

DATED

23 NOVEMBER

2012

(1) NICHOLAS BARTHOLOMEW EZIEFULA

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 1st October 2008
between

the Mayor and the Burgesses of the London Borough of Camden
and
Nicholas Bartholomew Eziefula

under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as

11-13 Camden High Street
London
NW1 7JE

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 5647
Fax: 020 7974 1920

CLS/PK/1685.0_2011/5272/P_FINAL

THIS AGREEMENT is made on the 23rd day of November 2012

BETWEEN

1. **NICHOLAS BARTHOLOMEW EZIEFULA** of 11 and 13 Camden High Street, London, NW1 7JE (hereinafter called "the Owner") of the first part
2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second part

WHEREAS:

- 1.1 The Council and Nicholas Bartholomew Eziefula entered into an Agreement dated 1st October 2008 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 of the Property with Title Absolute under title numbers NGL702496 and NGL373300 and leasehold proprietor with Title Absolute of part of the Property under title number NGL696857.
- 1.3 The Owner is the freehold owner of the Property and leasehold owner of part of the Property 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 Agreement.
- 1.5 A new Planning Application in respect of the Property and to amend the Original Planning Permission was submitted to the Council by the Owner and validated on 7th November 2011 for which the Council resolved to grant permission conditionally under reference 2011/5272/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 1st October 2008 made between the Council and Nicholas Bartholomew Eziefula

2.3.3 "the Original Planning Permission" the planning permission granted by the Council on 1st October 2008 referenced 2007/2197/P allowing the extensions and alterations, including the installation of a new shopfront, erection of a mansard roof extension and rear extensions at basement and ground (for additional retail floorspace) floor levels and at first and second floor levels with terrace, to

provide additional floorspace in connection with the creation of 6 self-contained flats.

- 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 "Development" variation of planning permission dated 1st October 2008 granted under reference number 2007/2197/P (extensions and alterations, including the installation of a new shopfront, erection of a mansard roof extension and rear extensions at basement and ground (for additional retail floorspace) floor levels and at first and second floor levels with terrace, to provide additional floorspace in connection with the creation of 6 self-contained flats) to provide enlargement of rear first and second floor level extensions and alterations to the design of the proposed new shopfront as shown on drawing numbers Site Location Plan (1:1250); 0001/01;

0001/02; 0001/03; 0001/09; 0001/11; 0001/13;
0001/14.

- 3.1.2 "Planning Permission" the planning permission under reference number 2011/5272/P to be issued by the Council in the form of the draft annexed hereto
- 3.1.3 "Planning Application" the application for Planning Permission in respect of the Property submitted on 18th October 2011 by the Owner and given reference number 2011/5272/P
- 3.2 Clause 4.2 in the Existing Agreement shall be deleted and replaced with the following:
- 4.2 **Completion of Development**
- 4.2.1 To ensure that the Completion Date of the Development is within 6 months of the date hereof (which for the avoidance of doubt is...23 MAY 2013.....) and to obtain the Certificate of Practical Completion save only that if the completion of the Development by such date becomes impossible by reason of circumstances beyond the control of the Owner the date for completion may be such later date as may be agreed in writing by the Council having regard to the circumstances.
- 3.3 The following sub-clause shall be added to **Clause 4 (Obligations of the Owner)** of the Existing Agreement:-
- 4.6 **Flat Roof at Rear First-Floor Level**
- Not to access or use (or permit access to or use of) the first-floor level flat roof to the rear of the Development (other than those areas shown on the drawings approved under the Planning Permission to provide private amenity space for the first floor flats A and B) for any purpose whatsoever other than for maintenance work.
- 3.4 The words "2007/2197/P" in clause 5.2 of the Existing Agreement shall be deleted and replaced with "2011/5272/P".
- 3.5 The words "2007/2197/P" in clause 6.1 of the Existing Agreement shall be deleted and replaced with "2011/5272/P".

Mr Uzoma Eziefula
15 Camden High Street
London
NW1 7JEApplication Ref: **2011/5272/P**

1 October 2012

Dear Sir/Madam

DRAFT
FOR INFORMATION ONLY - NOT A FORMAL DECISION
Town and Country Planning Act 1990 (as amended)**DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT**Address:
**11-13 Camden High Street
London
NW1 7JE**

Proposal:

DECISION
Amendments to planning permission granted 01/10/09 (Ref: 020/09/017/P) for extensions and alterations, including the installation of a new shopfront, creation of a mansard roof extension and rear extensions at basement and ground (for additional retail floorspace) floor levels and at first and second floor levels with terrace, to provide additional floorspace in connection with the creation of 6 self-contained flats, namely, enlargement of rear first and second floor level extensions and alterations to the design of the proposed new shopfront.

Drawing Nos: Site Location Plan (1:1250); 0001/01; 0001/02; 0001/03; 0001/09; 0001/11; 0001/13; 0001/14.

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 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 CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: 0001/01; 0001/02; 0001/03; 0001/09; 0001/11; 0001/13; 0001/14; 0001/15; 0001/16; 0001/17; 0001/18; 0001/19; 0001/20; 0001/21; 0001/22; 0001/23; 0001/24; 0001/25; 0001/26; 0001/27; 0001/28; 0001/29; 0001/30; 0001/31; 0001/32; 0001/33; 0001/34; 0001/35; 0001/36; 0001/37; 0001/38; 0001/39; 0001/40; 0001/41; 0001/42; 0001/43; 0001/44; 0001/45; 0001/46; 0001/47; 0001/48; 0001/49; 0001/50; 0001/51; 0001/52; 0001/53; 0001/54; 0001/55; 0001/56; 0001/57; 0001/58; 0001/59; 0001/60; 0001/61; 0001/62; 0001/63; 0001/64; 0001/65; 0001/66; 0001/67; 0001/68; 0001/69; 0001/70; 0001/71; 0001/72; 0001/73; 0001/74; 0001/75; 0001/76; 0001/77; 0001/78; 0001/79; 0001/80; 0001/81; 0001/82; 0001/83; 0001/84; 0001/85; 0001/86; 0001/87; 0001/88; 0001/89; 0001/90; 0001/91; 0001/92; 0001/93; 0001/94; 0001/95; 0001/96; 0001/97; 0001/98; 0001/99; 0001/100.

Reason:

For the avoidance of doubt, the development shall be carried out in accordance with the approved plans.

- 3 A sample panel of the facing brickwork demonstrating the proposed colour, following a soot wash being applied to the rear elevation of the building, shall be provided on site and approved by the Council. The colouring shall then be applied in accordance with the approved details prior to occupation of the residential units.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 4 1.8 metre high screens, details of which shall have been submitted to and approved by the Council, shall be erected on the northern and southern boundaries of the balconies at rear first and second floor levels [four screens in total] prior to the first occupation of any of the new flats on these floors, and the screens shall be permanently retained and maintained thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 5 Details of the sedum roofs, including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long-term viability of the green roof, and a programme for a scheme of maintenance, shall be submitted to and approved by the Council prior to occupation of the residential units. Thereafter, the green roof shall be fully provided in accordance with the approved details, and permanently retained and maintained in accordance with the approved scheme of maintenance.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies

CS13, CS15 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

- 6 Details of the proposed security shutters to the shopfront shall be submitted to and approved in writing by the Council prior to occupation of the development. The security shutters shall thereafter be installed in accordance with the details thus approved.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 7 The first floor level flat (to the rear of the property) (other than those areas shown on the drawings hereby approved enclosed to provide private amenity space for the First Floor Flats A and B) shall not be accessed or used for any purpose other than for maintenance or in the event of an emergency.

Reason: In order to prevent unreasonable overlooking and disturbance to neighbouring premises in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which 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, Argyle Street WC1H 8EQ, (tel: 020-7974 2363).
- 2 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 Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> 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.
- 3 Reasons for granting permission.

The proposed development is in general accordance with the London Borough of Camden Local Development Framework Core Strategy, with particular regard to policies CS3 (Other highly accessible areas); CS5 (Managing the impact of growth and development); CS6 (Providing quality homes); CS14 (Promoting high quality places and conserving our heritage) and the London Borough of Camden Local Development Framework Development Policies, with particular regard to policies DP2 (Making full use of Camden's capacity for housing); DP5 (Homes of different sizes); DP6 (Lifetime homes and wheelchair housing); DP10 (Helping and promoting small and independent shops); 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) and DP30 (Shopfronts). For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officers report.

- DRAFT**
- 4 The Olympic Route Network (ORN) and Paralympic Route Network (PRN) will operate during the Olympic and Paralympic Games period between June and September 2012. During this period, there will be an impact on construction works, utility works and highway licensed activities (for example, skips and building materials) if they affect the roads designated as a part of the ORN/PRN and some of the surrounding streets. Other routes might also be affected and will also be required to be clear of any kinds of obstruction. These are not yet finalised, but will be advised as further information becomes available. Given this, highway works and licences could therefore be affected on occasions during the Games period. Requests to utility providers to provide any additional water, gas, electricity or telecommunications connections should also be made sufficiently well in advance of this period.

DECISION

This note is for information only and does not constitute a legal right to the legal rights of the ODA or any other relevant authority, whether under the London Olympic Games and Paralympic Games Act 2006, planning, traffic or highway legislation or otherwise. Further information and the latest news on the ORN and PRN can be found on the London 2012 website at <http://www.london2012.com/olympic-route-network/home.html>.

- 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 reminded that the property has approval for permanent residential accommodation (Class C3). Any alternative use of the residential units for temporary accommodation, i.e. for periods of less than 90 days for tourist or short term lets etc, would constitute a material change of use and would require a further grant of planning permission.
- 7 You are advised in respect of condition 8 that the Development Control Committee

requested that the security shutters should be of an open lattice design and that solid roller shutters would not be acceptable as they would be detrimental to appearance of the building and the conservation area contrary to adopted planning policies.

Yours faithfully

Culture and Environment Directorate

DRAFT

DECISION

DATED

23 NOVEMBER

2012

(1) NICHOLAS BARTHOLOMEW EZIEFULA

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 1st October 2008
between

the Mayor and the Burgesses of the London Borough of Camden
and
Nicholas Bartholomew Eziefula

under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as

11-13 Camden High Street
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