

DATED

25TH FEBRUARY

201~~4~~<sup>3</sup>

**(1) SHORTS GARDENS LLP**

-and-

**(2) THE ROYAL BANK OF SCOTLAND PLC**

-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 8 May 2009  
Between the Mayor and the Burgesses of the  
London Borough of Camden,  
Shorts Gardens LLP and The Royal Bank of Scotland  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
**60-70 (EVEN) SHORTS GARDENS AND 14 TO 16 (EVEN) BETTERTON STREET,  
LONDON**

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Andrew Maughan  
Head of Legal Services  
London Borough of Camden  
Town Hall  
Judd Street  
London WC1H 9LP

Tel: 020 7974 6007  
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CLS/COM/JL/1685.1727  
DOVfinal

THIS AGREEMENT is made on the 25<sup>th</sup> day of February 2014<sup>3</sup>

**BETWEEN**

1. **SHORTS GARDENS LLP** (LLP. Regn. No. OC316410) whose registered office is at Quadrant House Floor 6, 17 Thomas More Street, Thomas More Square, London E1W 1YW (hereinafter called "the Owner") of the first part
2. **THE ROYAL BANK OF SCOTLAND (Scot. Co. Regn. No SC90312)** of Kirkstane House, 139 St Vincent Street, Glasgow G2 5JF (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 4 May 2009 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 of the Property under title number NGL870094 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 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 Agreement.
- 1.5 A new planning application in respect of the Property and to replace the Original Planning Permission was submitted to the Council by the Owner and validated on 7 March 2012 for which the Council resolved to grant permission conditionally under reference 2012/1533/P subject to the conclusion of this Agreement.

- 1.6 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.
- 1.7 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 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.
- 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 Agreement under the Town and Country Planning Act 1990 (as amended) dated 8 May 2009 made between the Council the Owner and the Mortgagee

2.3.3 "the Original Planning Permission" means the planning permission granted by the Planning Inspectorate on 10 June 2009 referenced APP/X5210/A/08/2089789 (Council reference 2008/1401/P) allowing the alterations, extension and refurbishment of existing

buildings at the Property for commercial use (class B1); change of use of ground floor of Shorts Gardens to create small scale units (Class A1/A2 and D1) and change of use of basement to either B1/D1 or D2 use in accordance with the terms of the application reference 2008/1401/P dated 12 March 2008 and the plans submitted with it (and as amended)

- 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 shall be varied as follows:

- 3.1.1 "the Application" a planning application in respect of the Development of the Property submitted to the Council and validated on 7 March 2012 for which a resolution to grant permission has been passed conditionally under reference number 2012/1533/P subject to conclusion of this Agreement

### 3.1.2 "the Development"

the development permitted by the replacement of planning permission reference 2008/1401/P, granted on appeal on 10 June 2009, for alterations, extensions (including roof extensions) and refurbishment of existing commercial/office use (class B1); change of use of ground floor of Shorts Gardens to create small units (Class A1/A2 and D1) and change of use of basement to either B1/D1 or D2 use as shown on drawing numbers: Existing Site Location Plan 353 100 A, Proposed Site Location Plan 353/P/101 A; 400/P/155 A; -156A; -157 E; -158 A; -159 A; -160 A; -161 A; -162 B; -163 B; -164 B; -165 B; -205 A; -206 A; -207 B; -208 A; -209 A; -210 A; -211 A; -212 A; -213 A; -300 A; -301 A; -400 A; -401 A; -402 A; -403 A; -404 A; -405 A; -406 A; -407 A; -410 A; -411 A; -412 A; -413 A; -414 A; -415 A; -450; -451; -452; -453; -454; -455; -456; -457; -460; -461; -462; -463; -464; Planning Statement, prepared by Nathaniel Lichfield & Partners (12 March 2008); Transport Statement, prepared by Waterman Boreham Transport Planning (20 November 2008); Background Noise Assessment, prepared by Fulcrum consulting and Fleming and Barron, Issue D (12 November 2008); Transformer Noise Assessments, prepared by Fulcrum consulting and Fleming & Barron, (Shorts Gardens Wing Issue A 23/02/2007) (Transformer Noise Assessment Issue A 23/02/2007); Daylight & Sunlight Assessment, prepared by Brooke Vincent and Partners (22 January 2008); Design and Access Statement, prepared by Wilkinson Eyre Architects (November 2008); Construction Management Plan, prepared by Anser (published 16 October

2006, printed 12 September 2008); Covering Letter, prepared by Nathaniel Lichfield & Partners (12/03/2008); Service Management Plan, prepared by Waterman Boreham Ltd (26/03/2009); Viability Report (Strutt & Parker April 2012), Energy Report & BREEAM 2011 New Construction Prediction (Both RYBKA, May 2012)

3.1.3 "the Planning Permission" the planning permission under reference number 2012/1533/P to be issued by the Council in the form of the draft annexed hereto

3.2 All references in clause 6 and 7 of the Existing Agreement to "planning reference 2008/4101/P" shall be replaced with "planning reference 2012/1533/P".

3.3 In all other respects the Existing Agreement (as varied by 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 hereunto affixed and the Owner and the Mortgagee have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY )  
SHORTS GARDENS LLP )  
acting by a ~~Director and its Secretary~~ )  
~~or by two Directors~~ two members )

*Member*  
.....  
~~Director~~

*Member*  
.....  
~~Director/Secretary~~

EXECUTED AS A DEED )  
By )  
THE ROYAL BANK OF SCOTLAND PLC )  
by LEANNE MAREE KEYTE )  
in the presence of:- )

*R M Kyle*

.....  
*Leanne Maree Keyte*  
FBS, 8th Floor  
810 BATHURST GATE  
LONDON  
EC2M 4RB

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

.....  
*T M Knowles*

Authorised Signatory



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

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

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

Nathaniel Lichfield & Partners  
14 Regents Wharf  
All Saints Street  
LONDON  
N1 9RL  
FAO

Application Ref: **2012/1533/P**  
Please ask for: **Richard McEllistrum**  
Telephone: 020 7974 2056

6 December 2012

Dear Sir/Madam

**DRAFT**  
**DECISION**

Town and Country Planning Act 1990 (as amended)  
Town and Country Planning (Development Management Procedure) Order 2010  
Town and Country Planning (Applications) Regulations 1988

**Renewal of Full Planning Permission Granted Subject to a Section 106 Legal Agreement**

Address:  
**60-72 Shorts Gardens &  
14-16 Betterton Street  
London  
WC2H 9AU**

**DECISION**

**Proposal:**

Application to replace / extend the time limits for implementation of, planning permission ref: 2008/1401/P, granted on appeal 10/06/2009 for 'alterations and extensions (including roof extensions) and refurbishment of existing commercial/office use (Class B1), change of use of ground floor of Shorts Gardens to create small units (Class A1/A2 and D1), and change of use of basement to either B1/D1 or D2 use.'

Drawing Nos: Viability Report (April 2012), Breeam 2011 Prediction & Energy Report (both dated May 2012)

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

**Conditions and Reasons:**

- 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 Notwithstanding the provisions of the Schedule to the Town & Country Planning (Use Classes) Order 1987, or in any provision in any statutory instrument revoking and re-enacting that Order with or without modification, the basement area to the premises at Shorts Gardens shall only be used for class B1 or class D1 use, or as a swimming bath, skating rink, gymnasium or area for other indoor sports or recreations, not involving motorised vehicles or firearms, and not for any other purpose within class D2 (assembly and leisure) of that Order.

Reason: In the interests of the amenity of neighbouring occupiers, in accordance with Policies CS5, CS9 and DP12 of the Local Development Framework.

- 3 Prior to the commencement of the development, a scheme for the provision of a CCTV/security system in connection with the uses hereby permitted shall be submitted to and approved in writing by the local planning authority, and the development shall not be carried out otherwise than in accordance with these approved details.

Reason: In the interests of the amenity of surrounding occupiers, in order to ensure appropriate management, security and safety measures are incorporated within the approved development in accordance with Policies CS5, CS9, CS17 and DP12 of the Local Development Framework.

- 4 Before any use, hereby approved, of the basement area commences sound insulation shall be provided in accordance with a scheme to be approved in writing by the local planning authority which complies with Policy DP28 (and supporting tables) of the Local Development Framework. The basement use shall not thereafter be carried out other than in accordance with the approved sound insulation scheme.

Reason: To safeguard the amenities of neighbouring premises and the area generally, in accordance with the requirements of Policies CS5, DP26 and DP28 of the Local Development Framework.

- 5 The level of noise emitted from the site shall not exceed 5dB above existing background noise level (LAeq) during the daytime and evening (0700-2300 hrs.) The noise level emitted from the site shall not exceed 3dB above existing background noise level during the night (2300-0700hrs.) The noise levels should be measured at one metre external to the nearest noise sensitive premises to the site. The noise level inside any living room or bedroom of the nearest noise sensitive premises shall not exceed existing noise levels when measured using Leq 5m (in the 63 Hz octave band measured using the 'fast' time constant) during the night. All noise measurements shall be taken according to BS4142:1990.

Reason: To safeguard the amenities of neighbouring premises and the area generally, in accordance with the requirements of Policies CS5, DP26 and DP28 of

the Local Development Framework.

- 6 Prior to the commencement of development, details of cycle storage areas for 16 cycles in total, including the allocation of spaces to the different uses hereby permitted, shall be submitted to and approved in writing by the local planning authority. The approved cycle storage facilities shall be provided prior to the first occupation of the relevant part of the development, and shall be permanently retained and maintained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of Policies CS11 and DP17 of the Local Development Framework.

- 7 Prior to the commencement of development, details of waste storage and removal shall be submitted to and approved in writing by the local planning authority, and development shall be carried out in accordance with the approved details.

Reason: To safeguard the amenities of the neighbouring premises and the area generally in accordance with the requirements of Policies CS5, CS7, DP26, DP28 and DP12 of the Local Development Framework.

- 8 Prior to the commencement of development, sample panels of the facing brickwork showing the brick type, face bond, and pointing for all relevant new and altered brickwork facades shall be submitted to and approved in writing by the local planning authority, and the sample shall be retained on site for the duration of the building works. Development shall be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of Policies CS14, DP24 and DP25 Local Development Framework.

- 9 Detailed drawings (plans, elevations and sections as appropriate) at a scale of 1:10 and/or 1:20 in respect of the following items shall be submitted to and approved in writing by the local planning authority before the relevant part of the building work is begun: a) the new roof extensions; b) new slab levels of the building in relation to surrounding land; c) typical details of the new shop-fronts; d) all new external doors and windows; e) new rainwater pipes and gutters; f) the replacement glass within the existing arches in Shorts Gardens, demonstrating the relationship with the brick surrounds. Development shall be carried out in accordance with the approved details

Reason: To safeguard the amenities of the neighbouring premises and the area generally in accordance with the requirements of Policies CS5, CS7, DP26, DP28 and DP12 of the Local Development Framework.

- 10 The class D1 and/or D2 uses hereby permitted shall only be operated between the following times: 08.00 -17.00 hrs. Sundays and Bank Holidays; 0800 -22.30 hrs. Mondays-Thursdays; and 08.00-23.30 hrs. Fridays and Saturdays, and on any day all visiting clients/customers shall have left the premises by the later specified time

Reason: To safeguard the amenities of neighbouring premises and the area generally, in accordance with the requirements of Policies CS5 and DP26 of the Local Development Framework.

- 11 Prior to the commencement of development, details of a management plan for the basement use(s), specifying the capacity (persons), access arrangements (including locations of entrance and exits), and management of persons entering and leaving the building, shall be submitted to and approved in writing by the local planning authority, and the basement uses shall thereafter be operated in accordance with the approved details. The plan shall include measures for the avoidance of queuing on the public highway in Shorts Gardens and surrounding streets.

Reason: To safeguard the amenities of neighbouring premises and the area generally, in accordance with the requirements of Policies CS5 and DP26 of the Local Development Framework.

- 12 No external doors other than fire doors shall open onto the public highway.

Reason: To safeguard the amenities of neighbouring premises and the area generally, in accordance with the requirements of Policies CS5 and DP26 of the Local Development Framework.

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

Original Plans (as 2008/1401/P, as set out in s96a application 2012/2059/P, approved 23rd May 2012):

Existing Site Location Plan 353 100 A, Proposed Site Location Plan 353/P/101 A; 400/P/155 A; -156A; -157 E; -158 A; -159 A; -160 A; -161 A; -162 B; -163 B; -164 B; -165 B; -205 A; -206 A; -207 B; -208 A; -209 A; -210 A; -211 A; -212 A; -213 A; -300 A; -301 A; -400 A; -401 A; -402 A; -403 A; -404 A; -405 A; -406 A; -407 A; -410 A; -411 A; -412 A; -413 A; -414 A; -415 A; -450; -451; -452; -453; -454; -455; -456; -457; -460; -461; -462; -463; -464; Planning Statement, prepared by Nathaniel Lichfield & Partners (12 March 2008); Transport Statement, prepared by Waterman Boreham Transport Planning (20 November 2008); Background Noise Assessment, prepared by Fulcrum consulting and Fleming and Barron, Issue D (12 November 2008); Transformer Noise Assessments, prepared by Fulcrum consulting and Fleming & Barron, (Shorts Gardens Wing Issue A 23/02/2007) (Transformer Noise Assessment Issue A 23/02/2007); Daylight & Sunlight Assessment, prepared by Brooke Vincent and Partners (22 January 2008); Design and Access Statement, prepared by Wilkinson Eyre Architects (November 2008); Construction Management Plan, prepared by Anser (published 16 October 2006, printed 12 September 2008); Covering Letter, prepared by Nathaniel Lichfield & Partners (12/03/2008); Service Management Plan, prepared by Waterman Boreham Ltd (26/03/2009).

Revised, updated plans & information:

Viability Report (Strutt & Parker April 2012), Energy Report & BREEAM 2011 New Construction Prediction (Both RYBKA, May 2012).

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

- 14 Details of measures incorporated within the approved development in order to provide access for ambulant disabled employees and visitors to the application site premises shall be submitted to and approved in writing prior to the commencement of development, and thereafter retained.

Reason: To ensure that the internal layout of the building is acceptable with regards to accessibility by future occupiers and their changing needs over time, in accordance with the requirements of Policies CS6 and DP6 of the Local Development Framework.

Informative(s):

- 1 The Mayor of London introduced a Community Infrastructure Levy (CIL) to help pay for Crossrail on 1st April 2012. Any permission granted after this time which adds more than 100sqm of new floorspace or a new dwelling will need to pay this CIL. It will be collected by Camden on behalf of the Mayor of London. Camden will be sending out liability notices setting out how much CIL will need to be paid if an affected planning application is implemented and who will be liable.

The proposed charge in Camden will be £50 per sqm on all uses except affordable housing, education, healthcare, and development by charities for their charitable purposes. You will be expected to advise us when planning permissions are implemented. Please use the forms at the link below to advise who will be paying the CIL and when the development is to commence. You can also access forms to allow you to provide us with more information which can be taken into account in your CIL calculation and to apply for relief from CIL.

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

We will then issue a CIL demand notice setting out what monies needs to paid when and how to pay. Failure to notify Camden of the commencement of development will result in a surcharge of £2500 or 20% being added to the CIL payment. Other surcharges may also apply for failure to assume liability and late payment. Payments will also be subject to indexation in line with the construction costs index.

Please send CIL related documents or correspondence to [CIL@Camden.gov.uk](mailto:CIL@Camden.gov.uk)

- 2 You are advised that if implemented, the alternative use permission hereby granted gives flexibility of use for 10 years from the date of this permission. After 10 years the lawful use would revert to whichever of the uses is taking place at the time.
- 3 Reasons for granting Planning Permission.

The proposed development is in general accordance with the London Borough of Camden Local Development Framework Core Strategy with particular regard to Policies CS1 (Distribution of growth), CS5 (Managing the impact of growth and development), CS7 (Promoting Camden's centres and shops), CS8 (Promoting a successful and inclusive Camden economy), CS9 (Achieving a successful Central London), CS11 (Promoting sustainable and efficient travel), CS13 (Tackling climate change through promoting higher environmental standards), CS14 (Promoting high quality places and conserving our heritage), CS17 (Making Camden a safer place), CS18 (Dealing with waste and encouraging recycling), CS19 (Delivering and monitoring the Core Strategy) and with the London Borough of Camden Local Development Framework Development Policies with particular regard to DP1 (Mixed use development), DP10 (Helping small and independent shops), DP12 (Managing impact of food and drink uses), DP13 (Employment premises & sites), DP16 (Transport implications of development), DP17 (Walking, cycling and public transport), DP18 (Parking standards and limiting the availability of car parking), DP20 (Movement of goods and materials), DP22 (Promoting sustainable design and construction), DP24 (Securing high quality design), DP25 (Conserving Camden's heritage), DP26 (Managing the impact of development on occupiers and neighbours), DP28 (Noise and vibration), DP29 (Improving access).

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

Yours faithfully

**DECISION**

Culture and Environment Directorate  
(Duly authorised by the Council to sign this document)

DATED

25TH FEBRUARY

2014<sup>3</sup>

**(1) SHORTS GARDENS LLP**

-and-

**(2) THE ROYAL BANK OF SCOTLAND PLC**

-and-

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

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