

DATED

21 August

2015

(1) PAICONOM PROPERTIES NOMINEE INC

and

(2) EFG PRIVATE BANK LIMITED

and

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

DEED OF VARIATION

Relating to the Agreement dated 29th July 2014
Between the Mayor and the Burgesses of the
London Borough of Camden,
Paiconom Properties Nominee Inc and EFG Private Bank Limited
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
14 Well Road, London, NW3 1LH

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

Tel: 020 7974 1918
Fax: 020 7974 2962

G:\case files\culture & env\planning\PM\S106 Agreements\14 Well Road (DoV)
CLS/COM/PM/1685.2388
DoV FINAL 100715

THIS DEED is made on the 21 day of August 2015

BETWEEN

- i. **PAICONOM PROPERTIES NOMINEE INC** of Kasper-Fenner-Strasse 6, CH-8700 Kuesnacht, Switzerland whose address for service in the UK is care of Martin Paisner, Berwin Leighton Paisner LLP, Adelaide House, London Bridge, London EC4R 9HA (hereinafter called "the Owner") of the first part
- ii **EFG PRIVATE BANK LIMITED** (Co. Regn. No. 2321802) of Leconfield House, Curzon Street, London W1J 5JB (hereinafter called "the Mortgagee") of the second part
- iii. **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

WHEREAS:

- 1.1 The Council the Owner and the Mortgagee entered into an Agreement dated 29th July 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 NGL401426 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 Deed.
- 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 22nd August 2014 for which the Council resolved to grant permission conditionally under reference 2014/5103/P subject to the conclusion of this Deed.

1.6 This Deed of Variation is made by virtue of the Town and Country Planning Act 1990 Section 106A (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 Deed 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 Deed.

2.2 All references in this Deed to clauses in the Existing Agreement are to clauses within the Existing Agreement.

2.3 Where in this Deed 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.

2.4 Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not be construed as part of this Agreement and shall not effect the construction of this Deed.

2.5 Unless the context otherwise requires references to the singular shall include the plural and vice versa.

2.6 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, and 6 hereof all of which shall come into effect on the date hereof

the covenants undertakings and obligations contained within this Deed shall become binding upon the Owner upon the Implementation Date.

2.7 References in this Deed to the Owner and Mortgagee shall include their successors in title.

2.8 In this Deed the following expression shall unless the context otherwise states have the following meaning now allocated to it.

2.8.1 "Deed" this Deed of Variation made pursuant to Section 106A of the Act

2.8.2 "Existing Agreement" the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 29th July 2014 made between the Council and the Owner and the Mortgagee

2.8.3 "the Original Planning Permission" means the planning permission and conservation area consent granted by the Council on 29th July 2014 referenced 2013/3998/P allowing the Erection of 3 storey dwelling (Class C3) following demolition of existing as shown on drawing numbers Site location Plan; (Prefix: 639/) 01 Rev A; 02 Rev B; 04; 05 Rev A; 06; 07; 08; 30 Rev H; 31 Rev N, 32 Rev J; 33 Rev E; 34 Rev H; 36 Rev H; 37 Rev B; 38 Rev D; 39 Rev D; 639/SK 00, 101 Rev A,102; Design and access statement by Philip Wagner Architects (including revised lifetime homes diagram); Tree report by Tree Projects Ltd dated June 2013; Code for Sustainable Homes Pre-assessment by

Mendick Waring Ltd dated May 2013;
Bat Survey; Draft Construction
Management Plan by Philip Wagner
Architects dated February 2014 (Ref:
140106/pwhamp)

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 29th July 2014 for the erection of 3 storey dwelling (Class C3) following demolition of existing, as shown on the following plans: Site Location Plan; 639/01; 639/02; 639/03; 639/04; 639/05; 639/06; 639/07; 639/08; 639/50; 639/51 Rev A; 639/52; 639/53; 639/54 Rev A; 639/55; 639/56; 639/57; 639/58; 639/59; Code for Sustainable Homes Pre-assessment, produced by Mendick Waring Ltd, dated June 2014; Bat Survey, produced by Arbtech; Construction Management Plan, by Motion, dated February 2014; Design and Access Statement, dated July 2014; Surface Flow and Flooding Screening Assessment; Groundwater Flow Screening Assessment; Tree report by Tree Projects Ltd dated June 2013; Bat Survey.

3.1.2 "Planning Permission" the planning permission for the Development under reference number

2014/5103/P granted 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 22nd August 2008 by the Owner and given reference number 2014/5103/P and 2013/4357/C subject to conclusion of this Agreement

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2013/3998/P" shall be replaced with "Planning Permission reference 2014/5103/P"

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

4. COMMENCEMENT

4.1 Without prejudice to the effect of Clause 3.5 in the Existing Agreement the provisions in this Deed shall take effect on the Implementation of the Planning Permission referenced 2014/5103/P.

5 PAYMENT OF THE COUNCIL'S LEGAL COSTS

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

6. REGISTRATION AS LOCAL LAND CHARGE

6.1 This Deed shall be registered as a Local Land Charge

7 REGISTRATION AT THE LAND REGISTRY

7.1 The parties to this Deed consent to the registration of a notice of this Deed in the Charges Register of the title to the Property

8 MORTGAGEE EXEMPTION

8.1 The Mortgagee hereby consents to the completion of this Agreement and agrees that the Owner of the Property shall be bound by it and consents to the same being registered at the Land Registry as provided in clause 7 hereof and for the avoidance of doubt agrees to be bound by the said obligations only if committed or continuing at a time when the Mortgagee is in possession of all or part of the Property.

IN WITNESS WHEREOF the Council and the Owner has caused their respective Common Seals to be affixed and the Mortgagee has caused this Deed to be executed as a Deed the day and year first above written.

EXECUTED as a Deed on behalf of
PAICONOM PROPERTIES PROPERTIES
NOMINEE INC a company
incorporated in BRITISH VIRGIN
ISLANDS by
(1) THOMAS MEIER
and
(2) MYRIAM RAIMONDI POTES ARENAS
being persons who in accordance
with the laws of that territory are
acting under the authority of
the company

(1)
Authorised Signatory
(2)
Authorised Signatory

EXECUTED as a Deed
By EFG PRIVATE BANK LIMITED
By (1)
(2)
in the presence of:-
FERHEEN PARKAR

(1) PHILIP AMPHLETT
(2) EDDY BREUER-WEIL

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

P Alexander
.....
Duly Authorised Officer



[THIS PAGE IS BLANK]

Philip Wagner Architects
5 Ladbroke Road
London
W11 3PA

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

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

Application Ref: **2014/5103/P**

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:
14 Well Road
London
NW3 1LH

PROPOSAL
Proposal:

Erection of 3 storey dwelling (Class C3) following demolition of existing.
Drawing Nos: Site Location Plan; 639/01; 639/02; 639/03; 639/04; 639/05; 639/06; 639/07;
639/08; 639/50; 639/51 Rev A; 639/52; 639/53; 639/54 Rev A; 639/55; 639/56; 639/57;
639/58; 639/59; Code for Sustainable Homes Pre-assessment, produced by Mendick
Waring Ltd, dated June 2014; Bat Survey, produced by Arbtech; Construction Management
Plan, by Motion, dated February 2014; Design and Access Statement, dated July 2014;
Surface Flow and Flooding Screening Assessment; Groundwater Flow Screening
Assessment; and Tree Report, produced by Tree Projects Ltd, dated June 2013.

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 A sample panel of the facing materials, demonstrating the proposed colour and texture, shall be provided on site and approved in writing by the local planning authority before the relevant parts of the works are commenced and the development shall be carried out in accordance with the approval given. The approved 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 policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The use of the roof as a terrace shall not commence until the screens, as shown on the approved drawings, has been constructed. The screens 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.

- 4 The window hereby approved in the ground floor flank elevation which is to face 15 Well Road, shall be obscure glazed and fixed shut and shall be permanently retained as such thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

- 5 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.

- 6 The lifetime homes features and facilities, as indicated on the drawings and documents hereby approved shall be provided in their entirety prior to the first occupation of any of the new residential units.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 of the London Borough of Camden Local Development Framework Development Policies.

- 7 All work shall be carried out in accordance with the relevant recommendations of British Standard 3998: 2010. (Recommendation for Tree Work)

Reason: To ensure the preservation of the amenity value and health of the tree(s).

- 8 The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; 639/01; 639/02; 639/03; 639/04; 639/05; 639/06; 639/07; 639/08; 639/50; 639/51 Rev A; 639/52; 639/53; 639/54 Rev A; 639/55; 639/56; 639/57; 639/58; 639/59; Code for Sustainable Homes Pre-assessment, produced by Mendick Waring Ltd, dated June 2014; Bat Survey, produced by Arbtech; Construction Management Plan, by Motion, dated February 2014; Design and Access Statement, dated July 2014; Surface Flow and Flooding Screening Assessment; Groundwater Flow Screening Assessment; and Tree Report, produced by Tree Projects Ltd, dated June 2013.

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

- 9 Before the development commences, details of the secure and covered cycle storage area for 2 cycles shall be submitted to and approved by the local planning authority. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and permanently retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 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.

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

21 August

2015

(1) PAICONOM PROPERTIES NOMINEE INC

and

(2) EFG PRIVATE BANK LIMITED

and

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

DEED OF VARIATION

Relating to the Agreement dated 29th July 2014
Between the Mayor and the Burgesses of the
London Borough of Camden,
Paiconom Properties Nominee Inc and EFG Private Bank Limited
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
14 Well Road, London, NW3 1LH
