

DATED 9th NOVEMBER 2022

(1) BALRAJ JAGDISH PHAKEY and ARVINDA PHAKEY

and

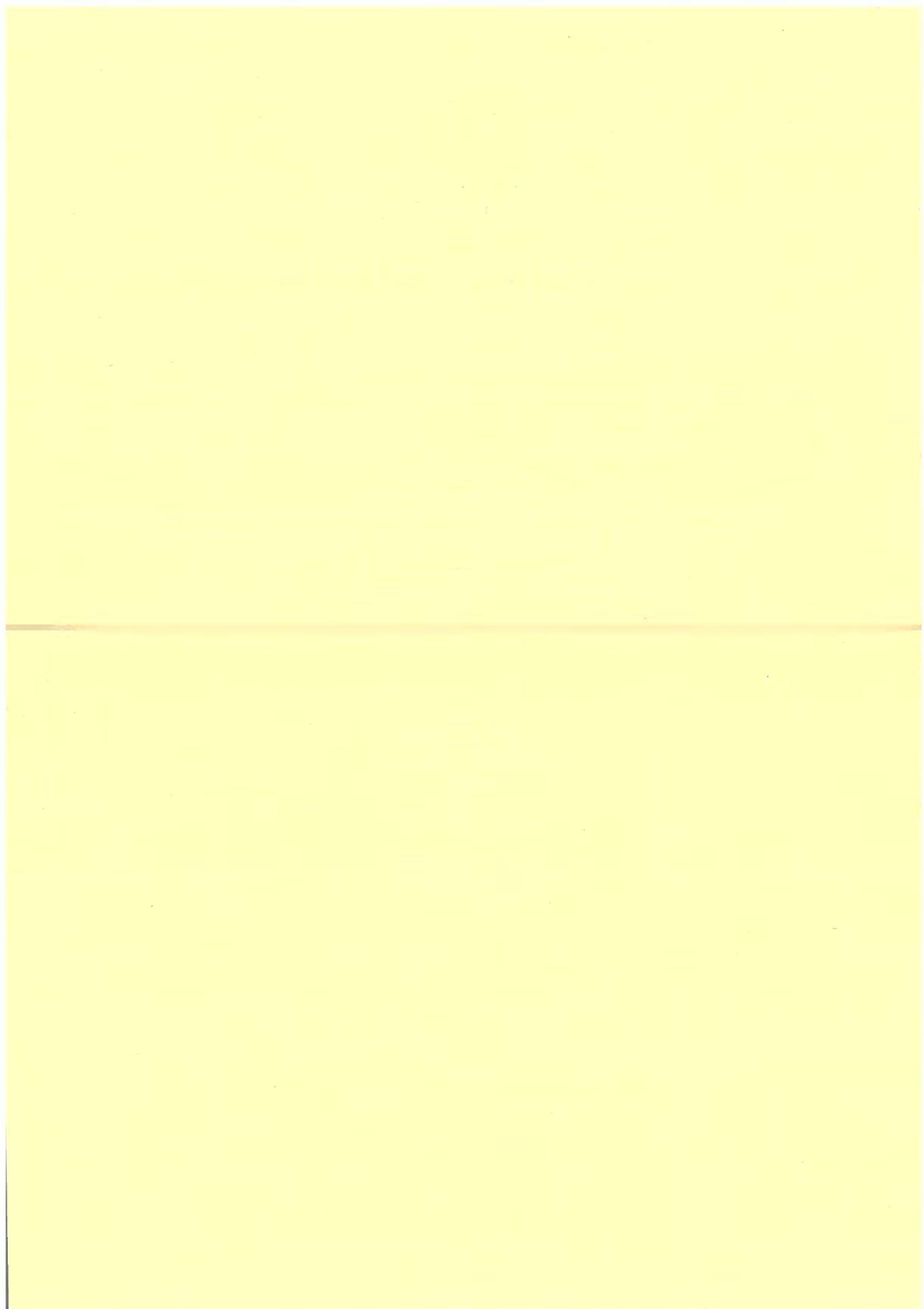
(2) THE MAYOR AND BURGESSES OF
THE LONDON BOROUGH OF CAMDEN

A G R E E M E N T

relating to land known as
**GROUND FLOOR SHOP, 93 AGAR GROVE, LONDON NW1 9UE 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/HM/1800.2078
FINAL s.106 (CF)



THIS AGREEMENT is made the 9th day of NOVEMBER 2022

BETWEEN:

A. **BALRAJ JAGDISH PHAKEY and ARVINDA PHAKEY** of 235 Woodcock Hill, Kenton, Harrow, Middx HA3 0PG (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

1. **WHEREAS**

1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number 386508.

1.2 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.

1.3 A Planning Application for the development of the Property was submitted to the Council and validated on 1 October 2021 and the Council resolved to grant permission conditionally under reference number 2021/0396/P subject to the conclusion of this legal Agreement.

1.4 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"	change of use of a part of the ground floor from minicab command center (Class E) to a one bedroom flat (Class C3). Alterations and fenestration insertion/replacement at ground floor as shown on drawing numbers:- 032(P)001; 032(P)021 Rev.A; 032(P)041; 032(P)042; 032(P)043; 032(P)044 Rev.A; 032(P)045; letter from Hunters dated 25/3/21 and Marketing evidence and use viability assessment by lungo studio dated May 2021.
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 October 2021 for which a resolution to grant permission has been passed conditionally under reference number 2021/0396/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 Ground Floor Shop, 93 Agar Grove, London NW1 9UE 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 4.1.1 and 4.1.2 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

4.1 **CAR FREE**

- 4.1.1 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.
- 4.1.2 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).

4.1.3 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1.1 and 4.1.2 in this Agreement shall continue to have effect in perpetuity.

4.1.4 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 4.1.1 and 4.1.2 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 2021/0396/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, Placeshaping Service, Urban Design and Development Team, 2nd Floor, 5 Pancras Square, London, N1C 4AJ and sent to planning obligations on PlanningObligations@camden.gov.uk quoting the planning reference number 2021/0396/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 or the 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(s) 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
GROUND FLOOR SHOP, 93 AGAR GROVE, LONDON NW1 9UE**

EXECUTED AS A DEED BY)
BALRAJ JAGDISH PHAKEY)
in the presence of:)

.....
Witness Signature

Witness Name:

Address:

Occupation:

EXECUTED AS A DEED BY)
ARVINDA PHAKEY)
in the presence of:)

.....
Witness Signature

Witness Name:

Address:

Occupation:

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO
GROUND FLOOR SHOP, 93 AGAR GROVE, LONDON NW1 9UE

EXECUTED AS A DEED BY
BALRAJ JAGDISH PHAKEY
in the presence of:

) [REDACTED]
)
)

.....
Witness Signature

[REDACTED]

Witness Name: DUKSON-NALBAN,
Address: 250 Yorkm LONDON N7 9QQ
Occupation: CARPENTER

EXECUTED AS A DEED BY
ARVINDA PHAKEY
in the presence of:

) [REDACTED]
)
)

.....
Witness Signature

[REDACTED]

Witness Name: DUKSON NALBAN
Address: 250 Yorkm LONDON N7 9QQ
Occupation: CARPENTER

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO
GROUND FLOOR SHOP, 93 AGAR GROVE, LONDON NW1 9UE

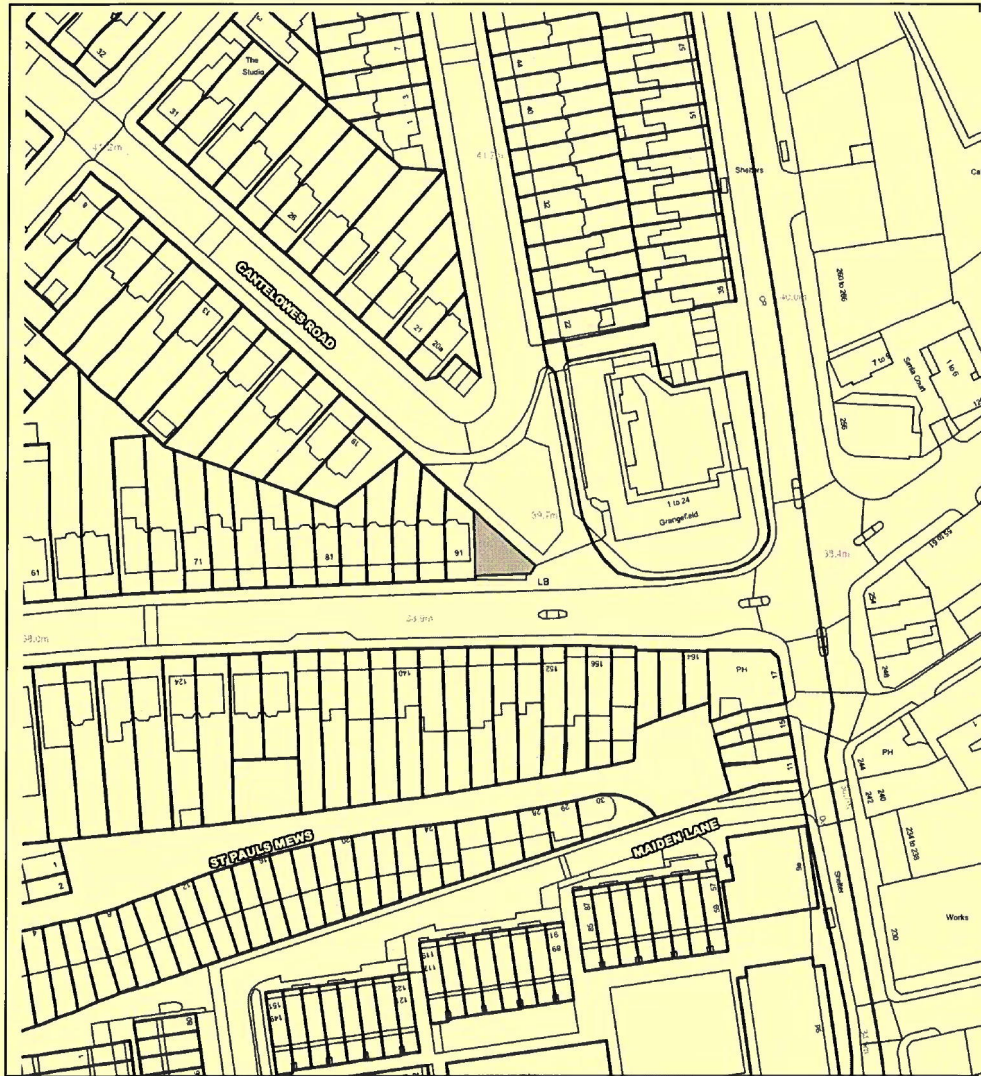
THE COMMON SEAL OF THE MAYOR)
AND BURGESSES OF THE LONDON)
BOROUGH OF CAMDEN was hereunto)
Affixed by Order:-)



..... [Redacted Signature]

Authorised Signatory

NORTHGATE SE GIS Print Template



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Application ref: 2021/0396/P
Contact:
Tel: 020 7974
Date: 31 October 2022

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

Phone: 020 7974 4444
planning@camden.gov.uk
www.camden.gov.uk/planning

25 Inwood Court, Rochester Square
London
NW1 9HS

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:
93 Agar Grove
London
NW1 9UE

DECISION
Proposal:
Change of use of a part of the ground floor from minicab command center (Class E) to a one bedroom flat (Class C3). Alterations and fenestration insertion/replacement at ground floor
Drawing Nos: 032(P)001; 032(P)021 Rev.A; 032(P)041; 032(P)042; 032(P)043; 032(P)044 Rev.A; 032(P)045; letter from Hunters dated 25/3/21 and Marketing evidence and use viability assessment by Lungo studio dated May 2021.

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 The development hereby permitted shall be carried out in accordance with the following approved plans:

032(P)001; 032(P)021 Rev.A; 032(P)041; 032(P)042; 032(P)043; 032(P)044 Rev.A; 032(P)045; letter from Hunters dated 25/3/21 and Marketing evidence and use viability assessment by lungo studio dated May 2021.

Reason:

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

- 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 Prior to occupation, details of secure and covered cycle storage area for 1 cycle 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 the new unit, 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.

Informative(s):

- 1 Reasons for granting permission:

The development will convert the existing ground floor office into a residential flat (Class C3). Normally the Council will resist the loss of business space, however in line with Policy E2 marketing and sufficient justification has been provided. The site has been vacant for more than 5 years, is poor quality and given its location outside a town centre and its constrained/small footprint viable options for continued office use are limited. It is noted that the site is surrounded by primarily residential use and the upper floors are also in residential use. On balance its loss in this instance is acceptable and residential as a priority land use would be appropriate in this location.

The existing shopfront has been significantly altered and is considered to have a poor quality appearance that detracts from the host property and streetscene in this part of the Camden Square Conservation Area. It is noted that the existing windows have been blocked

up and the proposal will restore it to its original condition. The proposal provides a more traditional shopfront appearance, increasing the amount of glazing and showing proportionate stall raisers. It would also relocate the existing corner entrance to the existing communal entrance on Canteloves Road. The external alterations are considered to enhance the host property, streetscene and conservation area.

The proposed residential dwelling would comply with the minimum space standards for a 1bed unit at 50.6sqm. Obscured glazing up to a height of 1.6m from floor level would be installed on the shopfront to ensure privacy while maintaining adequate light and outlook. While this is not ideal, given its open corner location at ground floor balanced against the desirability of maintaining a shopfront appearance, this would be considered acceptable and still provide adequate quality accommodation.

The new dwelling will be secured via a S106 legal agreement as car-free in accordance with policy T2. While the scheme shows the provision of 2 cycles within the small side courtyard at ground floor, transport officers consider given the space constraints that only one wall mounted Sheffield stand could be provided. Details and provision of the cycle parking are secured by condition.

Two long stay cycle parking spaces are required, and although these aren't shown on the plans, it is considered they could be easily provided at basement or ground level and as such, details shall be secured by condition.

Due to the location and nature of the proposed development, it is not considered that the works would impact on the amenity of any adjoining residential occupiers in terms of outlook, daylight, noise or privacy.

No objections were received to the application. The planning and appeal history of the site and surrounding area has been 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 Planning (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 H1, H4, H6, H7, C5, E2, D1, D2, T1, T2 and A1 of the Camden Local Plan 2017. The development also accords with the NPPF 2021 and the London Plan 2021.

- 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 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, 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.

- 4 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at www.camden.gov.uk) 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.

- 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.
- 6 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.
- 7 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.
- 8 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. Camden adopted new CIL rates in October 2020 which can be viewed at the above link.

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

