

DATED

30 April

2021

**(1) FRANCESCA INDIA and CARMELINA INDIA and MARIA AMOROSO and  
FILIPPO INDIA**

and

**(2) MARIA AMOROSO and FILIPPO INDIA**

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  
**BASEMENT & GROUND FLOOR FLAT  
90 MALDEN ROAD LONDON NW5 4DA**

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; and  
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 5680

CLS/COM/LD/1800.986  
FINAL

THIS AGREEMENT is made the

30<sup>th</sup>

day of

April

2021

**BETWEEN:**

- A. **FRANCESCA INDIA** of 51 Vicarage Road, London N17 0BB and **CARMELINA INDIA** of 90 Henley Road, London N18 1NS and **MARIA AMOROSO** of 1-2 Bolton Gardens Mews, London SW10 9LW and **FILIPPO INDIA** of Flat A, 90 Malden Road, London NW5 4DA (hereinafter together called "the Freeholder") of the first part
- B. **MARIA AMOROSO** of 1-2 Bolton Gardens Mews, London SW10 9LW and **FILIPPO INDIA** of Flat A, 90 Malden Road, London NW5 4DA (hereinafter called "the Leaseholder") of 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 Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number 89509.
- 1.2 The Freeholder is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 The Leaseholder is registered at the Land Registry as the leasehold proprietor with Title absolute of the Property under Title Number NGL786725.
- 1.4 The Leaseholder is the leasehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.5 The Freeholder and the Leaseholder shall hereinafter be jointly referred to as "the Owner".

1.6 A Planning Application for the development of the Property was submitted to the Council and validated on 01 November 2018 and the Council resolved to grant permission conditionally under reference number 2018/5318/P subject to the conclusion of this legal Agreement.

1.7 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 Property is situated 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.

1.5 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

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 Development"	erection of rear extension at lower and upper ground levels, subdivision of existing 2 storey 4-bed maisonette to provide 1 x 1-bed flat and 1 x 3-bed flat and demolition of existing rear extension at lower and upper ground levels as shown on drawing numbers:- 1811_E009 (Location plan), 1811_A008_A, 1811_A005_A, 1811_A003, 1811_A002_A, 1811_A001, 1811_A006, 1811_A007_A, 1811_E001, 1811_E004, 1811_E007, 1811_E003, 1811_E005, 1811_E008, Design and Access statement
2.4	"the Implementation Date"	the date of implementation of the Development by the carrying out of a material operation as defined in Section 56 of the Act and references to "Implementation" and "Implement" shall be construed accordingly

2.5	"Occupation Date"	the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
2.6	"the Parties"	mean the Council and the Owner
2.7	"the Planning Application"	a planning application in respect of the development of the Property submitted to the Council and validated on 1 November 2018 for which a resolution to grant permission has been passed conditionally under reference number 2018/5318/P subject to conclusion of this Agreement
2.8	"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
2.9	"the Planning Permission"	a planning permission granted for the Development substantially in the draft form annexed hereto
2.10	"the Property"	the land known as Basement & Ground Floor Flat 90 Malden Road London NW5 4DA the same as shown shaded grey on the plan annexed hereto
2.11	"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 Development is situated
2.12	"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

**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 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 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 Development shall be treated as being permanently designated as "car free" housing in accordance with Clause 4.1 and 4.2 for all relevant purposes.

#### 4. **OBLIGATIONS OF THE OWNER**

The Owner covenants with the Council as follows:

- 4.1 To ensure that prior to occupying any residential unit (being part of the Development) each new occupier of the 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.

4.2 Not to Occupy or use (or permit the Occupation or use of) any residential unit (being part of the 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).

4.3 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1 and 4.2 in this Agreement shall continue to have effect in perpetuity.

4.4 On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the residential units forming part of the 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 obligation in Clause 4.1 and 4.2 of this Agreement.

5. **NOTICE TO THE COUNCIL/OTHER MATTERS**

5.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken or is about to take place.

5.2 Within seven days following completion of the 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 2018/5318/P the date upon which the 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 Property or any 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 jointly and severally 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.

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, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 2018/5318/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 Property and will 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 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 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 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 for the commencement of Development this Agreement shall forthwith determine and cease to have effect.

## 7. **JOINT AND SEVERAL LIABILITY**

7.1 All Covenants made by the Owner and the Leaseholder in this Agreement are made jointly and severally and shall be enforceable as such.

## 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 have executed this instrument as their Deed the day and year first before written

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO  
90 MALDEN ROAD, LONDON NW5 4DA

EXECUTED AS A DEED BY  
FRANCESCA INDIA  
in the presence of:

)  
)  
) Francesca India

Witness Signature:

)  
) [Signature]

Witness Name: (CAPITALS)

)  
) JACQUES PALMAL



Address:

)  
) 336 CHURCH ST  
) N9 9HG London

Occupation:

)  
) Col Spies

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO  
90 MALDEN ROAD, LONDON NW5 4DA

EXECUTED AS A DEED BY	)	
CARMELINA INDIA	)	
In the presence of:	)	.....
Witness Signature:	)	
Witness Name: (CAPITALS)	)	JACOSTA PARMAR
Address:	)	336 CHURCH ST
	)	W9 5HP London
Occupation:	)	Car Sales

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO  
90 MALDEN ROAD, LONDON NW5 4DA

EXECUTED AS A DEED BY  
MARIA AMOROSO  
in the presence of:

Witness Signature:

Witness Name: (CAPITALS)

Address:

Occupation:

)  
) Maria Amoroso  
)  
) Marek Olembko  
)  
) ALESSANDRO MORALE  
)  
) 27, BERTRAM ROAD  
)  
) NW4 3PN LONDON  
)  
) CONSTRUCTION

EXECUTED AS A DEED BY  
FILIPPO INDIA  
in the presence of:

Witness Signature:

Witness Name: (CAPITALS)

Address:

Occupation:

)  
) Filippo India  
)  
) Marek Olembko  
)  
) ALESSANDRO MORALE  
)  
) 27, BERTRAM ROAD  
)  
) NW4 3PN LONDON  
)  
) CONSTRUCTION

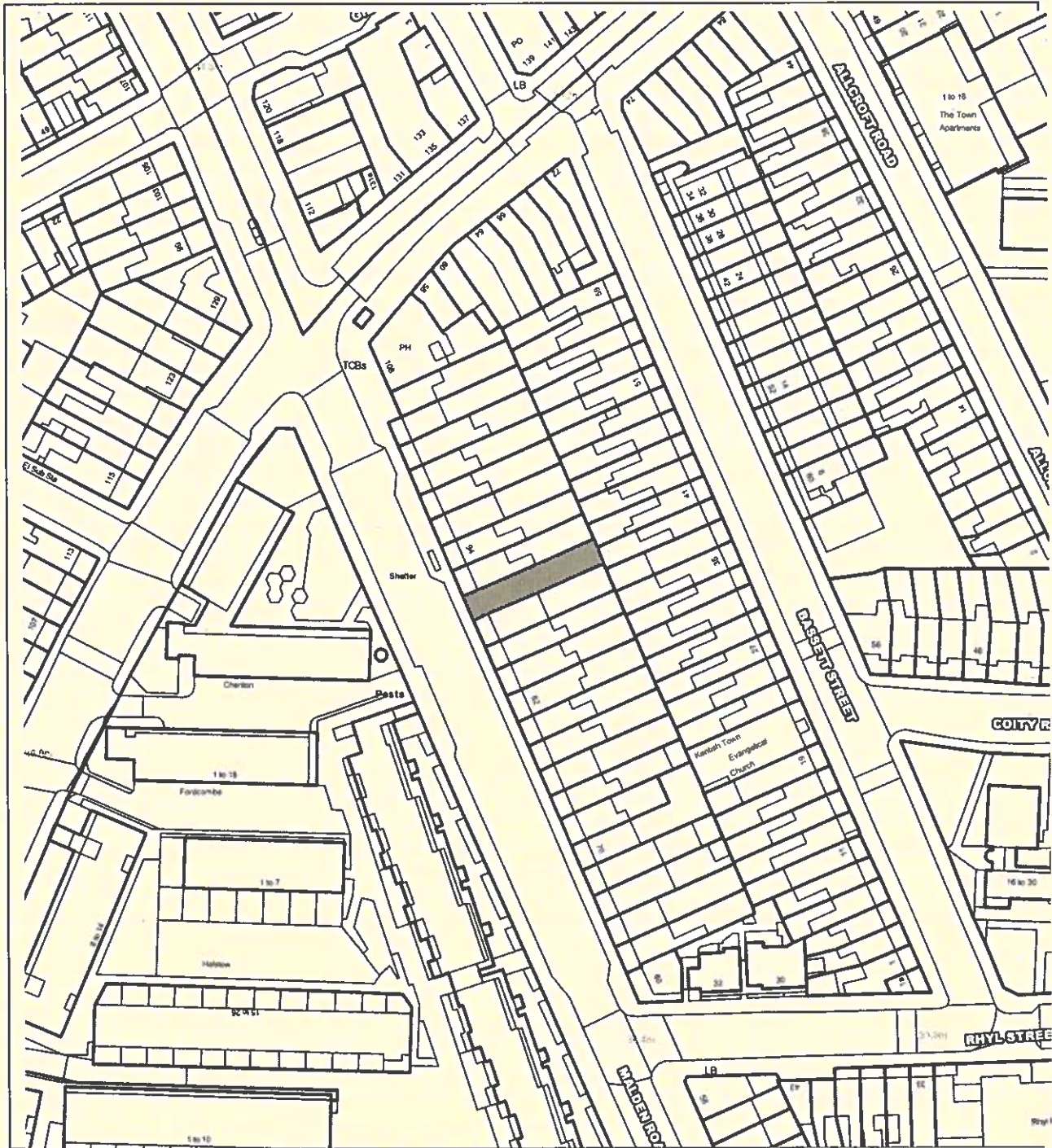
THE COMMON SEAL OF THE MAYOR  
AND BURGESSES OF THE LONDON  
BOROUGH OF CAMDEN was hereunto  
Affixed by Order:-

R. Alexander  
.....

Authorised Signatory



# 90 MALDEN ROAD LONDON



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**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)

Application ref: 2018/5318/P  
Contact:  
Tel: 020 7974  
Date: 7<sup>th</sup> April 2021

Neil Kahawatte Architects  
Unit 310  
4 Fortess Road  
Kentish Town  
NW5 2ES England

**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:  
**Basement & Ground Floor Flat**  
**90 Malden Road**  
**London**  
**NW5 4DA**

Proposal:  
Erection of rear extension at lower and upper ground levels, subdivision of existing 2 storey 4-bed maisonette to provide 1 x 1-bed flat and 1 x 3-bed flat. Demolition of existing rear extension at lower and upper ground levels.

Drawing Nos: [1811\_E009 (Location plan), 1811\_A008\_A, 1811\_A005\_A, 1811\_A003, 1811\_A002\_A, 1811\_A001, 1811\_A006, 1811\_A007\_A, 1811\_E001, 1811\_E004, 1811\_E007, 1811\_E003, 1811\_E005, 1811\_E008, Design and Access statement]

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 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 [1811\_E009 (Location plan), 1811\_A008\_A, 1811\_A005\_A, 1811\_A003, 1811\_A002\_A, 1811\_A001, 1811\_A006, 1811\_A007\_A, 1811\_E001, 1811\_E004, 1811\_E007, 1811\_E003, 1811\_E005, 1811\_E008, Design and Access statement]

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.

- 5 The flat roof of the extension hereby approved shall not be used as a roof terrace.

Reason: in order to protect the amenity of adjoining residential occupiers in accordance with Local Plan policy A1

- 6 Prior to first occupation of the dwellings hereby approved, sound insulation shall be installed to the floor/ceiling separating the ground and lower ground floor levels and thereafter be permanently retained. The sound insulation value  $D_{nT,w}$  and  $L'_{nT,w}$  shall be enhanced by at least 10dB above the Building Regulations value and, where necessary, additional mitigation measures implemented to achieve the criteria of BS8233:2014 within the dwellings.

Reason: To safeguard the amenity of residential occupiers in accordance with the requirements of policies G1, CC1, D1, A1, and A4 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Reasons for granting permission.

Policy H1 encourages the supply of additional residential units. The subdivision of existing 2 storey 4-bed maisonette to provide 1 x 1-bed flat and 1 x 3-bed flat is therefore acceptable in principle.

The lower ground floor 3 bed flat, would have an internal floor space of 74 square metres (including the proposed extension and removal of stair), which would meet the minimum requirement for a dwelling of this size, as per the Technical Housing Standards - nationally describes space standard. Each bedroom would have windows and floor to ceiling heights of above 2.3m across the dwelling. The glazed doors, rooflights and modified front light well will provide acceptable levels of daylight to the unit. There is over 2.5 sq. m of built in storage provision as per the Housing Standard. The rear garden would be divided to provide outdoor space for each unit.

The ground floor 1 bed flat, would have an internal floor space of 56 square metres which would exceed the minimum requirement of 50 square metres for a dwelling of this size, as per the Technical Housing Standards - nationally describes space standard. The standard of accommodation for this unit is acceptable given the constraints of the site. The bedroom would a window with a view onto the garden. The floor to ceiling heights would be 3m across the dwelling. There is over 2.5 sq. m of built in storage provision as per the Housing Standard. A condition is attached to the decision to require the installation of noise insulation between the two units.

The proposed single storey rear extension and replacement upper ground floor additions would cumulatively remain secondary in scale to the host building. The height of the extension would ensure that the extension is subordinate to the building. The extension would respect the depths of existing extensions along this terrace. The use of aluminium framed glazed sliding doors is acceptable and will provide a lightweight appearance. The alteration to the forecourt in order to increase light to the lower ground unit and to provide refuse storage is acceptable.

Due to the proposed extension's size and location, it would not harm the amenity of any adjoining residential occupiers in terms of the loss of natural light, outlook, privacy, light spill or added sense of enclosure. The terrace for the ground floor unit is acceptable in amenity terms given the distance to the boundary of no.88. It is also noted that there is an existing terrace in this location and so its replacement would be no worse than the existing



situation. The removal of the garden shed is encouraged and will enhance the appearance of the garden setting.

The lower ground floor provides a store to accommodate 2 bicycles. The ground floor flat has a store that has sufficient space to store 1 bicycle. The development is secured as car-free by way of legal agreement. This applies to each of the flats to be created as a result of the development.

The removal of the garden shed would not harm neighbouring trees, given that no excavation would be required for its removal. The paving at the very rear will be permeable paving to replace the existing solid concrete/paving. No harm to trees would occur due to these works.

No objections were received prior to making this decision. The site's planning history and relevant appeal decisions were 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 (ERR) 2013. As such, the proposed development is in general accordance with policies G1, A1, A4, D1, H1, H3, H6, D2, CC1, CC2, CC3 T1 and T2 of the London Borough of Camden Local Plan 2017. The proposed development also accords with the London Plan 2016 and the NPPF.

- 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.

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 Director

DATED

30 April

2021

**(1) FRANCESCA INDIA and CARMELINA INDIA and MARIA AMOROSO and FILIPPO INDIA**

and

**(2) MARIA AMOROSO and FILIPPO INDIA**

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

**BASEMENT & GROUND FLOOR FLAT  
90 MALDEN ROAD LONDON NW5 4DA**

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; and**

**Section 1(1) of the Localism Act 2011**

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