

DATED

9 September

2020

(1) GABONA LIMITED

-and-

(2) EUROBANK CYPRUS LIMITED

-and-

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

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**DEED OF VARIATION**

Relating to the Agreement dated 17 May 2017  
Between (1) LeisureCrown Limited (2) Santander UK PLC (3)  
Jamal Abraham and (4) the Mayor and the Burgesses of the  
London Borough of Camden  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
**228 Belsize Road, London NW6 4BT**

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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/SW/1800.1550  
FINAL

THIS DEED is made on the 9 day of September 2020

**BETWEEN**

1. **GABONA LIMITED** incorporated in the Republic of Cyprus with company registration number HE380819 whose registered office is at Iasonos 10, Jason Building, 1082 Nicosia, Cyprus (hereinafter called "the Owner") of the first part
2. **EUROBANK CYPRUS LIMITED** incorporated in <sup>Cyprus</sup> Cyprus with company registration number 217050 of 41, Arch Makarios III Avenue, 1065 Nicosia, <sup>Cyprus</sup> Cyprus (hereinafter called "the Mortgagee") of the second part LRC
3. **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:**

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- 1.1 The Council, LeisureCrown Limited, Santander UK PLC, and Jamal Abraham entered into an Agreement dated 17 May 2017 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 NGL268478 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 29 April 2020 for which the Council resolved to grant permission conditionally under reference 2019/6334/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, 3, 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 17 May 2017 made between (1) LeisureCrown Limited (2) Santander UK PLC (3) Jamal Abraham and (4) the Council relating to the Original Planning Permission

2.8.3 "the Original Planning Permission"

the planning permission granted by the Council on 17 May 2017 referenced 2015/5832/P allowing the Demolition of existing single storey extension and creation of 3 storey plus basement building to provide enlargement of the existing Class A3 restaurant at ground and basement level and the provision of 2no. 1-bed and 2no. 2-bed units on the first and second floors to replace the existing 3no. studios and 1no. 1-bed units. Alteration to shopfront.

### 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 as varied by the 2020 Permission

3.1.3 "Planning Application" the application for planning permission in respect of the Property validated on 29 April 2020 by the Council and given reference number 2019/6334/P for the Variation of conditions 2 (approved drawings) of planning

9 (obscure glazing) and 10 (cycle parking) <sup>LRC</sup>

permission ref: 2015/5832/P dated 17/05/2017 for the 'Demolition of existing single storey extension and erection of 3 storey plus basement building to provide enlargement of the existing Class A3 restaurant at ground and basement level and the provision of 2no. 1-bed and 2no. 2-bed units on the first and second floors to replace the existing 3no. studios and 1no. 1-bed units. Alteration to shopfront'; namely, repositioning of approved windows and addition of new ones, introduction of movement joint to front elevation, redesign of shopfront and bin store, removal of separate entrance to basement, changes to roof form and ground floor footprint

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

3.2.1 "2020 Permission" the planning permission for the Development under reference number 2019/6334/P pursuant to the Planning Application granted by the Council in the form of the draft annexed hereto

3.3 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2015/5832/P" shall be replaced with "Planning Permission reference 2019/6334/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 2020 Permission.

#### 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 Seals to be affixed and the Owner and the Mortgagee have caused this Deed to be executed as a Deed the day and year first above written.

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EXECUTED AS A DEED BY  
GABONA LIMITED ACTING BY GEORGHIA  
PASCHALIDES AN AUTHORISED SIGNATORY  
IN THE PRESENCE OF



GEORGHIA  
PASCHALIDES  
DIRECTOR

Witness name CONSTANTINOS A. IOURADIS

Witness signature

Witness Address 46, 48, STRATFORD WAY, 1100 Nicosia, CYPRUS

Witness occupation BUSINESSMAN - GABONA LTD.

EXECUTED AS A DEED BY  
EUROBANK CYPRUS LTD  
ACTING BY EMILIA ZACHARIOU  
ANTONIS ANTONIOU AN AUTHORISED SIGNATORY  
IN THE PRESENCE OF



Emilia Zachariou  
Manager Banking Services  
Wealth Management Division

A. ANTONIOU

Witness name T. Mayromjchali

Witness signature

Witness Address

Witness occupation

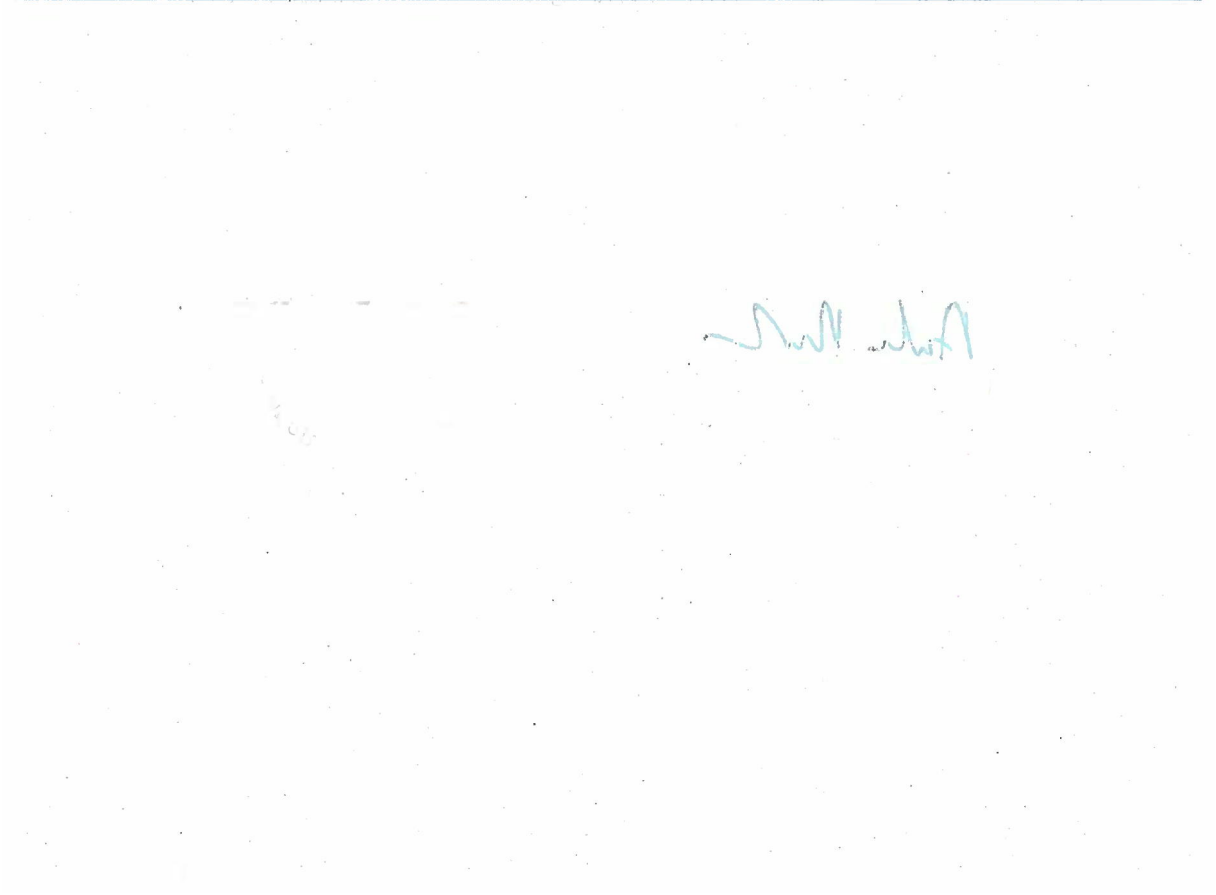
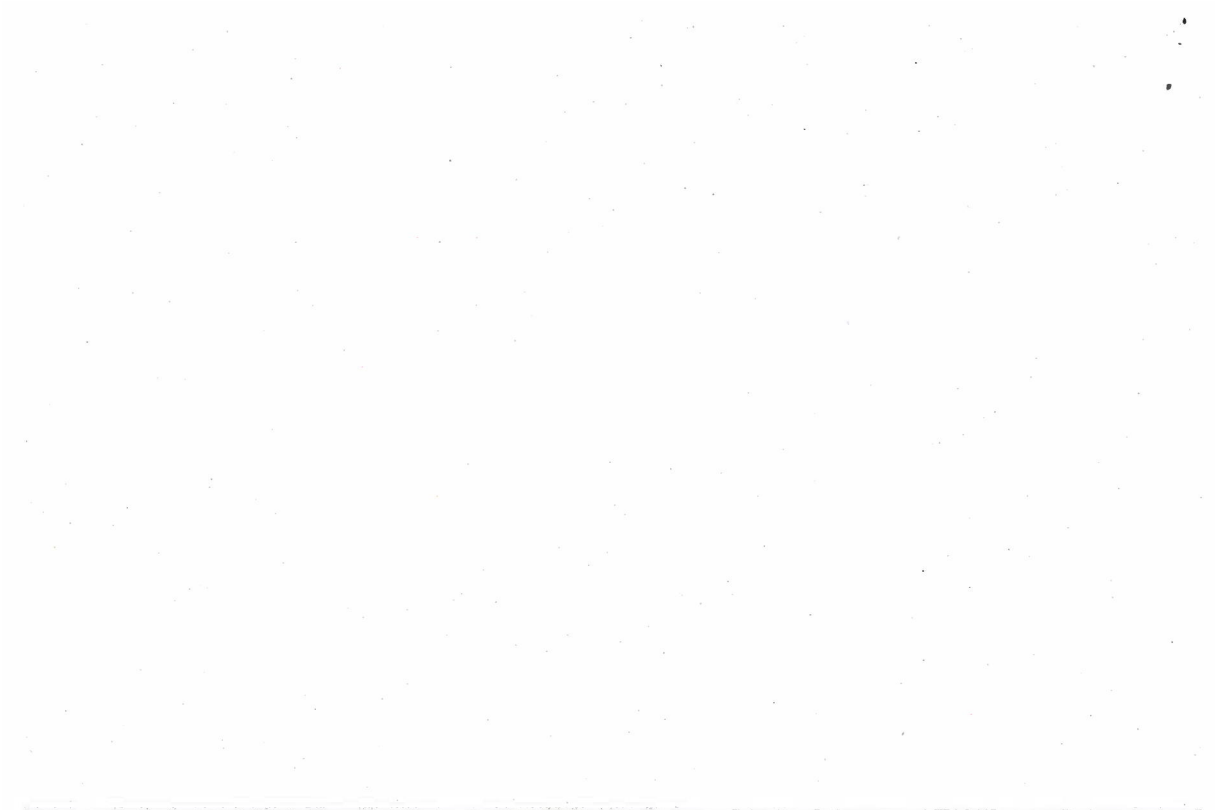
ARCH. MAKARIOU, 111, 41 Nicosia  
C/O EUROBANK CYPRUS LTD  
ACCOUNT MANAGER

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



Duly Authorised Officer





Handwritten signature in blue ink, possibly reading "John Doe".



Application ref: 2019/6334/P  
Contact:  
Tel: 020 7974  
Date: 9 September 2020

Ms Simoni Devetzi  
23 Cranbrook Lane  
London  
N11 1PH



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

Phone: 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

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:  
**228 Belsize Road**  
**London**  
**NW6 4BT**

Proposal:

**DECISION**  
Variation of conditions 2 (approved drawings), 9 (obscure glazing) and 10 (cycle parking) of planning permission ref: 2015/5832/P dated 17/05/2017 (for the Demolition of existing single storey extension and erection of 3 storey plus basement building to provide enlargement of the existing Class A3 restaurant at ground and basement level and the provision of 2 x 1-bed and 2 x 2-bed units on the first and second floors to replace the existing 3 studios and 1 x 1-bed units. Alteration to shopfront); namely, repositioning of approved windows and addition of new ones, introduction of movement joint to front elevation, redesign of shopfront and bin store, removal of separate entrance to basement, changes to roof form and ground floor footprint.

Drawing Nos: L01, P01, P02, P03, P04, P05, P06, P07, P08, P09, P10, P11, P12, P13, P14, SP01, Planning Statement; all received 29/04/2020.

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 2015/5832/P dated 17/05/2017.

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

- 2 Detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority before the relevant part of the work is begun:

- a) Sample panels of all facing materials to include brickwork and window frames together with manufacturer's specifications;
- b) Details including typical sections at 1:10 of all windows (including jambs, head, sill and reveal), external doors and canopy.

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.

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

- 3 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 policies D1 and D2 of the London Borough of Camden Local Plan 2017.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans: L01, P01, P02, P03, P04, P05, P06, P07, P08, P09, P10, P11, P12, P13, P14, SP01, Planning Statement; all received 29/04/2020.

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

- 5 The proposed new dwellings as indicated on plan numbers hereby approved shall be designed and constructed in accordance with Building Regulations Part M4 (2). Evidence demonstrating compliance should be submitted to and approved by the Local Planning Authority prior to occupation.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy C6 of the London Borough of Camden Local Plan 2017.

- 6 Prior to construction of the development hereby approved, a sustainability statement, demonstrating how sustainable design principles and climate change adaptation measures have been incorporated into the design and construction of the development, shall be submitted to and approved by the Local Planning Authority. Prior to occupation, evidence demonstrating that the approved measures have been implemented shall be submitted to and approved in writing by the Local Planning Authority and shall be retained and maintained thereafter.

Reason: To ensure the development contributes to minimising the effects of, and can adapt to a changing climate in accordance with policies CC1 and CC2 of the London Borough of Camden Local Plan 2017.

- 7 The development hereby approved shall achieve a maximum internal water use of 105 litres/person/day, allowing 5 litres/person/day for external water use (110 l,p,d). Prior to occupation, evidence demonstrating that this has been achieved shall be submitted to and approved by the Local Planning Authority.

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

- 8 The flat roof at first and third floor level hereby approved shall not be used as a terrace/outdoor amenity area and shall not be accessed for any purposes other than maintenance.

Reason: To safeguard the amenities of the adjoining residents and the area generally in accordance with the requirements of policy A1 of the London Borough of Camden Local Plan 2017.

- 9 The windows at first and second floor level to the rear, as illustrated by drawing no. P13, shall be obscure glazed and fixed shut.

Reason: To protect the amenities of future and neighbouring occupiers in accordance with the requirements policy A1 of the London Borough of Camden Local Plan 2017.

- 10 As per drawing no. P03, secure and covered cycle storage facilities for 6 cycles for the proposed residential units shall be provided in their entirety prior to the first occupation of the development, and permanently retained thereafter.

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.

- 11 No demolition or development shall take place other than in accordance with the approved Written Scheme of Investigation and the programme and methodology of site evaluation, as approved on 11/05/2020 under reference 2020/1902/P.

If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:



a) The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works;

b) The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

Reason: Important archaeological remains may exist on this site. Accordingly the Council wishes to secure the provision of archaeological investigation and the subsequent recording of the remains prior to development in accordance with the requirements of policy D2 of the London Borough of Camden Local Plan 2017.

Informative(s):

1 Reason for granting permission:

The proposed amendments to the approved scheme 2015/5832/P include the following:

- Replacement of rear elevation blind windows with obscure glazing.
- Amendments to side elevation windows including changes to number and location of windows.
- Amendments to window glazing bar pattern to all elevations.
- Removal of 1 ground floor door to side elevation.
- Revised design of bin store - enlarged and taller with pitched roof added.
- Changes to shopfront to introduce central glazed doors.
- Changes to ground floor footprint to side elevation to remove stepped footprint.
- Changes to roof form to introduce a new pitched element.
- Introduction of movement joint to front elevation.

The proposed amendments would constitute minor design changes and would retain the original architectural intent and quality of the approved scheme. Revisions to the design of the ground floor shopfront were requested during the course of the application to ensure the shopfront read as two units as originally designed, rather than one large unit. The various changes would not harm the character and appearance of the host property, streetscene and conservation area

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 Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

The proposals are not considered to result in harm to neighbouring amenity by way of loss of outlook, daylight or privacy. Although the amendments remove two blind windows to the rear elevation, these would be replaced with obscure glazing, and as such, would still provide the necessary privacy to future and neighbouring occupants. The revised condition 9 would ensure they are retained as such.

Two objections were received prior to determination; however, these relate to the principle of the already approved development, rather than the specific design amendments now sought.

The site's planning history and relevant appeal decisions were taken into account when coming to this decision.

As such, the proposed development is in general accordance with policies G1, A1, A3, A4, A5, D1, D2, CC1, CC2, CC3, CC4, CC5 and T1 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.

- 2 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team London Borough of Camden 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444) . Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 3 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website at <https://beta.camden.gov.uk/documents/20142/1269042/Camden+Minimum+Requirements+%281%29.pdf/bb2cd0a2-88b1-aa6d-61f9-525ca0f71319> or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

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 must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

- 4 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](http://www.camden.gov.uk/cil) for more information, including guidance on your liability, charges, how to pay and who to contact for more advice.
- 5 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

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