

DATED

27 march

2015

**(1) LIONEL FABIEN FOURNIER and SARAH KATHRYN FOURNIER**

**and**

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

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**FIRST DEED OF VARIATION**

Relating to the Agreement dated 23 October 2014  
Between the Mayor and the Burgesses of the  
London Borough of Camden and Lionel Fabien Fournier and Sarah Kathryn Fournier  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
**5 KEMPLAY ROAD LONDON NW3 1TA**

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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



THIS AGREEMENT is made on the 27 day of March 2015

**BETWEEN**

1. **LIONEL FABIEN FOURNIER and SARAH KATHRYN FOURNIER** both of 5 Kemplay Road, London, NW3 1TA (together 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, Lionel Fabien Fournier and Sarah Kathryn Fournier entered into an Agreement dated 23 October 2014 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 NGL430720 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(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 02 December 2015 for which the Council resolved to grant permission conditionally under reference 2014/7389/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 31 October 2014 made between the Council, Lionel Fabien Fournier and Sarah Kathryn Fournier

2.3.3 "the Original Planning Permission" means the planning permission granted by the Council on 31 October 2014 referenced 2013/7906/P allowing the erection of a 2 storey plus basement dwelling with rear roof terrace, following the demolition of the existing dwelling as shown on drawing numbers Site Location Plan; 126 S1C; S2C; S3C; S5C; S6E; S8C; S9C; S11D; S12; S20A; S21A; S51B; S81; S91; SV2C; P2G; P3F; P1G; P4D; P5B; P6E; P7C; P8C; P9C; P11D; P15A; P81B; P91B; Design and Access Statement by TAG Architects Rev B

dated May 2014; design, Planning & Heritage Statement by Aragon Land and Planning Ltd; Ground Investigation Report by MRH Geotechnical dated September 2013; Construction and Method Statement by Trigram Partnership dated December 2013; Daylight & Sunlight Report by MES Energy Services dated 15th November 2013; Hydrogeological Review by Geotechnical Consulting Group dated December 2013; Sustainability Statement and Energy Report by MES Energy Services dated 02/09/2013; Transport Statement by TTP Consulting dated October 2013; Hydrogeological Review by Geotechnical Consulting Group dated 3rd June 2014; Groundwater Data 27/09/2013-30/04/2014

- 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 condition 2 (approved plans) of planning permission 2013/7906/P dated 23/10/2014 (for the erection of a 2 storey plus basement dwelling, following the demolition of the existing dwelling), namely enlargement of basement and addition of rear lightwell and ground floor rooflight as shown on drawing numbers Superseded drawings: P1G; P2G; P3F; P4D; P6E; P7C; P8C; P9C; SV2C; P91B; P81B; P11D; Design and Access Statement by TAG Architects Rev B dated May 2014; Hydrogeological Review by Geotechnical Consulting Group dated December 2013; Sustainability Statement and Energy Report by MES Energy Services dated 02/09/2013; Construction and Method Statement by Trigram Partnership dated December 2013; Drawings for approval: P13D; P2K; P3J; P43E; P6I; P71D; P82E; P93F; SV2E; P91D; P81D; P11H; P61C; P83D; Design and Access Statement Rev C dated November 2014; Hydrogeological Review by Geotechnical Consulting Group Revision 1 dated November 2014; Ground Movement Assessment by Geotechnical Consulting Group dated November 2014; Sustainability Statement and Energy Report by MES Energy Services Rev B dated 03/10/2014; Construction and Method Statement by Trigram Partnership dated November 2014

### 3.1.2 "Planning Permission"

the planning permission under reference number 2014/7389/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 27







# 5 KEMPLAY ROAD LONDON NW3 1TA



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Development Management**  
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www.camden.gov.uk/planning

Application Ref: **2014/7389/P**

12 March 2015

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:  
**5 Kemplay Road  
London  
NW3 1TA**

**DECISION**  
Proposal:

Variation of condition 2 (approved plans) of planning permission 2013/7906/P dated 23/10/2014 (for the erection of a 2 storey plus basement dwelling, following the demolition of the existing dwelling), namely enlargement of basement and addition of rear lightwell and ground floor rooflight.

Drawing Nos: Superseded drawings: P1G; P2G; P3F; P4D; P6E; P7C; P8C; P9C; SV2C; P91B; P81B; P11D; Design and Access Statement by TAG Architects Rev B dated May 2014; Hydrogeological Review by Geotechnical Consulting Group dated December 2013; Sustainability Statement and Energy Report by MES Energy Services dated 02/09/2013; Construction and Method Statement by Trigram Partnership dated December 2013; Drawings for approval: P13D; P2K; P3J; P43E; P6I; P71D; P82E; P93F; SV2E; P91D; P81D; P11H; P61C; P83D; Design and Access Statement Rev C dated November 2014; Hydrogeological Review by Geotechnical Consulting Group Revision 1 dated November 2014; Ground Movement Assessment by Geotechnical Consulting Group dated November 2014; Sustainability Statement and Energy Report by MES Energy Services Rev B dated 03/10/2014; Construction and Method Statement by Trigram Partnership dated November 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 Condition 2 of the planning permission granted on 23/10/2014 under reference number 2013/7906/P shall be replaced by the following condition:

**REPLACEMENT CONDITION 2**

The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 126 S00; S1C; S2C;S3C; S5C; S6E; S8C; S9C; S11D; S12; S20A; S21A; S51B; S81; S91; SV2E; P13D; P2K; P3J; P13D; P43E; P5B; P6I; P71D; P82E; P93F; P11H; P15A; P81D; P91D; P61C; P83D; Design and Access Statement by TAG Architects Rev C dated November 2014; Design, Planning & Heritage Statement by Aragon Land and Planning Ltd; Ground Investigation Report by MRH Geotechnical dated September 2013; Construction and Method Statement by Trigram Partnership dated November 2014; Daylight & Sunlight Report by MES Energy Services dated 15th November 2013; Hydrogeological Review by Geotechnical Consulting Group dated November 2014; Sustainability Statement and Energy Report by MES Energy Services Rev B dated 03/10/2014; Transport Statement by TTP Consulting dated October 2013; Hydrogeological Review by Geotechnical Consulting Group Revision 1 dated November 2014; Groundwater Data 27/09/2013-30/04/2014

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

Informative(s):

- 1 This approval under Section 73 of the 1990 Act effectively varying the relevant condition of the previous planning permission is subject otherwise to the same terms, drawings, conditions (and obligations where applicable) as attached to the previous planning permission. This includes condition 1 providing for a 3 year time period for implementation which for the avoidance of doubt commences with the date of the original decision (and not this variation).
- 2 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

**DRAFT**

**DECISION**





DATED

27 March

2015

**(1) LIONEL FABIEN FOURNIER and SARAH KATHRYN FOURNIER**

and

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

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**FIRST DEED OF VARIATION**

Relating to the Agreement dated 23 October 2014  
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