

DATED

9th July

2019 20

(1) NICHOLAS ANDREW HYDE AND PIPPA SOPHIE HYDE

and

(2) JANE ELIZABETH GALAN

and

(3) HSBC UK BANK PLC

and

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

DEED OF VARIATION

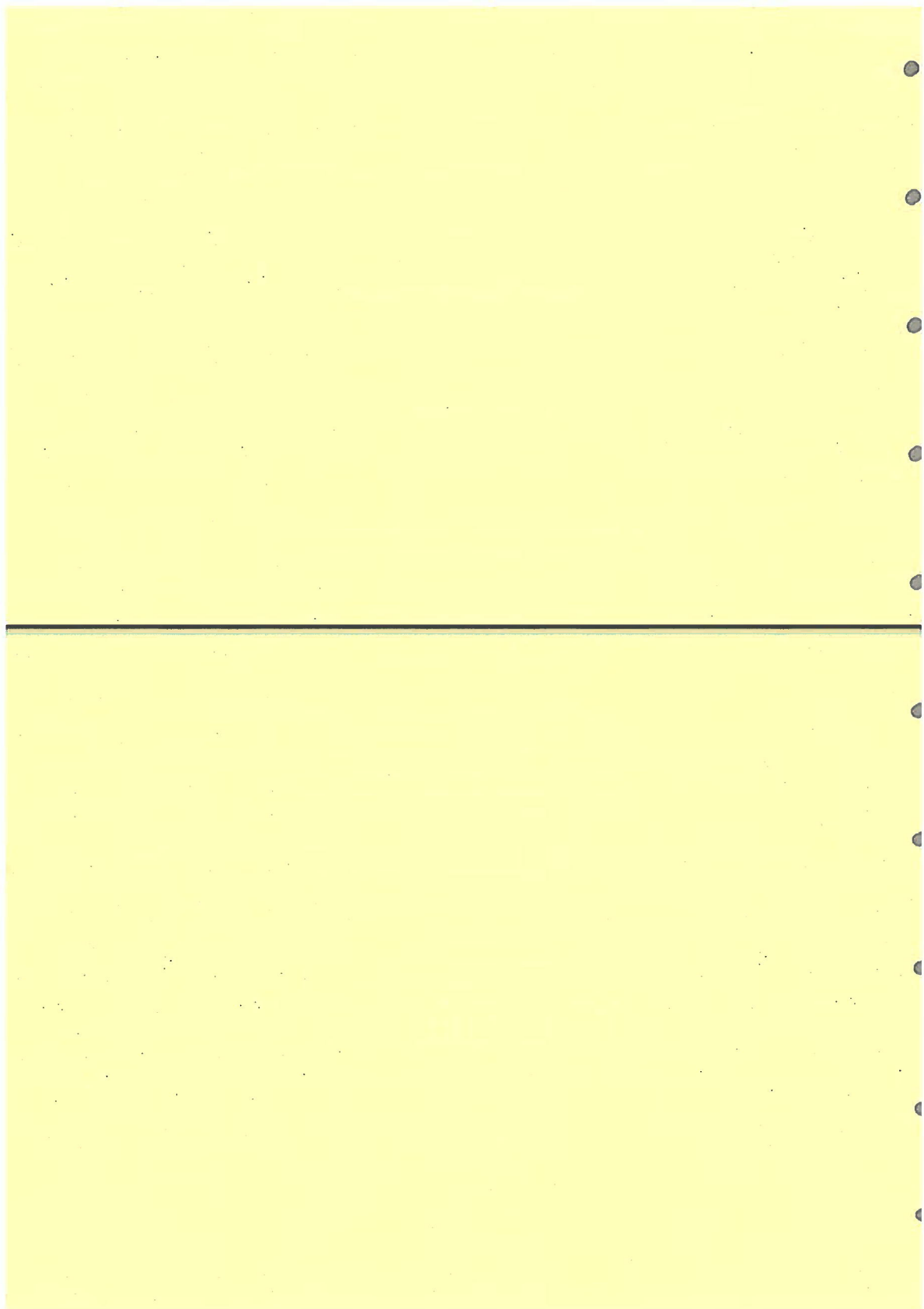
Relating to the Agreement dated 26 June 2014
Between the Mayor and the Burgesses of the
London Borough of Camden, DMFK Developments LLP and Jane Elizabeth Galan
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as

**22 ROSE JOAN MEWS LONDON NW6 1DQ (ALSO KNOWN AS LAND TO THE REAR
OF 74 & 76 FORTUNE GREEN ROAD)**

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

Tel: 020 7974 5826

CLS/COM/LN/1800.971
DoV FINAL



THIS AGREEMENT is made on the 8th day of July 20~~18~~20

BETWEEN

1. **NICHOLAS ANDREW HYDE** and **PIPPA SOPHIE HYDE** of 22 Rose Joan Mews, London NW6 1DQ (hereinafter called "the First Freeholder") of the first part
2. **JANE ELIZABETH GALAN** of 5 Henstridge Place, London NW8 6QD (hereinafter called "the Second Freeholder") of the second part
3. **HSBC UK BANK PLC** (Co. Regn. No. 9928412) whose registered office is at 1 Centenary Square, Birmingham B1 1HQ (hereinafter called "the Mortgagee") of the third part
4. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the fourth part

WHEREAS:

- 1.1 The First Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Numbers NGL933908 and NGL979998 subject to charges to the Mortgagee.
- 1.2 The First Freeholder is the freehold owner of and is interested in 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 NGL645526.
- 1.4 The Second Freeholder is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.5 The First Freeholder and the Second Freeholder shall hereinafter be jointly referred to as "the Owner".

- 1.6 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 Agreement.
- 1.7 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 19 September 2018 for which the Council resolved to grant permission conditionally under reference 2018/4499/P subject to the conclusion of this Agreement.
- 1.8 This Agreement is made by virtue of the Town and Country Planning Act 1990 Section 106 (as amended) and is a planning obligation for the purposes of that section.
- 1.9 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.
-
- 1.10 The Mortgagee as mortgagee under legal charges registered under Title Numbers NGL933908 and NGL979998 and dated 14 December 2018 is willing to enter into this Agreement to give its consent to the same.

2. INTERPRETATION

- 2.1 All words and phrases defined in the Existing Agreement shall have the same meaning in this Agreement 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 Agreement.
- 2.2 All reference in this Agreement to clauses in the Existing Agreement are to clauses within the Existing Agreement.
- 2.3 Where in this Agreement 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 Agreement and shall not be construed as part of this Agreement and shall not effect the construction of this Agreement.

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

2.6 References in this Agreement to the Owner shall include their successors in title.

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

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

2.7.2 "Existing Agreement" the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 26 June 2014 made between the Council the First Freeholder and the Second Freeholder

2.7.3 "the Original Planning Permission" means the planning permission granted by the Council on 26 June 2014 referenced 2013/6672/P allowing the construction of a three storey single family dwelling (Class C3) as shown on drawing numbers:- 1852a A01, Design & Access Statement (DMFK: October 2013), Planning Statement (DMFK: October 2013), 1852a A10, A11, A15 rev A, A20, A90, A95, A96

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 authorised by the planning permission with reference 2013/6672/P dated 26 June 2014 as amended by: variation of conditions 2 (approved drawings) and 5 (secure cycle storage) and removal of condition 3 (privacy screen) of planning permission dated 26.6.14 ref 2013/6672/P (as later amended by Non-Material Amendment approvals dated 16.12.15 ref 2015/5731/P and dated 18.7.16 ref 2016/2848/P) for the construction of a three storey single family dwelling (Class C3)

3.1.2 "Planning Permission"

the planning permission for the Development under reference number 2018/4499/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 19 September 2018 by the Owner and given reference number 2018/4499/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2013/6672/P" shall be replaced with ""Planning Permission reference 2018/4499/P"".

3.3 In all other respects the Existing Agreement (as varied by this Agreement) 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 2018/4499/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 Agreement) its reasonable legal costs incurred in preparing this Agreement

6. REGISTRATION AS LOCAL LAND CHARGE

6.1 This Agreement shall be registered as a Local Land Charge

7. MORTGAGEE EXEMPTION

7.1 The Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and for the avoidance of doubt agrees to be bound by the obligations contained in the Agreement and the Existing Agreement only in the event that it becomes a mortgagee in possession of the Property.

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 Property unless it takes possession of the Property in which case it will be bound by the obligations as a person deriving title from the Owner.

IN WITNESS WHEREOF the Council has caused their Common Seals to be affixed and the Owner and the Mortgagee have caused this Agreement to be executed as a Deed the day and year first above written.

EXECUTED AS A DEED BY)
NICHOLAS ANDREW HYDE)
~~acting by a Director and its Secretary~~)
~~or by two Directors~~)
in the presence of:

.....
~~Director~~

.....
~~Director/Secretary~~



Claire Jackson
87 Dance Square
London
EC1V 3AJ
solicitor

THIS IS A CONTINUATION OF THE DEED OF VARIATION TO THE SECTION 106 AGREEMENT IN RELATION TO 22 ROSE JOAN MEWS LONDON NW6 1DQ

EXECUTED AS A DEED BY
PIPPA SOPHIE HYDE
in the presence of:

)
)
)

.....
Witness Signature

Witness Name: *Claire Jackson*

Address: *87 Dance Square, London, EC1V 3AJ*

Occupation: *Solicitor*

EXECUTED AS A DEED BY
JANE ELIZABETH GALAN
in the presence of:

)
)
)

.....
Witness Signature

Witness Name: *JACQUELINE GOULDING*

Address: *flat 6, 80 St. Johns Wood*

Occupation: *Tenace
NW86QH - REN.*

Executed as a Deed by :-

Susan Brown
As Attorney for HSBC UK Bank plc
In the presence of :-

CAROLINE HOGGETT

EXECUTED AS A DEED BY
HSBC UK BANK PLC
by
in the presence of:-

)
)
)
)

HSBC UK Bank plc
PO Box 6308, Coventry, CV3 9LB

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

)
)
)
)

.....
Authorised Signatory





**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

SM Planning
80-83 Long Lane
London
EC1A 9ET

Application Ref: **2018/4499/P**

17 June 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:
22 Rose Joan Mews
London
NW6 1DQ

Proposal:

DECISION
Variation of conditions 2 (approved drawings) and 5 (secure cycle storage) and removal of condition 3 (privacy screen) of planning permission dated 26.6.14 ref 2013/6672/P (as later amended by Non-Material Amendment approvals dated 16.12.15 ref 2015/5731/P and dated 18.7.16 ref 2016/2848/P) for the construction of a three storey single family dwelling (Class C3).

Drawing Nos: 1852a- A01 rev A, A10 rev G, A40; Planning Statement by SM Planning dated 7th September 2018

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 planning permission ref 2013/6672/P dated 26.06.2014.

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: 1852a- A01, Design & Access Statement (DMFK: October 2013), Planning Statement (DMFK: October 2013), 1852a- A01 rev A, A10 rev G, A11 rev F, A15 rev F, A20 rev E, A40, A50 rev B, A90, A95, A96; Planning Statement by SM Planning dated 7th September 2018.

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

- 3 The cycle storage area shall be permanently maintained and retained on site in accordance with the approved plans.

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

- 4 The privacy screens shall be permanently maintained and retained on site in accordance with the approved plans.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy A1 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 1995 as amended by the (No. 2) (England) Order 2008 or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A-H) 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 D1 and A1 of London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Reason for granting permission-

As part of the planning permission ref 2013/6672/P, two pre-commencement conditions were required to be discharged. However, no application was submitted for the approval of these conditions nos. 3 (privacy screen) and 5 (cycle storage). Notwithstanding this, the permission was implemented in late 2014 and the development is now complete, incorporating the provision of privacy screening and cycle storage.

Executive Director Supporting Communities

It is noted that planning permission ref 2013/6672/P was amended twice by virtue of Non-Material Amendment (NMA) approvals, refs 2015/5728/P and 2016/2848/P. The latter one provided detail of all terrace screening and the proposed types of privacy screens on the upper floors, which were considered to be minimally different to the approved scheme. Thus, the detail of all privacy screens required by condition 3 has been provided in plans approved by the NMA decision; they have been implemented in accordance with the approved details. Therefore, there is no need to discharge the outstanding condition 3 and there is no objection to the removal of this condition in this proposed variation. Condition 4 is retained in this decision to ensure the approved privacy screen is permanently retained onsite.

The submitted plans show an enclosed cycle storage area which has now been implemented on site. The cycle storage area shows a wall-mounted Sheffield cycle stand within a secure and fully enclosed storage area, located within the undercroft area of the building. These submitted details are considered acceptable and meet the requirements of policy T1 of the Local Plan 2017. Thus, as with condition 3 above, it is necessary to vary the wording of condition 5 to ensure that the newly installed cycle store, as approved by this decision, is permanently retained onsite.

Finally condition 2 needs to be revised and updated to ensure it refers to the correct and up-to-date plans and documents, including those approved by previous NMA decisions and those showing the new cycle store.

2 objections were received prior to making this decision. These and the planning and appeal history of the site have been taken into account when coming to this decision.

No other aspects of the original scheme have been changed. The proposal is not considered to cause any adverse impacts on the amenity of adjoining residential occupiers.

As such, the proposed development is in general accordance with policies A1, D1 and T1 of the London Borough of Camden Local Plan 2017 and policy 8 of the Fortune Green and West Hampstead Neighbourhood Plan. The proposed development also accords with the London Plan 2016 and the National Planning Policy Framework 2018.

- 2 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.
- 3 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).

- 4 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.
- 5 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.

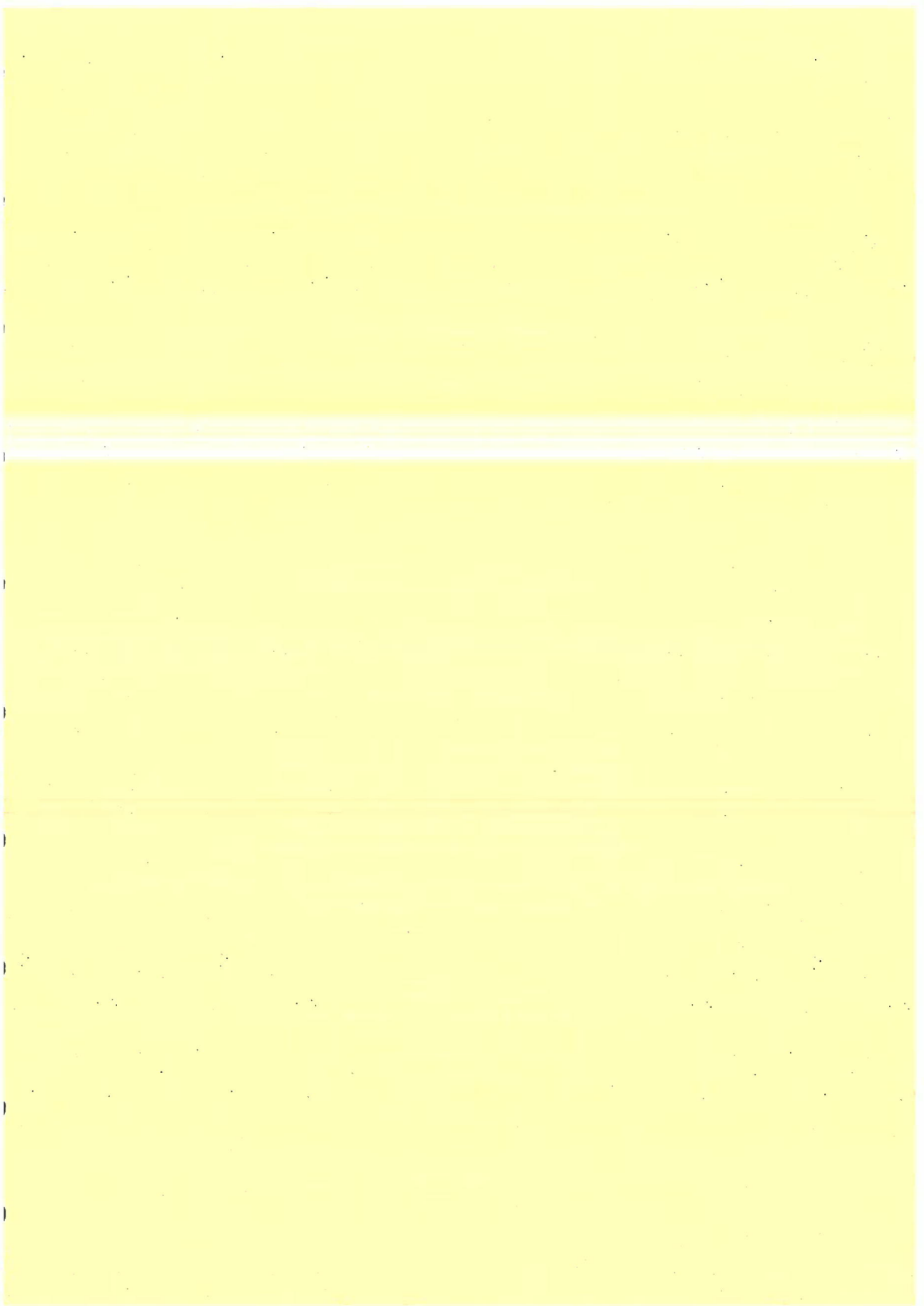
In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework

Yours faithfully

Supporting Communities Directorate

DECISION

Executive Director Supporting Communities



DATED

8th July

2018²⁰

(1) NICHOLAS ANDREW HYDE AND PIPPA SOPHIE HYDE

and

(2) JANE ELIZABETH GALAN

and

(3) HSBC UK BANK PLC

and

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

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