

DATED

13 December

2012

(1) SAU CHUN CHEUNG

and

(2) THE BANK OF EAST ASIA LIMITED

and

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

A G R E E M E N T

relating to land known as

123 Castlehaven Road, London NW1 8SJ

pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

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

Tel: 020 7974 5826

Fax: 020 7974 1920

G:\case files\culture & env\planning\al\s106 Agreements\123 Castlehaven Road
CLS/COM/AL/1685.1573
final 20.11.12

THIS AGREEMENT is made the 13th day of December 2012

B E T W E E N:

1. **SAU CHUN CHEUNG** of 121 Castlehaven Road, London NW1 8SJ (hereinafter called "the Owner") of the first part
2. **THE BANK OF EAST ASIA LIMITED** whose registered office is at 10 Des Voeux Road, Central Hong Kong and whose address for service in the United Kingdom is 75 Shaftesbury Avenue, London W1V 8BB (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

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 NGL208770 subject to a charge to the Mortgagee. The Owner is the freehold Owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.2 A Planning Application for the development of the Property was submitted to the Council and validated on 1 May 2012 and the Council resolved to grant permission conditionally under reference number 2012/2095/P subject to the conclusion of this legal Agreement.
- 1.3 The Council is the local planning authority for the purposes of the Act 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.

1.6 The Bank of East Asia Limited as mortgagee under a legal charge registered under Title Number NGL208770 and dated 9 September 1998 is willing to enter into this Agreement to give its consent to the same.

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" Retention of 2 x two bedroom self-contained flats at first and second floor levels as replacement for three bedroom maisonette including the replacement of existing windows with uPVC framed windows (Class C3) as shown on drawing numbers Location Plan (121CHR.001);121CHR- 02; 121CHR-03; 121CHR-04; 121CHR-05; 121CHR-06; 121CHR-07; 121CHR-08 Rev 1; 121CHR- 012; 121CHR-013; 121CHR-014 Rev 1; 121CHR-015; 121CHR-016; 121CHR-017 Rev 1; 121CHR-018 Rev1.
- 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 "the Nominated Unit" the residential unit on the second floor known as Flat 2, 123 Castlehaven Road forming part of the Development as shown outlined in red on Plan 121CHR-014 rev 01 annexed hereto
- 2.6 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.7 "the Parties" mean the Council, the Owner and the Mortgagee
- 2.8 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 1 May 2012 for which a resolution to grant permission has been passed conditionally under reference number 2012/2095/P subject to conclusion of this Agreement
- 2.9 "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
- 2.10 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.11 "the Property" the land known as 123 Castlehaven Road, London NW1 8SJ the same as shown shaded grey on the plan annexed hereto

- 2.12 "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
- 2.13 "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

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 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 or interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7, 8 and 9 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 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

- 4.1 The Owner hereby covenants with the Council to ensure that prior to occupying the Nominated Unit forming part of the Development each new resident of the Nominated Unit 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 be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.
- 4.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1 above will remain permanently.
- 4.3 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 Nominated Unit forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying the Nominated Unit that in the Owner's opinion are affected by the Owner's obligation in Clause 4.1 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 2012/2095/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, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 2012/2095/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 nor the Mortgagee nor their 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 or is modified (other than by agreement with or at the request of the Owner) this Agreement shall forthwith determine and cease to have effect and the Council will effect cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

7. **MORTGAGEE EXEMPTION**

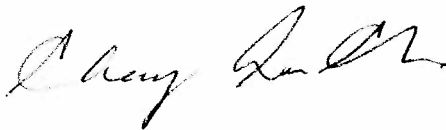
7.1 The Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 hereof and for the avoidance of doubt agrees to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.

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 and the Mortgagee have executed this instrument as their Deed the day and year first before written

**EXECUTED AS A DEED BY
SAU CHUN CHEUNG
in the presence of:**

)
)
) 



Witness Signature

A. Y. H. Lam
SOLICITOR


Witness Name:

LEE & KAN
National House, 2/F
60-66 Wardour Street,
London W1F 0TA


Address:

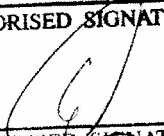
Occupation:

**FOR AND ON BEHALF OF
THE BANK OF EAST ASIA, LTD.**

**EXECUTED AS A DEED BY
THE BANK OF EAST ASIA LIMITED
by ✓ X
in the presence of:-** 

)
)
)
)



AUTHORISED SIGNATURE


AUTHORISED SIGNATURE

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

)
)
)
)



Authorised Signatory



123 Castlehaven Road,
London NW1 8SJ
2012/2095/P



This material has been reproduced from Ordnance Survey digital map data with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright.

Mr Samuel Cheung
45B Plover Way
Rotherithe
London
SE1 67TS

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

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

Application Ref: **2012/2095/P**

26 June 2012

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:
123 Castlehaven Road
London
NW1 8SJ

Proposal:

DECISION
Retention of 2 x two bedroom self-contained flats at first and second floor levels as replacement for three bedroom maisonette including the replacement of existing windows with uPVC framed windows and the creation of a roof terrace (Class C3).

Drawing Nos: Site Location Plan (121CHR-001); 121CHR-02; 121CHR-03; 121CHR-04; 121CHR-05; 121CHR-06; 121CHR-07; 121CHR-08 Rev 1; 121CHR-012; 121CHR-013; 121CHR-014 Rev 1; 121CHR-015; 121CHR-016; 121CHR-017 Rev 1; 121CHR-018 Rev1.

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 shall be carried out in accordance with the following approved plans: Site Location Plan (121CHR-001); 121CHR-02; 121CHR-03; 121CHR-04; 121CHR-05; 121CHR-06; 121CHR-07; 121CHR-08 Rev 1; 121CHR-012; 121CHR-013; 121CHR-014 Rev 1; 121CHR-015; 121CHR-016; 121CHR-017 Rev 1; 121CHR-018 Rev1.

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

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 CS5 (Managing the impact of growth and development); CS6 (Providing quality homes); CS11 (Pedestrian and cycling); CS14 (Promoting high quality places and conserving heritage / conservation areas); CS18 (dealing with waste) 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 (Housing size mix); DP6 (Lifetimes homes and wheelchair housing); DP17 (Walking, cycling and public transport); DP18 (Parking standards); DP19 (Impact of parking); DP24 (Securing high quality design) DP26 (Managing the impact of development on occupiers and neighbours) For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officers report.

- 4 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

- 5 You are reminded that this decision only grants permission 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.

Yours faithfully

Culture and Environment Directorate

DRAFT

DECISION

DATED

13 December

2012

(1) SAU CHUN CHEUNG

and

(2) THE BANK OF EAST ASIA LIMITED

and

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

A G R E E M E N T

relating to land known as

123 Castlehaven Road, London NW1 8SJ

**pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)**

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

Tel: 020 7974 5826

Fax: 020 7974 1920