

DATED

16 January

2015  
~~2014~~

**(1) GATEVILLE DEVELOPMENTS LIMITED**

-and-

**(2) GLADSTAR LIMITED**

-and-

**(3) COMMERCIAL ACCEPTANCES LIMITED**

-and-

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

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**FIRST DEED OF VARIATION**

Relating to the Unilateral Planning Obligation dated 2<sup>nd</sup> February 2014  
made by David Gordon  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
**61 – 63 HOLMES ROAD LONDON NW5 3AN**

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

Tel: 020 7974 5680  
Fax: 020 7974 1920

1685.2930



THIS AGREEMENT is made on the 16 day of January 2015  
~~2014~~

**BETWEEN**

1. **GATEVILLE DEVELOPMENTS LIMITED** (Co. Regn. No. 07693968) whose registered office is at 230b Golders Green Road London NW11 9AT (hereinafter called "the Owner") of the first part
2. **GLADSTAR LIMITED** of New Burlington House 1075 Finchley Road London NW11 0PU (hereinafter called "the First Mortgagee") of the second part
3. **COMMERCIAL ACCEPTANCES LIMITED** of 100 George Street London W1U 8NU (hereinafter called "the Second Mortgagee") of the third 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 fourth part

**WHEREAS:**

- 1.1 David Gordon provided to the Council a Unilateral Planning Obligation dated 2<sup>nd</sup> February 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 104689 subject to a charge to the First and Second 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 Agreement.
- 1.5 A new Planning Application in respect of the Property was submitted to the Council by the Owner to amend the Original Planning Permission. The Planning Application

was validated on 01 July 2014 for which the Council resolved to grant permission conditionally under reference 2014/3795/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 The First Mortgagee as mortgagee under a legal charge registered under Title Number 104689 and dated 9 November 2012 is willing to enter into this Agreement to give its consent to the same.
- 1.8 The Second Mortgagee as mortgagee under a legal charge registered under Title Number 104689 and dated 27 August 2013 is willing to enter into this Agreement to give its consent to the same.
- 1.9 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 Unilateral Planning Obligation made under the Town and Country Planning Act 1990 (as

amended) dated 2<sup>nd</sup> February 2012 by David Gordon

2.3.3 "the Original Planning Permission"

means the permission granted by the Secretary of State pursuant to an appeal referenced APP/X5210/A/11/2163152 on 12 March 2012 allowing the outline application for the erection of a 5 storey plus basement building comprising light industrial (Use class B1) at basement and ground floor levels and residential (Use class C3) at 1st, 2nd, 3rd and 4th floors (5 x 1bed and 3 x 2bed units) following demolition of existing building (application seeks permission for scale, layout and access only and not appearance of the building or landscaping) as shown on drawing numbers Site Location Plan; E-100; E-200; E-201; E-300; E-301; P-100; P-101 rev A; P-103 Rev A; P-104 Rev B; P105; P-106 rev A; P-107; P-108 rev A; P-109; Daylight and Sunlight assessment 14/08/2011; Groundwater screening flowchart; surface flow screening flowchart

- 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 First and Second 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 the development permitted by the Secretary of State pursuant to an appeal referenced APP/X5210/A/11/2163152 on 12/03/2012; the erection of mansard roof extension with front balcony and terrace, to create a 5th floor level and allow change of use of 2 x 1 bed flats to 2 x 2 bed flats, and associated installation of green roof, photovoltaic panels, glazed balustrades and screening as shown on drawing numbers 1214 PL-002, 1214-E-100, 1214-E-101, 1214-E-102, 1214-E-103, 1214-E-201, 1214-E-202, 1214-E-301, 1214 PL-610, 1214 PL-123A, 1214 PL-124A, 1214 PL-125A, 1214 PL-220A, 1214 PL-221A, 1214 PL-222B, 1214 PL-320B, REPORT No. E1049, produced by Site Sound Ltd, Daylight, Sunlight & Overshadowing Report, prepared by Syntegra Consulting Ltd, dated March 2014

3.1.2 "Planning Permission"

the planning permission under reference number 2014/3795/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 06 June 2014 by the Owner and given reference number 2014/3795/P

- 3.2 The following definitions shall be added to the Existing Agreement:-
- 3.2.1 "the Additional Education Contribution" the sum of £4,024.00 (four thousand and twenty four pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt for the provision of education needs arising in the London Borough of Camden
- 3.2.2 "the Additional Public Open Space Contribution" the sum of £2,871.00 (two thousand eight hundred and seventy one pounds) to be paid by Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt for the improvement maintenance and upkeep of existing public open spaces and/or nature conservation improvements to parks and open space and/or the obtaining of land to make public open spaces in the vicinity of the Development
- 3.2.3 First Deed of Variation the First Deed of Variation to this undertaking entered into in connection with the Planning Application
- 3.2.4 "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
- 3.2.5 "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

3.2.5 "the Sustainability Plan Addendum" a plan addendum to the Sustainability Plan secured in the Existing Agreement to secure compliance of the new roof extension with the measures in the approved Sustainability Plan

**3.3** The following clauses shall be added to the Existing Agreement;

**4.4 Education Contribution**

4.4.3 To pay to the Council the Additional Education Contribution in full on or prior to completion of the First Deed of Variation.

**4.5 Public Open Space Contribution**

4.5.3 To pay the Council the Additional Public Open Space Contribution in full on or prior to completion of the First Deed of Variation.

**4.6 Sustainability Plan**

4.6.5 To submit to the Council for approval the Sustainability Plan Addendum on or prior to completion of this First Deed of Variation.

4.6.6 Not to undertake any further work on the Development until the Sustainability Plan Addendum has been approved by the Council as demonstrated by written notice to that effect.

4.6.7 Not to Occupy or permit Occupation of the Property until a satisfactory post-completion review has been submitted to and approved by the Council in writing confirming that the measures incorporated in the Sustainability Plan Addendum, as approved by the Council have been incorporated into the Property.

4.6.8 Following the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Sustainability



Plan Addendum as approved by the Council and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Sustainability Plan Addendum.

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

**4. MORTGAGEE EXEMPTION**

4.1 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 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.

**5. PAYMENT OF THE COUNCIL'S LEGAL COSTS**

5.1 The Owner agrees to pay the Council (on or prior to completion of this Agreement) its reasonable legal costs incurred in preparing this Agreement

**6. REGISTRATION AS LOCAL LAND CHARGE**

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

**EXECUTED AS A DEED BY** )  
**GATEVILLE DEVELOPMENTS LIMITED** )  
acting by a Director

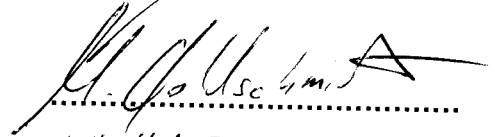
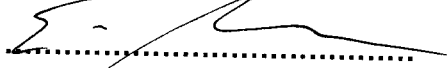
Director Name: (CAPITALS) )

Director Signature: )

in the presence of: )  
Witness Signature: )

Witness Name: (CAPITALS) )

ELI POSEN



MICHAEL GOLDSCHMIDT

Address:

) 58 DANESCROFT .....  
) NLY 2 QH .....  
) OFFICE ASSISTANT .....

Occupation:

EXECUTED AS A DEED by the )  
Attorney Authorised on behalf of )  
GLADSTAR LIMITED )

.....  
Duly Authorised Signatory

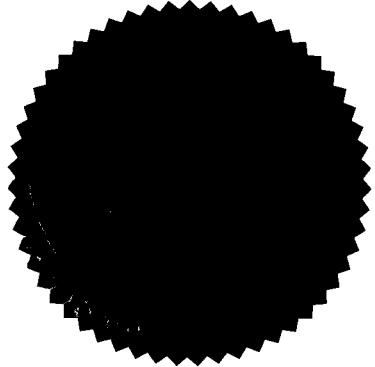
EXECUTED AS A DEED by the )  
Attorney Authorised on behalf of )  
COMMERCIAL ACCEPTANCES LIMITED )

.....  
Duly Authorised Signatory

THE COMMON SEAL OF THE MAYOR )  
AND BURGESSES OF THE LONDON )  
BOROUGH OF CAMDEN )

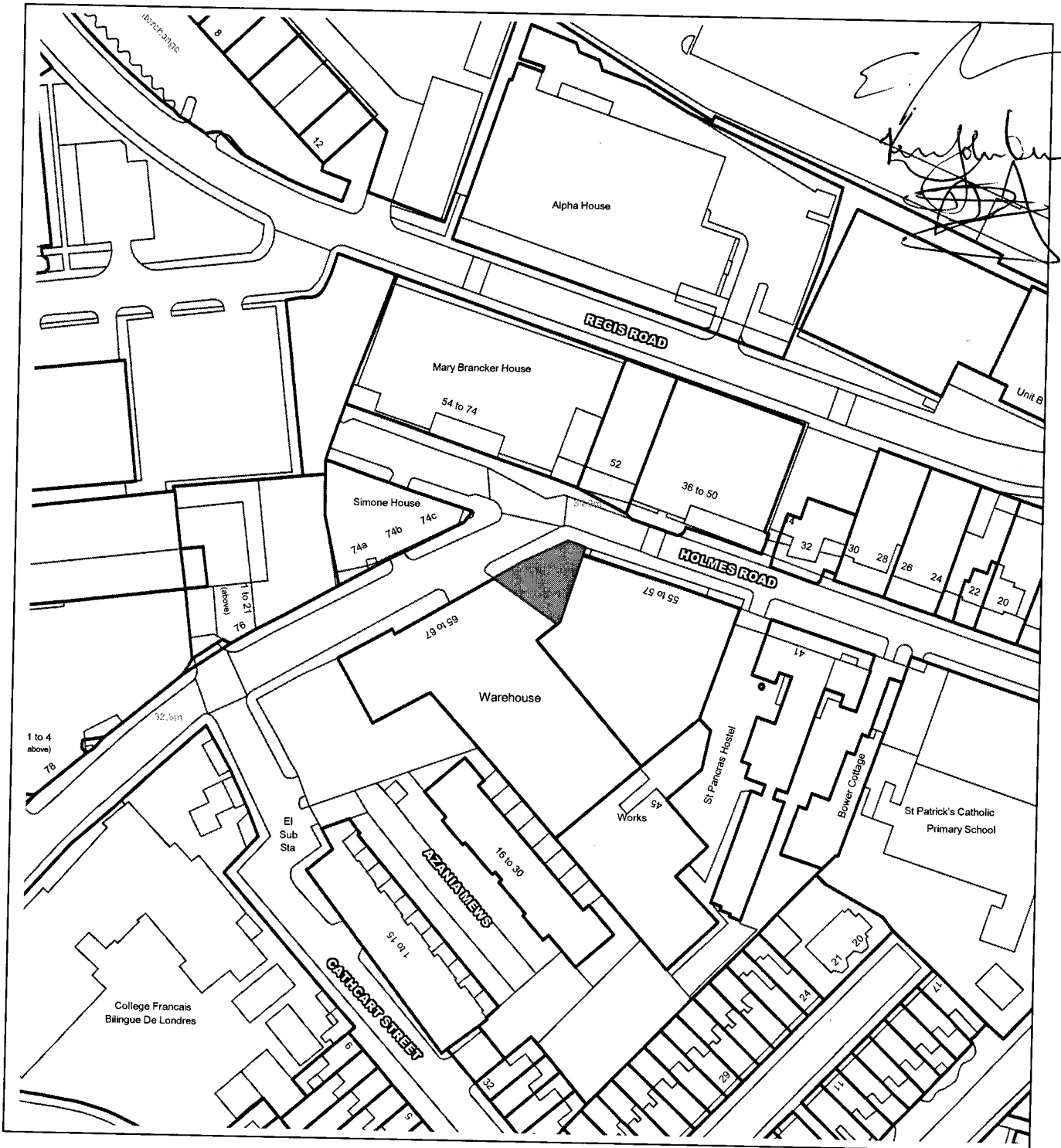
was hereunto affixed by Order:- )

R. Alexander .....  
Duly Authorised Officer



R. Alexander

# 61 – 63 Holmes Road London NW5 3AN



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Norton Mayfield Architects  
Harland Works  
Unit 7  
70 John Street  
Sheffield  
South Yorkshire  
S2 4QUApplication Ref: **2014/3795/P**

09 December 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:

**61 - 63 Holmes Road  
London  
NW5 3AN**

Proposal:

**DECISION**  
Erection of mansard roof extension with front balcony and terrace, to create a 5th floor level and allow change of use of 2 x 1 bed flats to 2 x 2 bed flats, and associated installation of green roof, photovoltaic panels, glazed balustrades and screening.

Drawing Nos: 1214 PL-002, 1214-E-100, 1214-E-101, 1214-E-102, 1214-E-103, 1214-E-201, 1214-E-202, 1214-E-301, 1214 PL-610, 1214 PL-123A, 1214 PL-124A, 1214 PL-125A, 1214 PL-220A, 1214 PL-221A, 1214 PL-222B, 1214 PL-320B, REPORT No. E1049, produced by Site Sound Ltd, Daylight, Sunlight &amp; Overshadowing Report, prepared by Syntegra Consulting Ltd, dated March 2014.

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 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 if in CA] of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans: 1214 PL-002, 1214-E-100, 1214-E-101, 1214-E-102, 1214-E-103, 1214-E-201, 1214-E-202, 1214-E-301, 1214 PL-610, 1214 PL-123A, 1214 PL-124A, 1214 PL-125A, 1214 PL-220A, 1214 PL-221A, 1214 PL-222B, 1214 PL-320B, REPORT No. E1049, produced by Site Sound Ltd, Daylight, Sunlight & Overshadowing Report, prepared by Syntegra Consulting Ltd, dated March 2014.

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

- 4 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 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.
- 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.

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







DATED

16 January

2015  
2014

**(1) GATEVILLE DEVELOPMENTS LIMITED**

-and-

**(2) GLADSTAR LIMITED**

-and-

**(3) COMMERCIAL ACCEPTANCES LIMITED**

-and-

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

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**FIRST DEED OF VARIATION**

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made by David Gordon  
under section 106 of the Town and  
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