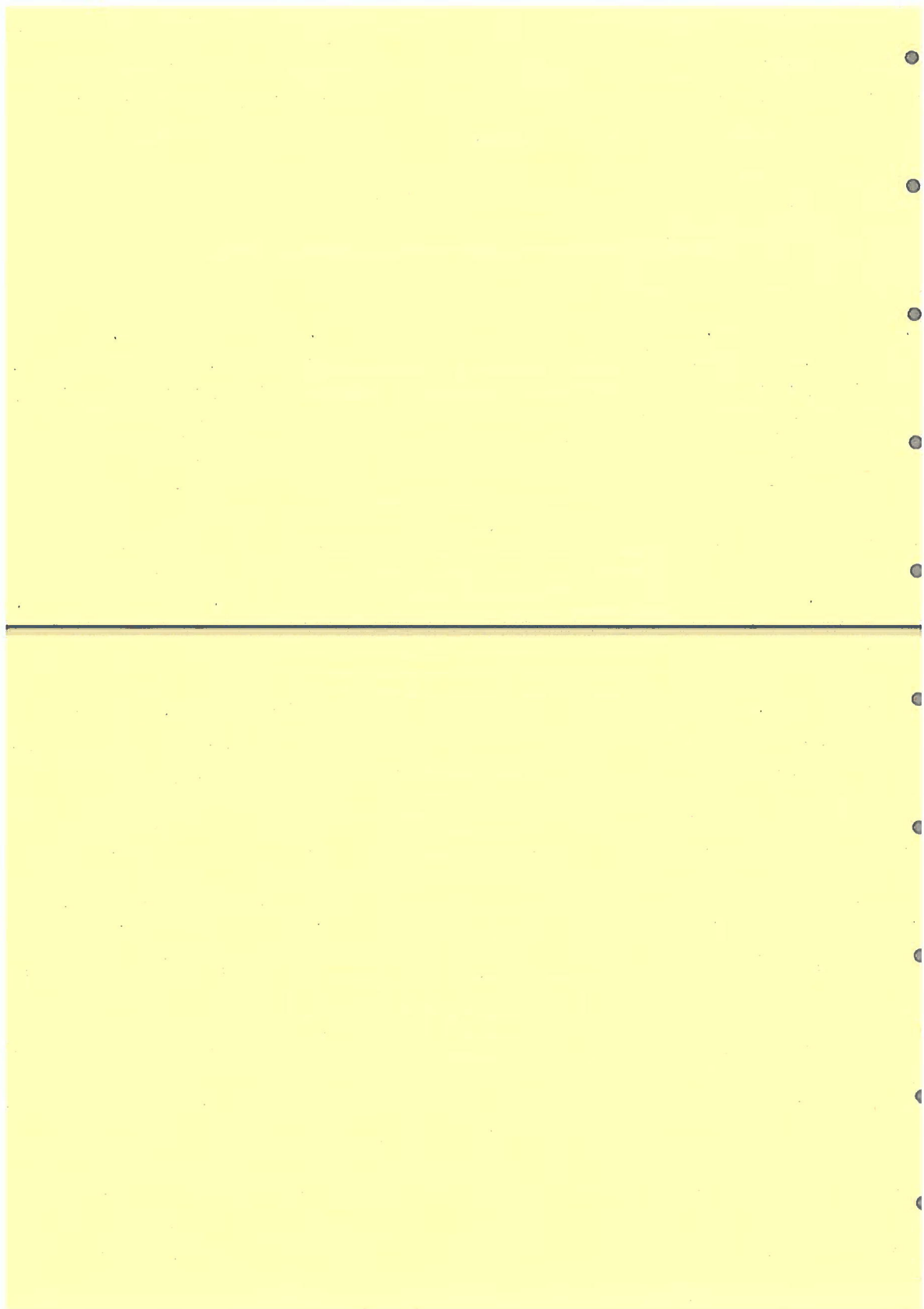
DEED OF VARIATION

Relating to the Agreement dated 13 February 2018
Between the Mayor and the Burgesses of the
London Borough of Camden,
John Thomas Cawley and Catherine Teresa Cawley
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
39 Great James Street, London WC1N 3HB

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

Tel: 020 7974 1918
Fax: 020 7974 2962

CLS/COM/00/1800.1354
Final



THIS DEED is made on the 20th day of March 2020

BETWEEN

A. **JOHN THOMAS CAWLEY AND CATHERINE TERESA CAWLEY LIMITED** of 114 Teignmouth Road, London NW2 4DY (hereinafter called "the Owner") of the first part

B. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third part

WHEREAS:

- 1.1 The Council, John Thomas Cawley and Catherine Teresa Cawley entered into an Agreement dated 13 February 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 264160 subject to a charge to the Mortgagee.
- 1.3 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.4 The Council is the local planning authority for the purposes of the Act and considers it expedient in the interests of the proper planning of its area that the Development of the Property should be restricted or regulated in accordance with this Deed.
- 1.5 A new Planning Application in respect of the Property and to amend the Original Planning Permission was submitted to the Council by the Owner and validated on 22 August 2019 for which the Council resolved to grant permission conditionally under reference 2019/2635/P subject to the conclusion of this Deed.
- 1.6 This Deed of Variation is made by virtue of the Town and Country Planning Act 1990 Section 106A (as amended) and is a planning obligation for the purposes of that section.

1.7 Without prejudice to the terms of the other covenants contained in the Existing Agreement the parties hereto have agreed to vary the terms of the Existing Agreement as hereinafter provided.

2. INTERPRETATION

2.1 All words and phrases defined in the Existing Agreement shall have the same meaning in this Deed save where the context otherwise dictates and for the avoidance of any doubt the Existing Agreement shall remain in full force and effect save as varied by this Deed.

2.2 All reference in this Deed to clauses in the Existing Agreement are to clauses within the Existing Agreement.

2.3 Where in this Deed reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Agreement.

2.4 Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not be construed as part of this Agreement and shall not effect the construction of this Deed.

2.5 Unless the context otherwise requires references to the singular shall include the plural and vice versa.

2.6 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 4, 5 and 6 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Deed shall become binding upon the Owner upon the Implementation Date.

2.7 References in this Deed to the Owner and Mortgagee shall include their successors in title.

2.8 In this Deed the following expression shall unless the context otherwise states have the following meaning now allocated to it.

2.8.1 "Deed" this Deed of Variation made pursuant to Section 106A of the Act

2.8.2 "Existing Agreement" the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 13 February 2018 made between the Council and John Thomas Cawley and Catherine Teresa Cawley

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 13 February 2018 referenced 2016/5824/P allowing the change of use of lower ground and ground floor from office (Class B1) and upper floor residential (Class C3) to dwelling house (Class C3); Extend rearward existing lower ground floor level for the erection of a two storey rear extension; single storey wing extension at first floor level; replace rooftop structure and railings to provide main roof level terrace and green roof; Replace fenestration throughout and associated internal alterations as shown on drawing numbers:- 125 S 100; 125 S 00 Rev A; 125 S 01; 125 S 02; 125 S 10; 125 S 11 Rev A; 125 S 20; 125 S 21; 125 S 25 Rev A; 125 S 26 Rev A; 125 S 27 Rev A; 125 S 28 Rev A; 125 P 00 Rev B; 125 P 01 Rev B; 125 P 02 Rev B; 125 P 10 Rev A; 125 P 11 Rev B; 125 P 25 Rev B; 125 P 26 Rev B; 125 P 27 Rev B; 125 P 28 Rev B

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"

Variation of condition 3 of permission reference 2016/5824/P dated 13/02/2018 (Change of use of lower ground and ground floor from office (Class B1) and upper floor residential (Class C3) to dwelling house (Class C3); Extend rearward existing lower ground floor level for the erection of a two storey rear extension; single storey wing extension at first floor level; replace rooftop structure and railings to provide main roof level terrace and green roof; Replace fenestration throughout and associated internal alterations) namely alterations to the size and location of the approved roof access enclosure as shown on drawing numbers:-

Superseded plans: 125 P 11 Rev B, 125 P 10 A, 125 P 02 Rev B, 125 P 26 Rev B, 125 P 27 B
Plans for approval: 125 P3 27 Rev C, 125 P3 26 Rev C, 125 P3 02 RevC, 125 P3 10 Rev C

3.1.2 "Planning Permission"

the planning permission for the Development under reference number 2019/2635/P granted by the Council in the form of the draft annexed hereto

3.1.3 "Planning Application"

the application for Planning Permission in respect of the Property submitted on 21 May 2019 by the Owner and given reference number 2019/2635/P

3.2 Clause 4.4.2 of the Existing Agreement shall be amended as follows:-

4.4.2 Within thirty (30) months from the date of the Original Planning Permission granted by the Council on 13 February 2018 referenced 2016/5824/P to ensure the Development has been completed as confirmed by the Certificate of Practical Completion issued in respect thereof PROVIDED THAT in the event of the completion of the Development being unavoidably delayed by any Force Majeure for which the Owner can show to the Council's reasonable

satisfaction that it is not responsible then the period referred to in this clause for full implementation and completion of the Development shall be extended by a period either equivalent to the period or periods of delay by the aforementioned cause or causes or by a period of six months, whichever is the lesser.

- 3.3 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2016/5824/P" shall be replaced with "Planning Permission reference 2019/2635/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 2019/2635/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

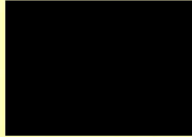
- 6.1 This Deed shall be registered as a Local Land Charge

CONTINUATION OF DEED OF VARIATION IN RELATION TO 39 GREAT JAMES STREET, LONDON WC1N 3HB

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owner(s) have executed this instrument as a Deed the day and year first before written.

EXECUTED AS A DEED BY
JOHN THOMAS CAWLEY
in the presence of:

)
)
)



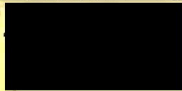
.....
Witness Signature

Witness Name: RACHEL HANBURY

Address: 6 DANSON ROAD, CRICKLENEST, LONDON NW2 6UA

Occupation: STOCK BROKER

+ Signature
Only



London, NW2 6UA.

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

)
)
)
)

.....
Duly Authorised Officer





Application ref: 2019/2635/P
Contact:
Tel: 020 7974
Date: 10 February 2020

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

Prewett Bizley
Second floor, 118a
London Wall
LONDON
EC2Y 5JA

Phone: 020 7974 4444

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

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:
39 Great James Street
London
WC1N 3HB

Proposal:

Variation of condition 3 of permission reference 2016/5824/P dated 13/02/2018 (Change of use of lower ground and ground floor from office (Class B1) and upper floor residential (Class C3) to dwelling house (Class C3); Extend rearward existing lower ground floor level for the erection of a two storey rear extension; single storey wing extension at first floor level; replace rooftop structure and railings to provide main roof level terrace and green roof; Replace fenestration throughout and associated internal alterations) namely alterations to the size and location of the approved roof access enclosure.

Drawing Nos:

Superseded plans: 125 P 11 Rev B, 125 P 10 A, 125 P 02 Rev B, 125 P 26 Rev B, 125 P 27 B

Plans for approval: 125 P3 27 Rev C, 125 P3 26 Rev C, 125 P3 02 RevC, 125 P3 10 Rev C

The Council has considered your application and decided to grant permission subject to the conditions and informatives (if applicable) listed below **AND** subject to the successful conclusion of a Section 106 Legal Agreement.

The matter has been referred to the Council's Legal Department and you will be contacted shortly. If you wish to discuss the matter please contact **Aidan Brookes** in the Legal Department on **020 7 974 1947**.

Once the Legal Agreement has been concluded, the formal decision letter will be sent to you.

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of the original permission reference 2016/5824/P dated 13/02/2018.

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

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

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 and D2 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: 125 S 100; 125 S 00 Rev A; 125 S 01; 125 S 02; 125 S 10; 125 S 11 Rev A; 125 S 20; 125 S 21; 125 S 25 Rev A; 125 S 26 Rev A; 125 S 27 Rev A; 125 S 28 Rev A; 125 P 00 Rev B; 125 P 04 Rev B; 125 P 25 Rev B; 125 P 28 Rev B; 125 P3 27 Rev C, 125 P3 26 Rev C, 125 P3 02 RevC, 125 P3 10 Rev C

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

- 4 Before the development commences, details of secure and covered cycle and waste storage area for 2 cycles shall be submitted to and approved by the local planning authority. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and permanently retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy T1 and CC5 of the London Borough of Camden Local Plan 2017.

- 5 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A-H) [and Part 2 (Classes A-F)] of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the local planning authority.

Reason: To safeguard the visual amenities of the area and to prevent over development of the site by controlling proposed extensions and alterations in order to ensure compliance with the requirements of policies G1, D1, D2 and A1 of London Borough of Camden Local Plan 2017.

- 6 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.

- 7 All non-Road mobile Machinery (any mobile machine, item of transportable industrial equipment, or vehicle - with or without bodywork) of net power between 37kW and 560kW used on the site for the entirety of the [demolition and/construction] phase of the development hereby approved shall be required to meet Stage IIIB of EU Directive 97/68/EC. The site shall be registered on the NRMM register for the [demolition and/construction] phase of the development.

Reason: To safeguard the amenities of the adjoining occupiers, the area generally and contribution of developments to the air quality of the borough in accordance with the requirements of policies G1, A1, CC1 and CC4 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Reason for granting permission-

The current application seeks to increase the width and length of the approved rooftop staircase enclosure by approximately 250mm which would increase the overall footprint by 1.4 metres. The proposals also seek to create a completely flat roof profile to allow enough head room for the new internal third floor staircase.

The proposed amendments to the size and design of the approved rooftop enclosure are considered minor and would not cause harm to the special character and historic interest of the listed building as a result. Furthermore, whilst the footprint and height of the proposed enclosure would increase slightly, it would retain a 5.5 metre set back from the front elevation of the building which would ensure it is not readily visible from the public realm and would not cause harm to the character of the surrounding conservation area. The proposed enclosure would be clad in zinc to match that of the original approval, which is welcomed.

The proposed alterations to the size and location of the existing roof enclosure are not considered to cause harm to neighbouring amenity in terms of loss of light, outlook or privacy.

No objections were received following statutory consultation. The planning history of the site and surrounding area were taken into account when coming to this decision.

Special regard has been attached to the desirability of preserving the listed building and its features of special architectural or historic interest, under s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

Special regard has also been attached to the desirability of preserving or enhancing the conservation area, under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

As such, the proposal is in general accordance with Policies D1, D2 and A1 of the Camden Local Plan 2017. The proposed development also accords with the policies of the London Plan 2016 and National Planning Policy Framework 2019.

- 2 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).
- 3 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.
- 4 The Mayor of London introduced a Community Infrastructure Levy (CIL) to help pay for Crossrail on 1st April 2012. Any permission granted after this time which adds more than 100sqm of new floorspace or a new dwelling will need to pay this CIL. It will be collected by Camden on behalf of the Mayor of London. Camden will be sending out liability notices setting out how much CIL will need to be paid if an affected planning application is implemented and who will be liable.

The proposed charge in Camden will be £50 per sqm on all uses except affordable housing, education, healthcare, and development by charities for their charitable purposes. You will be expected to advise us when planning permissions are implemented. Please use the forms at the link below to advise who will be paying the CIL and when the development is to commence. You can also access forms to allow you to provide us with more information which can be taken into account in your CIL calculation and to apply for relief from CIL.

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

We will then issue a CIL demand notice setting out what monies needs to paid when and how to pay. Failure to notify Camden of the commencement of development will result in a surcharge of £2500 or 20% being added to the CIL payment. Other surcharges may also apply for failure to assume liability and late payment. Payments will also be subject to indexation in line with the construction costs index.

Please send CIL related documents or correspondence to CIL@Camden.gov.uk

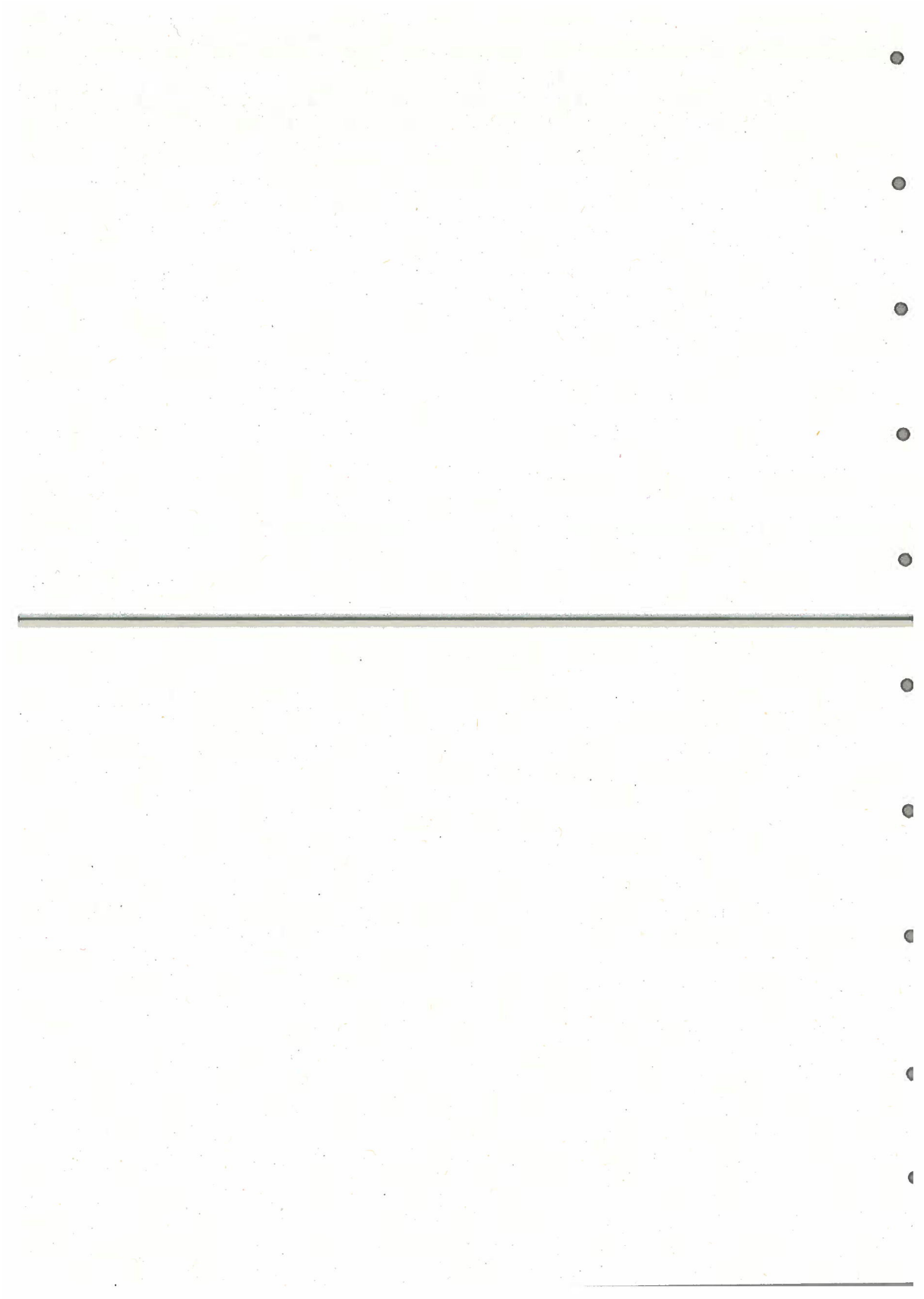
- 5 Your proposals may be subject to control under the Party Wall etc Act 1996 which covers party wall matters, boundary walls and excavations near neighbouring buildings. You are advised to consult a suitably qualified and experienced Building Engineer.

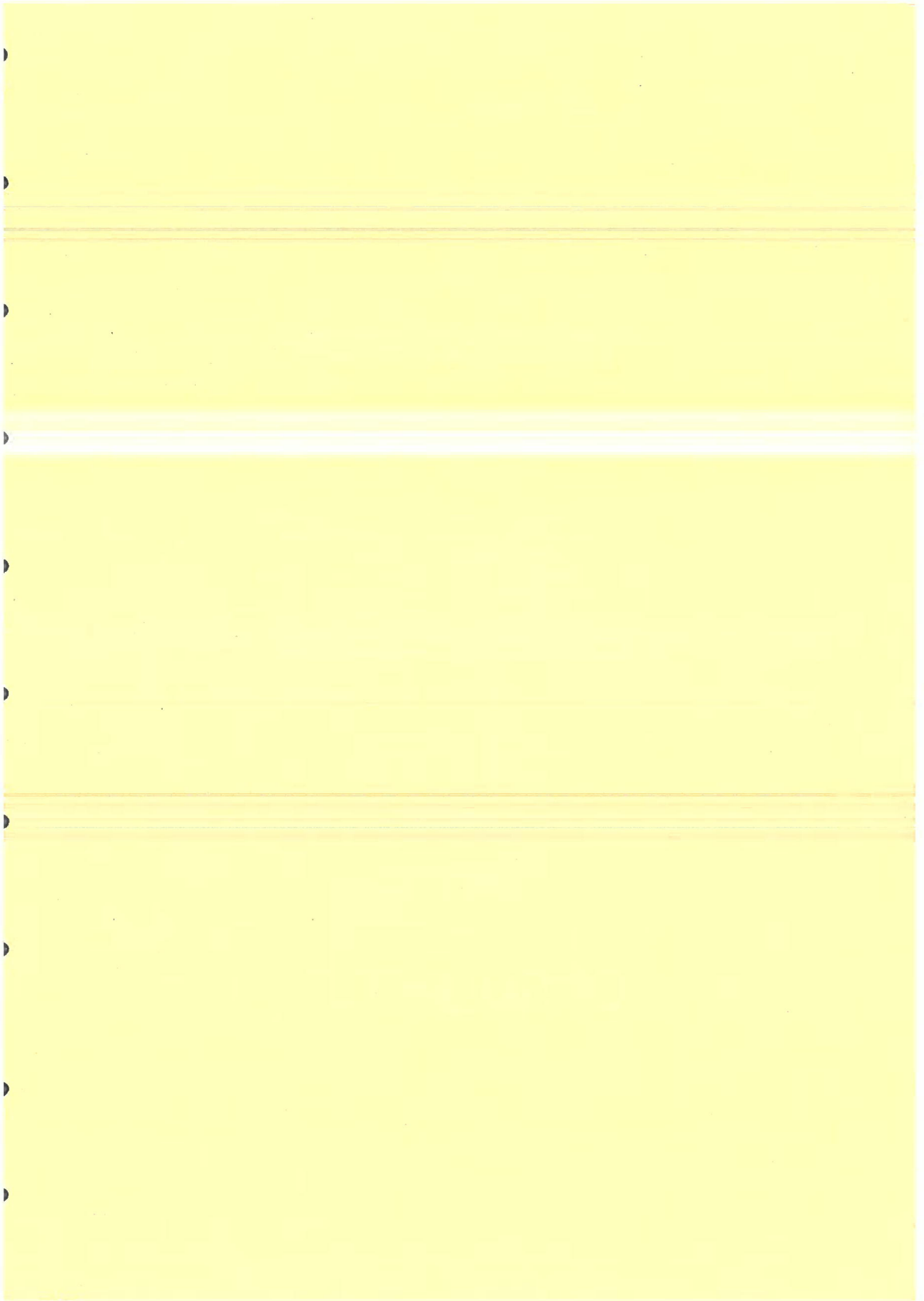
- 6 If a revision to the postal address becomes necessary as a result of this development, application under Part 2 of the London Building Acts (Amendment) Act 1939 should be made to the Camden Contact Centre on Tel: 020 7974 4444 or Environment Department (Street Naming & Numbering) Camden Town Hall, Argyle Street, WC1H 8EQ.
- 7 You are advised that Section 44 of the Deregulation Act 2015 [which amended the Greater London Council (General Powers) Act 1973]] only permits short term letting of residential premises in London for up to 90 days per calendar year. The person who provides the accommodation must be liable for council tax in respect of the premises, ensuring that the relaxation applies to residential, and not commercial, premises.
- 8 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





DATED

20 March

2020

(1) JOHN THOMAS CAWLEY AND CATHERINE TERESA CAWLEY

-and-

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

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