

Jonathan McClue,
Regeneration and Planning,
Development Management,
London Borough of Camden,
Town Hall,
Judd Street,
London WC1H 8ND

25th January 2016

Dear Jonathan,

Re: 195-199 Grays Inn Road, WC1X 8UL

2015/6408/P (Office and 2 flats) and 2015/6409/P (4 flats).

I attach two unilateral S106 agreements, one being in relation to each of the above two applications. These deal with agreements for car free development.

We note that the refusal notice in relation to the previous application refers to two S106 requirements, agreement on car free development (Reason for refusal No.2) and agreement on provision of securing a design stage and post construction stage sustainability review confirming that Code 4 is achievable (Reason for refusal No3)

However, we believe that any requirement for the provision of securing a design stage and post construction stage sustainability review should be done by means of condition, rather than by S106 obligation. This is done in other London Boroughs, as is required to be done by the National Planning Policy Framework at para 203. This confirms that "*Local planning authorities should consider whether otherwise unacceptable obligations should only be used where it is not possible to address unacceptable impacts through a planning condition*" – Please refer Camden to the government planning advisory service at http://www.pas.gov.uk/3-community-infrastructure-levy-cil/-/journal_content/56/332612/4090701/ARTICLE#sthash.sG4bnSL3.dpuf. If there is any reason why any energy or sustainability review could not effectively be done by condition, then please let me know. In any event, the Code of Sustainable Homes has been withdrawn and so any reference to that inappropriate.

I look forward to hearing from you.

Kind regards



Paul Whitley
Director
European Urban Architecture Limited

195-199 Grays Inn Road
London WC1X 8UL
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DATED

**PLANNING OBLIGATION BY WAY OF UNILATERAL UNDERTAKING UNDER
SECTION 106 OF THE TOWN & COUNTRY PLANNING ACT 1990
RELATING TO LAND AT 195,197 AND 199 GRAYS INN ROAD, LONDON,
WC1X 8UL**

between

195-199 GRAYS INN ROAD LIMITED

and

THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN

and

B M SAMUELS FINANCE GROUP PLC

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THIS DEED is dated

2016

- (1) **195-199 GRAYS INN ROAD LIMITED** incorporated and registered in England and Wales with company number 08792948 whose registered office is at 195-199 Grays Inn Road, London, WC1X 8UL (**Owner**)
- (2) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (**Council**).
- (3) **B.M. SAMUELS FINANCE GROUP PLC** incorporated and registered in England and Wales with company number 01055337 whose registered office is at 302-308 Preston Road, Harrow, Middlesex, HA3 0QP (**Mortgagee**)

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Property is situated.
- (B) The Owner owns the Property subject to a mortgage in favour of the Mortgagee.
- (C) The Owner has made the Planning Application and is proposing to carry out the Development.
- (D) The Owner intends to develop the Property upon obtaining the Planning Permission.
- (E) The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Property is situated and has a policy of requiring as a condition of granting planning permission in respect of developments of the nature envisaged by the Planning Application, to require restrictions on occupants being able to apply for residents parking permits.
- (F) For that purpose the Owner is willing to enter into this deed pursuant to the provisions of Section 106 of TCPA 1990.
- (G) The Mortgagee is the registered proprietor of the charge dated 23rd September 2014 referred to in the charges registers of Title numbers NGL710343 and NGL714206 and has agreed to enter into this deed to give its consent to the terms of the unilateral undertaking.

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this deed.

1.1 Definitions:

Development: the development of the Property by demolition of existing buildings on site, including the front elevation and roof, and construction of two storey building to provide office on the lower ground floor and 2 residential units on the first floor, described in the Planning Application.

Occupation Date: the date when any part of the Development is occupied and the phrases “Occupy”, “Occupied” and “Occupation” shall be construed accordingly.

Plan: the plan attached to this deed.

Property: the freehold land at 1995, 197 and 199 Grays Inn Road, London, WC1X 8UL shown edged red on the Plan and registered at HM Land Registry with absolute title under title numbers NGL710343 and NGL714206.

Planning Application: an application for planning permission registered by the Council on [14th December 2015] under reference number [2015/6408/P].

Planning Obligations Monitoring Officer: a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of TCPA 1990 to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 9.2(a) hereof

Planning Permission: the planning permission to be granted by the Council in respect of the Planning Application.

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.

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.

TCPA 1990: Town and Country Planning Act 1990.

Working Day: any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

- 1.2 Clause headings shall not affect the interpretation of this deed.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

- 1.6 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.7 A reference to the Council shall include the successors to its respective statutory functions.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** includes fax but not e-mail.
- 1.11 References to clauses are to the clauses of this deed.
- 1.12 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.13 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2. STATUTORY PROVISIONS

- 2.1 This deed constitutes a planning obligation for the purposes of section 106 of the TCPA 1990.
- 2.2 The obligations contained in clause 3 of this deed are planning obligations for the purposes of section 106 of the TCPA 1990 and are entered into by the Owner with the intention that it binds the interests held by those persons in the Property and its respective successors and assigns.
- 2.3 This deed shall come into effect on the date of grant of the Planning Permission.
- 2.4 The obligations contained in clause 3 of this deed are enforceable by the Council in accordance with section 106 of the TCPA 1990.

3. CAR FREE

- 3.1 The Owner hereby covenants with the Council to ensure that prior to occupying any residential unit forming part of the Development each new resident of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.
- 3.2 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 3.1 above will remain permanently.
- 3.3 On or prior to the Occupation Date the Owner shall inform the Council of the official unit numbers of the residential units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those residential units that in the Owner's opinion are affected by the Owner's obligation in Clause 3.1 of this deed.

4. MORTGAGEE'S CONSENT

- 4.1 The Mortgagee consents to the completion of this deed and declares that its interest in the Property shall be bound by the terms of this deed as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Property.
- 4.2 The Mortgagee shall not be personally liable for any breach of the obligations in this deed unless committed or continuing at a time when the Mortgagee is in possession of all or any part of the Property.

5. RELEASE

No person shall be liable for any breach of an obligation, restriction or covenant contained in this deed after parting with all of its interest in the Property, except in respect of any breach subsisting prior to parting with such interest.

6. DETERMINATION OF DEED

This deed shall be determined and have no further effect if the Planning Permission:

- (a) expires before the Commencement of Development;
- (b) is varied or revoked other than at the request of the Owner; or
- (c) is quashed following a successful legal challenge.

7. LOCAL LAND CHARGE

This deed is a local land charge and shall be registered as such by the Council.

8. OWNERSHIP

The Owner warrants that no person other than the Owner and the Mortgagee has any legal or equitable interest in the Property.

9. NOTICES

9.1 A notice or other communication to be given under or in connection with this deed must be in writing and must be:

- (a) delivered by hand; or
- (b) sent by pre-paid first class post or other next working day delivery service.

9.2 Any notice or other communication to be given under this deed must be sent to the relevant party as follows:

- (a) to the Council at: Town Hall, Judd Street, London WC1H 9LP marked for the attention of Planning Obligations Monitoring Officer ;
- (b) to the Owner at: 195-199 Grays Inn Road, London, WC1X 8UL marked for the attention of Paul Whitley; and
- (c) to the Mortgagee at: 302-308 Preston Road, Harrow, Middlesex, HA3 0QP marked for the attention of Andrew Samuels;

or as otherwise specified by the relevant person by notice in writing to each other person.

9.3 Any notice or other communication given in accordance with clause 9.1 and clause 9.2 will be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address provided that if delivery occurs before 9.00 am on a Working Day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9.00 am on the next Working Day;
- (b) if sent by pre-paid first class post or other next working day delivery service at 9.00 am on the second Working Day after posting.

9.4 A notice or other communication given under this deed shall not be validly given if sent by e-mail.

9.5 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

10. THIRD PARTY RIGHTS

A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

11. GOVERNING LAW

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by **195-199
GRAYS INN ROAD LIMITED**
acting by **PAUL WHITLEY**, a
director, in the presence of:



Director

.....

Witness NameGLORIA CAMPO PUEYMAYOR

Address49 ALLCROFT ROAD, NWS 4NB

Occupation ...ARCHITECT.....