

DATED

23 JANUARY

2013/4

(1) LAZARI INVESTMENTS LIMITED

-and-

(2) LLOYDS TSB BANK PLC

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 6 August 2012
Between the Mayor and the Burgesses of the
London Borough of Camden,
Lazari Investments Limited and Lloyds TSB Plc
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
LAND AT COBDEN JUNCTION, GREATER LONDON HOUSE
HAMPSTEAD ROAD, LONDON
NW1 7QX

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/FP/1685.2235 (2013/4635/P)
FINAL 19.12.2013

THIS DEED is made on the 23 day of JANUARY 2014

BETWEEN

1. **LAZARI INVESTMENTS LIMITED** (Co. Regn. No.1291023) whose registered office is at Accurist House 44 Baker street London W1U 7BR and of Hamlyn House Highgte Hill London N19 5PA (hereinafter called "the Owner") of the first part
2. **LLOYDS TSB BANK PLC** of 25 Gresham Street London EC2V 7HN (hereinafter called "the Mortgagee") of the second part
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:

- 1.1 The Council the Owner and the Mortgagee entered into an Agreement dated 6 August 2012 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 304925 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 The Application for Non Material Amendments in respect of the Property to amend the Original Planning Permission was submitted to the Council by the Owner and validated on 22 July 2013 for which the Council resolved to approve conditionally under reference 2013/4635/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 In this Deed the following expression shall unless the context otherwise states have the following meaning now allocated to it.

2.3.1 "Application for Non Material Amendments"	the application for Non Material Amendments in respect of the Property submitted to the Council and validated on 22 July 2013 for which a resolution to grant approval has been made conditionally by the Council under reference number 2013/4635/P subject to conclusion of this Deed
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2.3.2 "Deed"	this Deed of Variation made pursuant to Section 106A of the Act
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2.3.3 "Existing Agreement"	the Section 106 Agreement under the Act dated 6 August 2012 made between the Council
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Lazari Investments Limited and Lloyds TSB
Bank Plc

- 2.4 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 Deed.
- 2.5 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 Deed and shall not effect the construction of this Deed.
- 2.6 Unless the context otherwise requires references to the singular shall include the plural and vice versa.
- 2.7 References in this Deed to the Owner and Mortgagee shall include their successors in title.
- 2.8 If the approval of the Non Material Amendments is quashed or expires before Implementation or is revoked this Deed shall cease to have effect.

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" minor material amendment to condition 2 (development to be carried out in accordance with approved plans) of planning permission dated 06/08/2012 (ref 2011/5122/P), for the erection of 2-storey building with landscaped forecourt to provide a restaurant (Class A3), namely for reduction of first floor level and erection of first floor roof terrace with balustrading drawing numbers 1288-P02-00a-P1; 1288-P02-01-P3; 1288-P02-02-P3; 1288-P03-00-P2; 1288-P03-01-P2; 1288-P03-03-P1; 1288-P04-03-P2

3.1.2 "Planning Permission"

the Original Planning Permission as amended by the Non-Material Amendments given approval under reference number 2011/5122/P to be issued by the Council substantially in the form of the draft annexed hereto

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

3.2.1 "Non Material Amendments" shall mean the non-material amendments to the Development to vary a minor material amendment to condition 2 (development to be carried out in accordance with approved plans) of planning permission dated 06/08/2012 (ref 2011/5122/P)

3.2.2 "the Original Planning Permission"

means the planning permission granted by the Council on 6 August 2012 referenced 2011/5122/P allowing the erection of 2-storey building with landscaped forecourt to provide a restaurant (Class A3) as shown on drawing numbers 1288-E01-00-P1; 1288-E01-01-P1; 1288-E02-00-P1; 1288-E03-00-P1; 1288-P02-00-P1; 1288-P02-01-P1; 1288-P02-02-P1; 1288-P03-00-P1; 1288-P03-01-P1; 1288-P03-02-P1; 1288-P04-01-P1; 1288-P04-02-P1; Design and Access Statement by Vivendi Architects; BREEAM 2011 New Construction Pre-Assessment Estimator dated 04/10/2011; Energy Statement by Mendick Waring Ltd dated 05/10/2011; Arboricultural Report by Andrew Day Arboricultural Consultancy dated 04/11/2011; Site Investigations Report ref C12464 by Ground Engineering Limited; Service Management Plan by Vivendi

- 3.3 In all other respects the Existing Agreement (as varied by this Deed) shall continue in full force and effect.

4. PAYMENT OF THE COUNCIL'S LEGAL COSTS

- 4.1 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Deed on or prior to the date of completion of the Deed.

5. JOINT AND SEVERAL LIABILITY

- 5.1 All Covenants made by the Owner in this Deed are made jointly and severally and shall be enforceable as such.

6. REGISTRATION AS LOCAL LAND CHARGE

- 6.1 This Deed shall be registered as a Local Land Charge by the Council.

7. COMMENCEMENT

- 7.1 The provisions in this Deed shall take effect on the Council's approval of the Non Material Amendments pursuant to the Application for Non Material Amendment but for the avoidance of doubt without prejudice to the effect of Clause 3.3 in the Existing Agreement.

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

EXECUTED AS A DEED BY
LAZARI INVESTMENTS LIMITED
was hereunto affixed
in the presence of:-

)
)
)
)

Director

Director/Secretary

EXECUTED AS A DEED by the
Attorney Authorised on behalf of
LLOYDS TSB BANK PLC

)
)
)

Duly Authorised Signatory

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

)
)
)
)

Duly Authorised Officer



the common
seal →



**Regeneration and Planning
Development Management**
London Borough of Camden
Town Hall
Judd Street
London
WC1H 8ND

Vivendi Architects Ltd
Bounds Green Industrial Estate
London
N11 2UD

Tel 020 7974 4444
Fax 020 7974 1930
Textlink 020 7974 6866

planning@camden.gov.uk
www.camden.gov.uk/planning

Application Ref: **2013/4635/P**

03 December 2013

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:
Land at Cobden Junction
Greater London House
Hampstead Road
London
NW1 7QX

DECISION
Proposal:

Minor material amendment to condition 2 (development to be carried out in accordance with approved plans) of planning permission dated 06/08/2012 (ref 2011/5122/P), for the erection of 2-storey building with landscaped forecourt to provide a restaurant (Class A3), namely for reduction of first floor level and erection of first floor roof terrace with balustrading.

Drawing Nos: 1288-P02-00a-P1; 1288-P02-01-P3; 1288-P02-02-P3; 1288-P03-00-P2; 1288-P03-01-P2; 1288-P03-03-P1; 1288-P04-03-P2.

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 REPLACEMENT CONDITION 2

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

1288-E01-00-P1; 1288-E01-01-P1; 1288-E02-00-P1; 1288-E03-00-P1; 1288-P02-00a-P1; 1288-P02-01-P3; 1288-P02-02-P3; 1288-P03-00-P2; 1288-P03-01-P2; 1288-P03-02-P1; 1288-P04-01-P1; 1288-P04-02-P1; 1288-P03-03-P1; 1288-P04-03-P2; Design and Access Statement by Vivendi Architects; BREEAM 2011 New Construction Pre-Assessment Estimator dated 04/10/2011; Energy Statement by Mendick Waring Ltd dated 05/10/2011; Arboricultural Report by Andrew Day Arboricultural Consultancy dated 04/11/2011; Site Investigations Report ref C12464 by Ground Engineering Limited; Service Management Plan by Vivendi Architects; Travel Plan Statement by Vivendi Architects.

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

2 The first floor terrace shall not be used after 11.00pm Mondays to Saturdays and after 10.30pm on Sundays or Bank Holidays.

Reason: To safeguard the amenities of the neighbouring premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26, DP12 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

- 1 This approval under Section 73 of the 1990 Act effectively varying the relevant condition of the previous planning permission is subject otherwise to the same terms, drawings, conditions (and obligations where applicable) as attached to the previous planning permission. This includes condition 1 providing for a 3 year time period for implementation which for the avoidance of doubt commences with the date of the original decision (and not this variation).

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

Culture and Environment Directorate

DRAFT

DECISION

DATED

23 JANUARY

2013/4

(1) LAZARI INVESTMENTS LIMITED

-and-

(2) LLOYDS TSB BANK PLC

-and-

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

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