



Development Control  
Planning Services  
London Borough of Camden  
Town Hall  
Argyle Street  
London WC1H 8ND

Tel 020 7974 4444  
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env devcon@camden.gov.uk  
www.camden.gov.uk/planning

Mr Andrew Maunder  
Mr Andrew Maunder  
25 Saville Row  
London  
W1S 2ES

Application Ref **2010/4185/P**  
Please ask for **Rob Tulloch**  
Telephone 020 7974 **2516**

18 January 2011

Dear Sir/Madam

### DECISION

Town and Country Planning Acts 1990 (as amended)  
Town and Country Planning (General Development Procedure) Order 1995  
Town and Country Planning (Applications) Regulations 1988

#### **Variation or Removal of Condition(s) Granted Subject to a Section 106 Legal Agreement**

Address  
**37 63 Fortune Green Road**  
London  
**NW6 1UJ**

#### Proposal

Variation of condition 18 (restricted opening times of the gymnasium and Class A3 units) as attached to the outline permission granted on appeal (dated 17th February 2005 ref APP/X5210/A/03/1135364, Council ref 2003/1858/P) in order to allow for the 24 hour operation of the gymnasium (Class D2)

Drawing Nos Site Location Plan Covering Letter from Turley Associates dated 30/07/2010 Noise Impact Assessment

The Council has considered your application and decided to grant permission subject to the following condition(s)

#### Condition(s) and Reason(s)

- 1 Condition 18 of the planning permission granted by the Inspector on appeal (refs



APP/X5210/A/03/1135364 2003/1858/P) dated 17/02/2005 is hereby removed subject to the following replacement condition being imposed

#### REPLACEMENT CONDITION 18

Any Class A3 unit hereby approved shall not be open for business between 23 30 hours and 06 00 hours the following day No sound emanating from any of the A3 or D2 units shall be audible within any adjoining premises

Reason To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy SD6 of the London Borough of Camden Replacement Unitary Development Plan 2006 policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies

- 2 In addition to the replacement condition 18 above this approval shall be subject to all the extant conditions attached to the parent permission granted by the Inspector on appeal (refs APP/X5210/A/03/1135364 2003/1858/P) dated 17/02/2005

Reason In order to comply with the reasons for granting permission as explained in the Inspectors report dated 17/02/2005 (refs APP/X5210/A/03/1135364 2003/1858/P)

#### Informative(s)

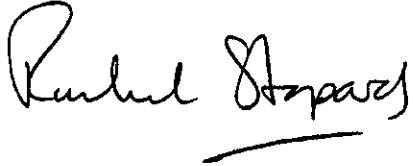
- 1 Reasons for granting permission [Delegated]

The proposed variation of condition would not significantly impact on the amenity of the surrounding area and would accord with policies SD6 (Amenity for occupiers and neighbours) SD7 (Light noise and vibration pollution) and T9 Impact of Parking of the London Borough of Camden Replacement Unitary Development Plan 2006 and policies DP19 (Managing the impact of parking) (DP26 Managing the impact of development on occupiers and neighbours) and (CS5 Managing the impact of growth and development) of the Local Development Framework

- 2 You are reminded that conditions 6b (lighting) 29 (sound insulation of gymnasium) and 31 (ventilation and fume extraction) of the planning permission dated 17/02/2005 (ref 2003/1858/P) granted on appeal still remain outstanding and require details to be submitted and approved
- 3 A Section 73 application (ref 2009/5835/P) was granted on 02/02/2010 for the variation of condition 19 of the original planning permission granted by the Inspector on appeal (refs APP/X5210/A/03/1135364 2003/1858/P) dated 17/02/2005

Your attention is drawn to the notes attached to this notice which tell you about your Rights of Appeal and other information

Yours faithfully

A handwritten signature in black ink, appearing to read 'Rachel Stopard', with a horizontal line underneath.

Rachel Stopard  
Director of Culture & Environment

It's easy to make, pay for, track and comment on planning applications on line Just go to [www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

DATED

18 January 2011

~~2010~~

**(1) SAGER HOUSE (HAMPSTEAD) LIMITED**

and

**(2) FORTUNE GREEN LIMITED**

and

**(3) IRISH NATIONWIDE BUILDING SOCIETY**

and

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

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**SECOND DEED OF VARIATION**

Relating to the s106 Unilateral Undertaking dated 10 December 2004  
Made to the Mayor and the Burgesses of the London Borough of Camden by  
Sager House (Hampstead) Limited Jason Investments Limited  
Fortune Green Limited and Irish Nationwide Building Society PLC  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
**37 63 FORTUNE GREEN ROAD  
WEST HAMPSTEAD, LONDON NW6**

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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

G case files/culture & env/planning/lmm/s106 Agreements/Fortune Green Road 37 63 (2010) (DoV)  
CLS/COM/LMM/1685 714  
DoV 28 10 10 FINAL

THIS AGREEMENT is made on the 18<sup>th</sup> day of January 2011 ~~2010~~

**BETWEEN**

- 1 **SAGER HOUSE (HAMPSTEAD) LIMITED** (Co Regn No 4207091) whose registered office is at Sager House 50 Seymour Street London W1H 7JG (hereinafter called 'the Freeholder') of the first part
- 2 **FORTUNE GREEN LIMITED** (Co Regn No 4475455) whose registered office is Sager House 50 Seymour Street London W1H 7JG (hereinafter called 'the Leaseholder') of the second part
- 3 **IRISH NATIONWIDE BUILDING SOCIETY** (Incorporated in the Republic of Ireland) of 1 Lower O Connell Street Dublin 1 Ireland (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

1 **WHEREAS**

- 1.1 The Freeholder the Leaseholder the Mortgagee and Jason Investments Limited made a Unilateral Undertaking to the Council dated 10 December 2004 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended)
- 1.2 The Freeholder is registered at the Land Registry as the freehold proprietor of the Property with Title Absolute under title number NGL785640 subject to a charge to the Mortgagee
- 1.3 The Freeholder is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act
- 1.4 The Leaseholder is registered at the Land Registry as the leasehold proprietor of part of the Property with Title Absolute under title number NGL827373

- 1 5 The Leaseholder is the leasehold owner of part of the Property and is interested in the Property for the purposes of Section 106(9) of the Act
- 1 6 The Freeholder and the Leaseholder shall hereinafter be collectively referred to as **the Owner**
- 1 7 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL785640 and dated 10 October 2006 and also as mortgagee under a legal charge registered under Title Number NGL827373 and dated 2 December 2003 is willing to enter into this Agreement to give its consent to the same
- 1 8 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 9 An Application was made under s73 of the Act in respect of the Property to vary a condition contained in the Original Planning Permission was submitted to the Council by the Owner and validated on 30 July 2010 for which the Council resolved to grant permission conditionally under reference 2010/4185/P subject to the conclusion of this Agreement
- 1 10 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 11 Without prejudice to the terms of the other covenants contained in the Existing Agreement as amended by the First Deed of Variation the parties hereto have agreed to further vary the terms of the Existing Agreement as amended by the First Deed of Variation as hereinafter provided

## 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 as amended by the First Deed of Variation

2 3 In this Agreement the following expression shall unless the context otherwise states have the following meaning now allocated to it

2 3 1 Agreement this Deed of Variation

2 3 2 Existing Agreement the Section 106 Unilateral Undertaking under the Town and Country Planning Act 1990 (as amended) dated 10 December 2004 made by Freeholder the Leaseholder the Mortgagee and Jason Investments Limited to the Council as amended by the First Deed of Variation

2 3 3 the First Deed of Variation the Section 106 agreement Deed of Variation under the Town and Country Planning Act 1990 (as amended) in respect of the Property dated 2 February 2010 made between (1) the Council (2) the Freeholder (3) the Leaseholder and (4) the Mortgagee

2 3 4 the Original Planning Permission means the planning permission granted by the Planning Inspectorate on 17 February 2005 referenced APP/X5210/A/03/1135364 relating to Planning Application 1 allowing the redevelopment of the Property to provide 72 apartments (including 22 affordable units) five retail units and gym over five storeys

2 4 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 5 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 6 Unless the context otherwise requires references to the singular shall include the plural and vice versa

2 7 References in this Agreement to the Owner and Mortgagee shall include their successors in title

### **3 VARIATION TO THE EXISTING AGREEMENT**

3 1 The following definitions contained in the Existing Agreement as varied by the First Deed of Variation shall be further varied as follows

3 1 2 Planning Permission the planning permission relating to Planning Application 1 to be issued by the Council under reference number 2010/4185/P substantially in the draft form annexed hereto

3 1 3 Application the application made under s73 of the Act to vary a condition contained in the Original Planning Permission relating to Planning Application 1 referenced APP/X5210/A/03/1135364 (Council reference 2003/1858/P) in respect of the Property submitted by the Owner and validated on 30 July 2010 and given reference number 2010/4185/P

3 2 In all other respects the Existing Agreement (as varied by the First Deed of Variation and this Agreement) shall continue in full force and effect



**4 PAYMENT OF THE COUNCIL S LEGAL COSTS**

4 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

**5 REGISTRATION AS LOCAL LAND CHARGE**

5 1 This Agreement shall be registered as a Local Land Charge

IN WITNESS WHEREOF the Council has caused its Common Seal 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 )  
SAGER HOUSE (HAMPSTEAD) LIMITED )  
was hereunto affixed )  
in the presence of )

Director

Director/Secretary

EXECUTED AS A DEED BY )  
FORTUNE GREEN LIMITED )  
was hereunto affixed )  
in the presence of )



Director

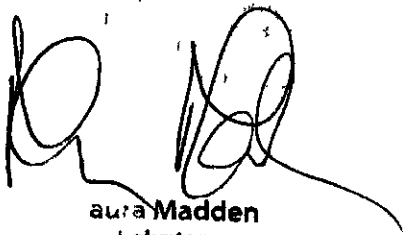
Director/Secretary

**CONTINUATION OF DEED OF VARIATION IN RELATION TO  
37 63 FORTUNE GREEN ROAD WEST HAMPSTEAD LONDON NW6**

**EXECUTED AS A DEED** by the  
**IRISH NATIONWIDE BUILDING SOCIETY**  
By  
In the presence of

Duly Authorised Signatory

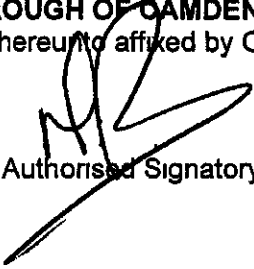
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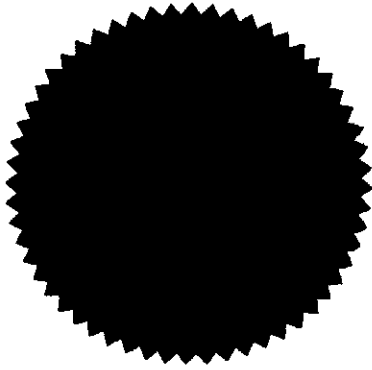
Laura Madden  
Solicitor  
Nationwide Building Society  
Nationwide House  
100 Strand Dublin 6

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

Duly Authorised Signatory



)  
)  
)  
)



Mr Andrew Maunder  
25 Saville Row  
London  
W1S 2ES

Application Ref **2010/4185/P**

17 January 2011

Dear Sir/Madam

**DRAFT**  
FOR INFORMATION ONLY - **NOT A FORMAL DECISION**  
Town and Country Planning Acts 1990 (as amended)

**DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT**

Address  
**37-63 Fortune Green Road**  
London  
**NW6 1UJ**

Proposal

**DECISION**  
Variation of conditions (extended opening times of the gymnasium Class A3 units) as attached to the outline planning permission (outlet) dated February 2005 ref APP/X5210/A/03/1135364 Council ref 2003/1858/P) in order to allow for the 24 hour operation of the gymnasium (Class D2)  
Drawing Nos Site Location Plan Covering Letter from Turley Associates dated 30/07/2010 Noise Impact Assessment

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 Condition 18 of the planning permission granted by the Inspector on appeal (refs APP/X5210/A/03/1135364 2003/1858/P) dated 17/02/2005 is hereby removed subject to the following replacement condition being imposed

#### REPLACEMENT CONDITION 18

Any Class A3 unit hereby approved shall not be open for business between 23 30 hours and 06 00 hours the following day No sound emanating from any of the A3 or D2 units shall be audible within any adjoining premises

Reason To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy SD6 of the London Borough of Camden Replacement Unitary Development Plan 2006 policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and Policy D22 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development

- 2 In addition to the replacement condition 18 above this approval shall be subject to all the extant conditions attached to the parent permission granted by the Inspector on appeal (refs APP/X5210/A/03/1135364 2003/1858/P) dated 17/02/2005

Reason In order to comply with the reasons for granting permission as explained in the Inspectors report dated 17/02/2005 (refs APP/X5210/A/03/1135364 2003/1858/P)

Informative(s)

- 1 Reasons for granting permission [Delegated]

The proposed variation of condition would not significantly impact on the amenity of the surrounding area and would accord with policies SD6 (Amenity for occupiers and neighbours) SD7 (Light noise and vibration pollution) and T9 Impact of Parking of the London Borough of Camden Replacement Unitary Development Plan 2006 and policies DP19 (Managing the impact of parking) (DP26 Managing the impact of development on occupiers and neighbours) and (CS5 Managing the impact of growth and development) of the Local Development Framework

- 2 You are reminded that conditions 6b (lighting) 29 (sound insulation of gymnasium) and 31 (ventilation and fume extraction) of the planning permission dated 17/02/2005 (ref 2003/1858/P) granted on appeal still remain outstanding and require details to be submitted and approved
- 3 A Section 73 application (ref 2009/5835/P) was granted on 02/02/2010 for the variation of condition 19 of the original planning permission granted by the Inspector on appeal (refs APP/X5210/A/03/1135364 2003/1858/P) dated 17/02/2005

Yours faithfully



Culture and Environment Directorate

**DRAFT**

**DECISION**

DATED

18 January 2011

~~2010~~

**(1) SAGER HOUSE (HAMPSTEAD) LIMITED**

and

**(2) FORTUNE GREEN LIMITED**

and

**(3) IRISH NATIONWIDE BUILDING SOCIETY**

-and

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

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**SECOND DEED OF VARIATION**

Relating to the s106 Unilateral Undertaking dated 10 December 2004  
Made to the Mayor and the Burgesses of the London Borough of Camden by  
Sager House (Hampstead) Limited Jason Investments Limited  
Fortune Green Limited and Irish Nationwide Building Society PLC  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
**37 63 FORTUNE GREEN ROAD  
WEST HAMPSTEAD LONDON NW6**

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Andrew Maughan  
Head of Legal Services  
London Borough of Camden  
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