

DATED

17th October

2015

(1) WX INVESTMENTS

-and-

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

**DEED OF VARIATION
UNDER S106A OF THE TOWN AND COUNTRY
PLANNING ACT 1990 (AS AMENDED)**

Relating to the Agreement dated 14 March 2012 between
the Mayor and the Burgesses of the London Borough of Camden and WX Investments
Limited

under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as

**THE OLD DAIRY
7 WAKEFIELD STREET
LONDON WC1N 1PG**

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

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CLS/COM/PM/1781.384
FINAL DoV 01.10.15



THIS DEED OF AGREEMENT is made on the 19th day of October 2015

BETWEEN

1. **WX INVESTMENTS LIMITED** (Co. Regn. No. 1937357) whose registered office is at Ground Floor 30 City Road London EC1Y 2AB (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 and WX Investments Limited entered into an Agreement dated 14 March 2012 pursuant to Section 106 of the Act.
- 1.2 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number NGL454091.
- 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 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 Deed.
- 1.5 The Application for Minor Material Amendments in respect of the Property to amend the Original Planning Permission was submitted to the Council by the Owner and validated on 12 March 2015 for which the Council resolved to approve conditionally under reference 2015/0825/P subject to the conclusion of this Deed.
- 1.6 This Deed is made by virtue of Section 106A of the Act 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 reference in this Deed to clauses in the Existing Agreement are to clauses within the Existing Agreement.

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

2.3.1 "Application for Minor Material Amendments"

the application for Minor Material Amendments in respect of the Property submitted to the Council and validated on 12 March 2015 for which a resolution to grant approval has been made conditionally by the Council under reference number 2015/0825/P subject to conclusion of this Deed

2.3.2 "Deed"

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

2.3.3 "Existing Agreement"

the Section 106 Agreement under the Act dated 14 March 2012 made between the Council and WX Investments Limited

2.4 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 Deed.

- 2.5 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 Deed and shall not effect the construction of this Deed.
- 2.6 Unless the context otherwise requires references to the singular shall include the plural and vice versa.
- 2.7 References in this Deed to the Owner shall include their successors in title.
- 2.8 If the approval of the Minor Material Amendments is quashed or expires before Implementation or is revoked this Deed shall cease to have effect.

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" Redevelopment of site to provide a mixed residential/commercial development in 2 blocks, comprising: 1102 sqm business space (Class B1) in 2x basement and 2 storey units at western end of site; 5 dwellinghouses (Class C3) in 5x basement and 2 storey units at eastern end of site, comprising of 1x 2-bedroom house with garden and 4x 3-bedroom houses with roof terraces; plus associated landscaping, courtyard servicing and vehicular access from Wakefield Street, and retention of existing northern boundary wall and gable end walls of warehouse adjoining Regent Square as shown on drawing numbers Site Location Plan; 1250-10-01, 2, 3, 4, 5, 6; 1250-11-001, 2C, 3C, 4C, 5B; 1250-12-001B, 2A, 3B, 4A; 1250-13-001B, 2B, 3B, 4B (all plans dated 10.02.2012); Doc 4-Planning, Design and Access Statement dated

November 2011, plus Appendix of photoviews;
Doc 5- Transport Statement dated October 2011; Doc 6- Sunlight and Daylight Report dated November 2011; Doc 7- Environmental Noise Survey & PPG24 Assessment report dated November 2011; Doc 8- Contamination Desktop Study dated November 2011; Doc 9- Arboricultural Report dated November 2011; Doc 10- Archaeological Desktop Assessment dated November 2011; Doc 11a- Sustainability Strategy dated November 2011; Doc 11b- Energy Strategy dated November 2011; Doc 12- Heritage Assessment dated November 2009; Doc 13- Affordable Housing Statement dated January 2012; Doc 14- Report on the Implications of the Proposed Development on St. Georges Garden Boundary Wall dated November 2011; Doc 15- Construction Management Plan dated November 2011; Doc 16- Basement Design Statement dated November 2011; as amended by the Minor Material Amendments

3.1.3 "Planning Permission" the Original Planning Permission as amended by the Minor Material Amendments given approval under reference number 2015/0825/P to be issued by the Council substantially in the form of the draft annexed hereto

3.1.4 Clause 2.15 (Education Contribution) of the Existing Agreement shall be deleted in its entirety and replaced with the following wording:

2.15 "the Education Contribution

the sum of £34,457 (thirty four thousand four hundred and fifty seven pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied

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

Application Ref: **2015/0825/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:

**The Old Dairy
7 Wakefield Street
London
WC1N 1PG**

Proposal:

DECISION

Variation of condition 25 (requiring development to be carried out in accordance with approved plans) attached to planning permission reference 2011/6032/P dated 14/03/12 (for redevelopment of site to provide a mixed residential/commercial development in 2 blocks, comprising Class B1 business space in two basement and 2 storey units at western end of site; Class C3 dwellinghouses in five basement and 2 storey units at eastern end of site; plus associated landscaping, courtyard servicing and vehicular access from Wakefield Street, and retention of existing northern boundary wall and gable end walls of warehouse adjoining Regent Square), namely to allow (as a Minor Material Amendment) change of use from 3 approved houses in centre of site to 8 new flats plus additional windows on rear and front facades, 3 reconfigured roof terraces, and associated enlarged cycle and refuse stores in communal yard.

Drawing Nos: superseded plans- 1250-11-2C, 3C, 4C, 5B; 1250-12-1B, 2A; 1250-13-2B, 4B (all plans dated 10.02.2012);
approved plans- 1250-11-002-PA01, 003-PA01, 004-PA01, 005-PA01; 1250-12-001-PA01, 002-PA01; 1250-13-002-PA01, 004-PA01, 006-PA01

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 For the purposes of this decision, condition no.25 of planning permission 2011/6032/P shall be replaced with the following condition:

REPLACEMENT CONDITION 25

The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; 1250-10-01, 2, 3, 4, 5, 6; 1250-11-001, 002-PA01, 003-PA01, 004-PA01, 005-PA01; 1250-12-001-PA01, 002-PA01, 3B, 4A; 1250-13-001B, 002-PA01, 3B, 004-PA01, 006-PA01 (all plans except PA01-suffixed ones are dated 10.02.2012); Doc 4- Planning, Design and Access Statement dated November 2011, plus Appendix of photoviews; Doc 5- Transport Statement dated October 2011; Doc 6- Sunlight and Daylight Report dated November 2011; Internal Daylight Assessment by XCO2 Energy dated February 2015; Doc 7- Environmental Noise Survey & PPG24 Assessment report dated November 2011; Doc 8- Contamination Desktop Study dated November 2011; Doc 9- Arboricultural Report dated November 2011; Doc 10- Archaeological Desktop Assessment dated November 2011; Doc 11a- Sustainability Strategy dated November 2011; Doc 11b- Energy Strategy dated November 2011; Doc 12- Heritage Assessment dated November 2009; Doc 14- Report on the Implications of the Proposed Development on St. Georges Garden Boundary Wall dated November 2011; Doc 15- Construction Management Plan dated November 2011; Doc 16- Basement Design Statement dated November 2011

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

- 2 Notwithstanding the details shown on the drawings hereby approved, details of the proposed cycle storage area for 20 cycles and of the proposed refuse storage area for 10 residential units shall be submitted to and approved by the Council. The approved facilities shall be provided in their entirety prior to the first occupation of any of the new units, and thereafter permanently maintained and retained.

Reason: To ensure the development provides adequate cycle parking and refuse storage facilities and to safeguard the amenities of the adjoining premises and the area generally, in accordance with the requirements of policies CS5, 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.

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).

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



by the Council in the event of receipt for the provision of education needs arising in the London Borough of Camden

3.2 The following definitions shall be added to the Existing Agreement:-

3.2.1 "Minor Material Amendments" shall mean the minor material amendments to the Development to allow for Variation of condition 25 (requiring development to be carried out in accordance with approved plans) attached to planning permission reference 2011/6032/P dated 14/03/12 (for redevelopment of site to provide a mixed residential/commercial development in 2 blocks, comprising Class B1 business space in two basement and 2 storey units at western end of site; Class C3 dwellinghouses in five basement and 2 storey units at eastern end of site; plus associated landscaping, courtyard servicing and vehicular access from Wakefield Street, and retention of existing northern boundary wall and gable end walls of warehouse adjoining Regent Square), namely to allow (as a Minor Material Amendment) change of use from 3 approved houses in centre of site to 8 new flats plus additional windows on rear and front facades, 3 reconfigured roof terraces, and associated enlarged cycle and refuse stores in communal yard as shown on drawing numbers:- superseded plans- 1250-11-2C, 3C, 4C, 5B; 1250-12-1B, 2A; 1250-13-2B, 4B (all plans dated 10.02.2012); approved plans- 1250-11-002-PA01, 003-PA01, 004-PA01, 005-PA01; 1250-12-001-PA01, 002-PA01; 1250-13-002-PA01, 004-PA01, 006-PA01

3.2.2 “the Original Planning Permission”

means the planning permission granted by the Council on 14 March 2012 referenced 2011/6032/P allowing Redevelopment of site to provide a mixed residential/commercial development in 2 blocks, comprising: 1102 sqm business space (Class B1) in 2x basement and 2 storey units at western end of site; 5 dwellinghouses (Class C3) in 5x basement and 2 storey units at eastern end of site, comprising of 1x 2-bedroom house with garden and 4x 3-bedroom houses with roof terraces; plus associated landscaping, courtyard servicing and vehicular access from Wakefield Street, and retention of existing northern boundary wall and gable end walls of warehouse adjoining Regent Square.

3.2.3 Clause 4.13 (Car Free obligation) continues to apply to the whole of the Development and to all owner / occupiers in the Development granted approval under the Planning Permission AND FOR THE AVOIDANCE OF ANY DOUBT shall include all owner / occupiers of any new units that are approved under the Minor Material Amendments with reference number 2015/0835/P.

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

4. PAYMENT OF THE COUNCIL'S LEGAL COSTS

4.1 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Deed on or prior to the date of completion of the Deed.

5. REGISTRATION AT HM LAND REGISTRY

5.1 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

Deed and the Existing Agreement (in compliance with clause 6.4 of the Existing Agreement which remains outstanding) 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 Deed and the Existing Agreement in the Charges Register of the title to the Property

6. REGISTRATION AS LOCAL LAND CHARGE

6.1 This Deed shall be registered as a Local Land Charge by the Council.


7. COMMENCEMENT

7.1 The provisions in this Deed shall take effect on the Council's approval of the Minor Material Amendments pursuant to the Application for Minor Material Amendments but for the avoidance of doubt without prejudice to the effect of Clause 3.5 in the Existing Agreement.


IN WITNESS WHEREOF the Council has caused its Common Seal to be hereunto affixed and the Owner have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY)
WX INVESTMENTS)
acting by a Director and its Secretary)
or by two Directors)

X 
.....
Director


.....
Director/Secretary

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


.....
Authorised Signatory



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DATED

19th October

2015

(1) WX INVESTMENTS

-and-

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

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