

DATED

02 May

2014

(1) KINIATON CAPITAL LIMITED

-and-

(2) ABA COMMUNICATIONS (1997) LIMITED

-and-

(3) MIZRAHI TEFAHOT BANK LIMITED

-and-

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

FIRST DEED OF VARIATION

Relating to the Agreement dated 29 March 2012
Between the Mayor and the Burgesses of the
London Borough of Camden,
Kiniaton Capital Limited and ABA Communications (1997) Limited
and Mizrahi Tefahot Bank Limited
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
23a Hampstead Hill Gardens London NW3 2PJ

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

Tel: 020 7974 5680
Fax: 020 7974 1920

1685.2505



THIS AGREEMENT is made on the 02 day of may 2014

BETWEEN

1. **KINIATON CAPITAL LIMITED** (incorporated in the British Virgin Islands) of Vanterpool Plaza, Wickhams Cay, Road Town, Tortola, British Virgin Islands whose address for service in the UK is at 87 Wimpole Street London W1G 9RL (hereinafter called "the First Owner") of the first part
2. **ABA COMMUNICATIONS (1997) LIMITED** (incorporated in Israel) of 87 Wimpole Street, London W1G 9RL (hereinafter called "the Second Owner") of the second part
3. **MIZRAHI TEFAHOT BANK LIMITED** (incorporated in Israel, UK registration number FC011504) of 30 Old Broad Street, London EC2N 1HT (hereinafter called "the Mortgagee") of the third part
4. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the fourth part

WHEREAS:

- 1.1 The First Owner and Second Owner are registered at the Land Registry as the freehold proprietors with Title absolute of the Property under Title Number LN38783 subject to a charge to the Mortgagee.
- 1.2 The First Owner and the Second Owner are the freehold Owner of and are interested in the Property for the purposes of Section 106 of the Act.
- 1.3 The First Owner and Second Owner shall hereinafter be described and known as "the Owner".
- 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 23 December 2013 for which the Council resolved to grant permission conditionally under reference 2013/8020/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 First Deed of Variation

2.3.2 "Existing Agreement" the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 29 March 2012 made between the Council, Kiniaton Capital Limited and ABA Communications (1997) Limited and Mizrahi Tefahot Bank Limited

2.3.3 "the Original Planning Permission"

means the planning permission granted by the Council on 29 March 2012 referenced 2011/2956/P and 2011/3573/C allowing the erection of a replacement 2 storey dwellinghouse with enlarged lower ground level, plus forecourt parking, front lightwell and new boundary enclosure at front, and projecting balconies at rear, following demolition of existing dwelling house (Class C3) as shown on drawing numbers revised scheme Planning and Design Statement dated October 2011; revised scheme Sustainability Statement dated October 2011; Basement Impact Assessment report dated October 2011; tree survey report by Andrew Parry dated July 2007; letter on cherry tree from r.howorth surveyors dated 20th January 2011; site location plan; 0002A, 0003A, 0004A, 0101A, 0102A, 0103A, 0104A, 0201A; 1001A, 1002A, 1003A, 1004, 1101A, 1102A, 1103A, 1201A, 1301; draft Unilateral Undertaking dated 2011 between Kiniaton Capital Limited, ABA Communications 1997 Limited and Louise Goodwin Limited

- 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 the 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 Planning Application Development"

demolition of existing dwelling house and erection of a new 3 storey dwellinghouse with lower ground floor rear extension, ground and 1st floor roof terraces, plus forecourt parking, lightwell and new boundary enclosure at the front as shown on drawing numbers: Design and Access Statement 2013 Revision by 51% studios ltd; Sustainability Statement revised proposal dated December 2013 by Briary Energy; Regulation Compliance report dated 10.12.13; letter from Civic Trees dated 18.1.11; letter from r.howorth surveyors dated 20.1.11; landscape plan; site location plan; existing plans- 0002A, 0003A, 0004A, 0101A, 0102B, 0103A, 0104A, 0201A; proposed plans- 1001B, 1002C, 1003D, 1004C, 1101E, 1102D, 1103D, 1201D, 1104B, 1003B x 2 (ground and 1st floor accessible bathrooms)

3.1.2 "the Planning Permissions" the planning permission under reference number 2013/8020/P to be issued by the Council in the form of the draft annexed hereto

3.1.3 "the Planning Development Application" the application for Planning Permission in respect of the Property submitted on 23

December 2013 by the Owner and given
reference number 2013/8020/P

3.2 "2011/2956/P" in clause 5.2, 5.6 and 6.1 of the Existing Agreement shall be deleted and replaced with "2013/8020/P".

3.3 The draft planning permission reference 2013/8020/P annexed to this Agreement shall be treated as annexed to the Existing Agreement in addition to the existing annexures.

3.4 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 on behalf of)
KINIATON CAPITAL LIMITED)
a company incorporated in)
the British Virgin Islands by)
LIONEL GERALD CURRY)
and-)


.....
Authorized Signatory


being persons who in accordance)
with the laws of that territory are)
acting under the authority of)
the company)


.....
Authorized Signatory

EXECUTED as a Deed on behalf of)
ABA COMMUNICATIONS)
(1997) LIMITED)
a company incorporated in)
ISRAEL by LIONEL GERALD)
CURRY)
and-)

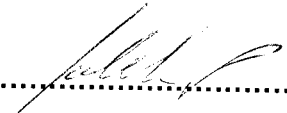

.....
Authorized Signatory

being persons who in accordance)
with the laws of that territory are)
acting under the authority of)
the company)


.....
Authorized Signatory

CONTINUATION DEED OF VARIATION IN RELATION TO 23A HAMPSTEAD HILL GARDENS LONDON NW3 2PJ

EXECUTED as a Deed on behalf of)
MIZRAHI TEFAHOT BANK LIMITED)
a company incorporated in)
ISRAEL by)
and)
being persons who in accordance)
with the laws of that territory are)
acting under the authority of)
the company)

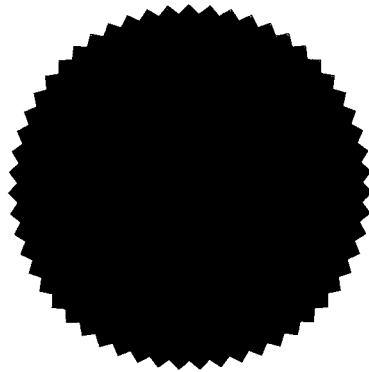

.....
Authorised Signatory

IAN R. ALSOP
HEAD OF CREDIT
AUTHORISED SIGNATORY


ULJANA KUZMIS
ACCOUNT RELATIONSHIP MANAGER
AUTHORISED SIGNATORY.....
Authorised Signatory

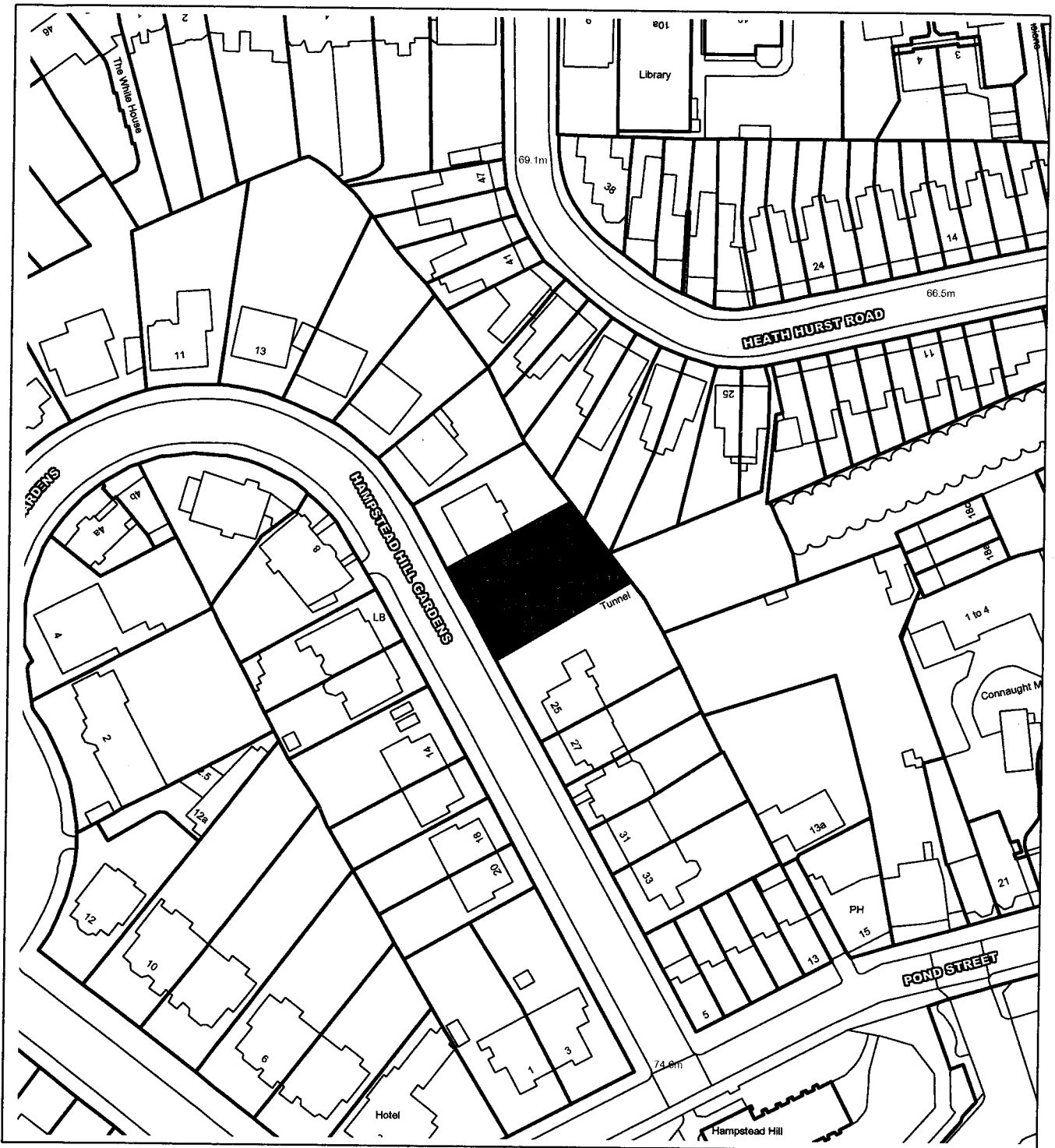
THE COMMON SEAL OF THE MAYOR)
AND BURGESSES OF THE LONDON)
BOROUGH OF CAMDEN)
was hereunto affixed by Order:)


.....
Duly Authorised Officer





23a Hampstead Hill Gardens London NW3 2PJ



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.



CgMs Consulting
14140 London Wall
London
EC2Y 5DNApplication Ref: **2013/8020/P**

14 April 2014

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:
23A Hampstead Hill Gardens
London
NW3 2PJProposal:
Demolition of existing dwelling house and erection of a new 3 storey dwellinghouse with lower ground floor rear extension, ground and 1st floor roof terraces, plus forecourt parking, lightwell and new boundary enclosure at the front.Drawing Nos: Design and Access Statement 2013 Revision by 51% studios ltd;
Sustainability Statement revised proposal dated December 2013 by Briary Energy;
Regulation Compliance report dated 10.12.13; letter from Civic Trees dated 18.1.11; letter from r.howorth surveyors dated 20.1.11; landscape plan; site location plan; existing plans- 0002A, 0003A, 0004A, 0101A, 0102B, 0103A, 0104A, 0201A; proposed plans- 1001B, 1002C, 1003D, 1004C, 1101E, 1102D, 1103D, 1201D, 1104B, 1003B x 2 (ground and 1st floor accessible bathrooms)**DECISION**
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- Design and Access Statement 2013 Revision by 51% studios ltd; Sustainability Statement revised proposal dated December 2013 by Briary Energy; Regulation Compliance report dated 10.12.13; letter from Civic Trees dated 18.1.11; letter from r.howorth surveyors dated 20.1.11; landscape plan; site location plan; existing plans- 0002A, 0003A, 0004A, 0101A, 0102B, 0103A, 0104A, 0201A; proposed plans- 1001B, 1002C, 1003D, 1004C, 1101E, 1102D, 1103D, 1201D, 1104B, 1003B x 2 (ground and 1st floor accessible bathrooms)

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

- 3 Detailed drawings in respect of the following shall be submitted to and approved in writing by the Council before the relevant part of the work is begun:
 - a) Plan, elevation and section drawings, including jambs, head and cill, of all new external windows and doors at a scale of 1:10 with typical glazing bar details at 1:1.
 - b) Typical details of new railings and balustrades at a scale of 1:10, including method of fixing.
 - c) Samples and manufacturer's details of new facing materials including brick and stonework, roof slates, windows and door frames, glazing, balconies, balustrades and any other facing materials.

The relevant part of the works shall be carried out 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 policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 4 A sample panel of the facing brickwork no less than 1m by 1m including junction with window opening, demonstrating the proposed colour, texture, face-bond, pointing, expansion joints and vertical and horizontal banding, shall be provided on site and approved by the Council before the relevant parts of the works are commenced and the development shall be carried out in accordance with the approval given. The sample panel shall be retained on site until the work has been completed.

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 policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 5 No lights, meter boxes, flues, vents or pipes, and no telecommunications equipment, alarm boxes, television aerials or satellite dishes shall be fixed or installed on the external face of the buildings, without the prior approval in writing of the local planning authority.

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 policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 6 No development shall take place until full details of hard and soft landscaping and means of enclosure of all un-built, open areas, including the front garden hedges and refuse stores, and details of Sustainable Urban Drainage Systems (SUDS) for all proposed hard surfaced areas have been submitted to and approved by the Council. Such details shall include details of any proposed earthworks including grading, mounding and other changes in ground levels. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To enable the Council to ensure a reasonable standard of visual amenity in the scheme in accordance with the requirements of policies CS14 and CS15 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23 and DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 7 All hard and soft landscaping works shall be carried out in accordance with the approved landscape details by not later than the end of the planting season following completion of the development or any phase of the development, whichever is the sooner. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the Council gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a high quality of visual amenity in the scheme in accordance with the requirements of policies CS14 and CS15 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 8 All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage to the satisfaction of the Council. Details shall be submitted to and approved by the Council before works commence on site to demonstrate how trees to be retained shall be protected during construction work: such details shall follow guidelines and standards set out in BS5837:2005 "Trees in Relation to Construction".

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policy CS15 of the London Borough of Camden Local Development Framework Core Strategy.

- 9 The development shall not be occupied until the whole of the car parking provision shown on the approved drawings is provided. Thereafter the whole of the car parking provision shall be retained and used for no purpose other than for the parking of vehicles of the occupiers and users of the development.

Reason: To ensure that the use of the premises does not add to parking pressures in surrounding streets which would be contrary to policies CS5 and CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 10 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the (No. 2) (England) Order 2008 or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A-H) and Part 2 (Classes A-C) of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the local planning authority.

Reason: To safeguard the visual amenities of the area and to prevent over development of the site by controlling proposed extensions and alterations in order to ensure compliance with the requirements of policies CS14 and CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 and DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 11 Before the development commences, the proposed refuse and cycle storage area in the front garden shall be provided in accordance with the plans approved and thereafter permanently maintained and retained.

Reason: To ensure the development provides adequate refuse and cycle storage facilities in accordance with the requirements of policies CS11 and CS18 of the London Borough of Camden Local Development Framework Core Strategy and policies DP17 and DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 12 A 1.7 metre high screen, details of which shall have been submitted to and approved in writing by the local planning authority, shall be erected on the south side of the proposed ground floor roof terrace prior to commencement of use of the roof terrace and shall be permanently retained thereafter.

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

- 13 The house shall not be occupied until all windows on the side elevation have been obscure glazed and fixed shut below a point 1.7m above finished floor level. The glazing shall be permanently retained and maintained as such thereafter.

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

- 14 The green roof on the proposed ground floor rear extension shall only be accessible for maintenance purposes and shall not be used as an amenity terrace.

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

- 15 Prior to the first occupation of the building, a plan showing details of the green roof (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 in writing by the local planning authority. The green roof shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme of maintenance.

Reason: To ensure that the green roof is suitably designed and maintained in accordance with the requirements of policies CS13, CS14, CS15 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23, DP24 and DP32 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 6941).

- 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 Your proposals may be subject to control under the Party Wall etc Act 1996 which covers party wall matters, boundary walls and excavations near neighbouring buildings. You are advised to consult a suitably qualified and experienced Building Engineer.
- 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 advised that the site overlays a railway tunnel and that you should consult Network Rail regarding any proposed excavations for the new house to ensure that such details of construction comply with their requirements. For further advice, contact Network Rail on email townplanningse@networkrail.co.uk or tel- 020 7904 7382.
- 6 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

- 7 You are advised that this proposal will be liable for the Mayor of London's Community Infrastructure Levy (CIL) as the additional floorspace exceeds 100sqm GIA or one unit of residential accommodation. Based on the Mayor's CIL charging schedule and the information given on the plans, the charge is likely to be £5550 (111sqm x £50). This amount is an estimate based on the information submitted in your planning application. The liable amount may be revised on the receipt of the Additional Information Requirement Form or other changing circumstances.

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

DECISION





DATED

02 May

2014

(2) KINIATON CAPITAL LIMITED

-and-

(2) ABA COMMUNICATIONS (1997) LIMITED

-and-

(3) MIZRAHI TEFAHOT BANK LIMITED

-and-

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

FIRST DEED OF VARIATION

Relating to the Agreement dated 29 March 2012
Between the Mayor and the Burgesses of the
London Borough of Camden,
Kiniaton Capital Limited and ABA Communications (1997) Limited
and Mizrahi Tefahot Bank Limited
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
23a Hampstead Hill Gardens London NW3 2PJ

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

Tel: 020 7974 5680
Fax: 020 7974 1920

1685.2505