

DATED

8 March

2015/16

**(1) NETHERHALL GARDENS LIMITED**

-and-

**(2) BANK LEUMI (UK) PLC**

-and-

**(3) URBAN EXPOSURE REAL ESTATE (IRELAND) LIMITED**

-and-

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

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**DEED OF VARIATION**

Relating to the Agreement dated 25 March 2014  
Between the Mayor and the Burgesses of the  
London Borough of Camden and  
Netherhall Gardens Limited  
under section 106 and s106A of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
**14 Netherhall Gardens London NW3 5TQ**

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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

CLS/COM/ESA/1781.214  
FINAL (1)



THIS DEED is made on the 8<sup>th</sup> day of March 201~~5~~<sup>16</sup>

**BETWEEN**

1. **NETHERHALL GARDENS LIMITED** (Co. Regn. No. 09136349) whose registered office is at Suite 2 Fountain House, 1a Elm Park, Stanmore, Middlesex HA7 4AU and care of Ingram Winter Green, Bedford House, 21a John Street, London WC1N 2BF (hereinafter called "the Owner") of the first part
2. **BANK LEUMI (UK) PLC** (Co. Regn. No. 00640370) of 20 Stratford Place London (hereinafter called "the First Mortgagee") of the second part
3. **Urban Exposure Real Estate (Ireland) Limited** registered in Ireland (Co. Regn. No. 564577) of 2 Grand Canal Square, Grand Canal Harbour, Dublin 2 (hereinafter called "the Second Mortgagee") of the third part
4. **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 The Council and Netherhall Gardens Limited entered into an Agreement dated 25 March 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 NGL707865 subject to a charge to the First Mortgagee and the 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 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 16 March 2014 for which the Council resolved to grant permission conditionally under reference 2015/1476/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 reference 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 the First Mortgagee and the Second 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 25 March 2014 made between the Council and Netherhall Gardens Limited

2.8.3 "the Original Planning Permission" means the planning permission granted by the Planning Inspector on appeal (refs APP/X5210/A/13/2205355 and APP/X5210/E/13/2205358 and Council reference 2013/2213/P on 15 April 2014 allowing the erection of 3-storey building plus roof (following demolition of annex wing to Otto Schiff House including link block) and alterations to retained building, including excavation of basement under both buildings, roof terraces to the front, side and rear elevations, new dormer window to rear roofslope and replacement dormer to Netherhall Gardens elevation, demolition of existing single-storey side extension and replacement with new single-storey extension, erection of rear ground floor level extension, in connection with conversion from 23 x 1-bedroom self-contained flats to 14-self-contained flats (6 x 2-bedroom, 4

x 3-bedroom and 4 x 4-bedroom) (Class C3) and associated landscaping in accordance with the approved drawings

### **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" the development authorised by the Original Planning Permission as amended by the following: variation of condition 2 (approved plans) of planning application 2013/2213/P & 2013/2216/C (granted 15/04/2014 by appeal (ref APP/X5210/A/13/2205355 and APP/X5210/E/13/2205358)) for the erection of a 3-storey building and conversion to create 14 self-contained flats, namely removal of 2 x trees, rearrangement of internal flats and alteration to the treatment of the front lightwell as shown on drawing numbers:-

Superseded Plans: E\_05\_G200\_001, P\_01\_G200\_001 A, P\_02\_G200\_001, P\_03\_G200\_001, P\_B1\_G200\_001 E and P\_00\_G200\_001 E

Revised Plans: E\_05\_G200\_001 Rev D, P\_01\_G200\_001 Rev C, P\_02\_G200\_001 Rev D and P\_03\_G200\_001 Rev C, P\_B1\_G200\_001 F and P\_00\_G200\_001 F

3.1.2 "Planning Permission" the Original Planning Permission amended by the planning permission for the Development under reference number 2015/1476/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 16 April 2014 by the Owner and given reference number 2013/2213/P and further application submitted on 16 March 2015 and given reference number 2015/1476/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2013/2213/P" shall be replaced with "Planning Permission reference 2013/2213/P as varied by application 2015/1476/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 2015/1476/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. MORTGAGEE EXEMPTION**

7.1 The First Mortgagee and the Second Mortgagee hereby consents to the Owner entering into this Agreement and agrees that the security of its charges over the Property shall take effect subject to this Agreement.

7.2 The Parties agree that the obligations contained in this Agreement shall not be enforceable against any mortgagee or chargee of the whole or any part of the Property unless it takes possession of the Property in which case it will be bound by the obligations as a person deriving title from the Owner.

8. **GOVERNING LAW**

8.1 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.

9. **EXECUTION**

9.2 The Parties have executed this Deed as a deed and it is delivered on the date set out at the front of this Deed.

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

**EXECUTED AS A DEED BY** )  
**NETHERHALL GARDENS LIMITED** )  
**acting by a Director and its Secretary** )  
**or by two Directors** )



.....  
**Director**

**in the presence of:**



.....  
**Witness Signature**

**Witness Name**

*Alan Haslow*

**Address**

*60 Grosvenor Road, Se25 4ND*

**Occupation**

*Homeowner*



CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO 14 NETHERHALL GARDENS LONDON NW3 5TQ

EXECUTED AS A DEED by

and

  
.....  
Attorney for BANK LEUMI (UK) PLC

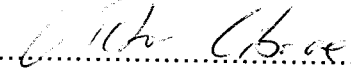
Idan Shapira   
.....  
Attorney for BANK LEUMI (UK) PLC

as attorneys for **BANK LEUMI (UK) PLC**  
under power of attorney dated 9 September 2014

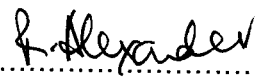
In the presence of: Paul Harvey

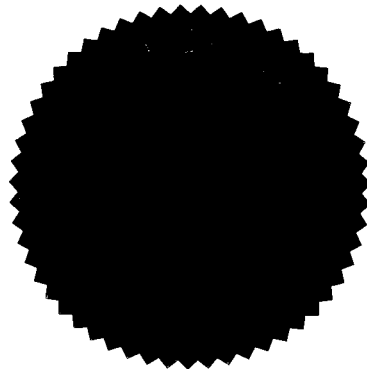
  
.....  
Name: **BANK LEUMI (UK) plc**  
**20 STRATFORD PLACE**  
**LONDON**  
Address: **W1C 1BG**  
  
Bank Official

EXECUTED AS A DEED by the )  
Attorney Authorised on behalf of )  
**URBAN EXPOSURE REAL ESTATE (IRELAND) LIMITED**)

  
.....  
Duly Authorised Signatory of URBAN EXPOSURE  
INVESTMENT MANAGEMENT LLP ACTING AS  
AGENT FOR AND ON BEHALF OF URBAN EXPOSURE  
REAL ESTATE (IRELAND) LIMITED .

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

  
.....  
Duly Authorised Officer





Mr G Wise  
Netherhall Gardens Ltd  
Hillview House  
1 Hallswelle Parade  
London  
NW11 0DL

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

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

Application Ref: **2015/1476/P**

30 November 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:

**14 Netherhall Gardens  
London  
NW3 5TQ**

Proposal:

**DECISION**  
Variation of condition 2 (approved plans) of planning application 2013/2213/P & 2013/2216/C (granted 15/04/2014 by appeal (ref APP/X5210/A/13/2205355 and APP/X5210/E/13/2205358)) for the erection of a 3-storey building and conversion to create 14 self-contained flats, namely removal of 2 x trees, rearrangement of internal flats and alteration to the treatment of the front lightwell.

Drawing Nos: Superseded Plans: E\_05\_G200\_001, P\_01\_G200\_001 A, P\_02\_G200\_001, P\_03\_G200\_001, P\_B1\_G200\_001 E and P\_00\_G200\_001 E.

Revised Plans: E\_05\_G200\_001 Rev D, P\_01\_G200\_001 Rev C, P\_02\_G200\_001 Rev D and P\_03\_G200\_001 Rev C, P\_B1\_G200\_001 F and P\_00\_G200\_001 F

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.2 of planning permission 2013/2213/P & 2013/2216/C (granted 15/04/2014 by appeal (ref APP/X5210/A/13/2205355 and APP/X5210/E/13/2205358)) shall be replaced with the following condition:

REPLACEMENT CONDITION 2

The development hereby permitted shall be carried out in accordance with the following approved plans: E\_01\_G200\_001; E\_02-03\_G200\_001; E\_04\_G200\_001; E\_05\_G200\_001 Rev D; E\_06\_G200\_001; E\_07\_G200\_001.

P\_B1\_G200\_001 F; P\_00\_G200\_001 F; P\_01\_G200\_001 C; P\_02\_G200\_001 Rev D, P\_03\_G200\_001 Rev C; P\_RF\_G200\_001 D; S\_AA\_G200\_001 A; S\_AA\_G200\_001 A.

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

- 2 Prior to the end of the next available planting season, replacement tree planting shall be carried out in accordance with details of replanting species, position, date and size, where applicable, that have first been submitted to and approved by the local planning authority in writing.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area, in accordance with the requirements of policies CS14 and CS15 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

- 1 Reasons for granting permission:

In terms of design, it is proposed to amend the treatment of the lightwell from covered in glass to open and surrounded by railings. Such lightwells have been approved in other locations around the site. This is considered to be an acceptable change which would be well integrated into the design of the building. There would also be some amendments to the internal layout of the building, however the number of units and mix would remain as approved.

There would be some harm caused by the loss of an additional two trees. To ensure the Council is satisfied with the replacement trees a condition is recommended which attains details of the type, height and species of tree that will be planted to replace the two trees to be removed.

One objection has been received and taken into account in the determination of this application. The site's planning history has also been taken into account in coming to this decision. Special attention has been paid to the desirability of

preserving or enhancing the character or appearance of the conservation area, under s.72 (CA's) of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

As such, the proposed details are in general accordance with policies CS5, CS14 and CS15 of the London Borough of Camden Local Development Framework Core Strategy, and policies DP24, DP25 and DP26 of the London Borough of Camden Local Development Framework Development Policies. The proposed development also accords with policies 7.4, 7.6 and 7.21 of the The London Plan March 2015, consolidated with alterations since 2011; and paragraphs 14, 17, 56 -66, 109-125 and 126-141 of the National Planning Policy Framework.

- 2 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).

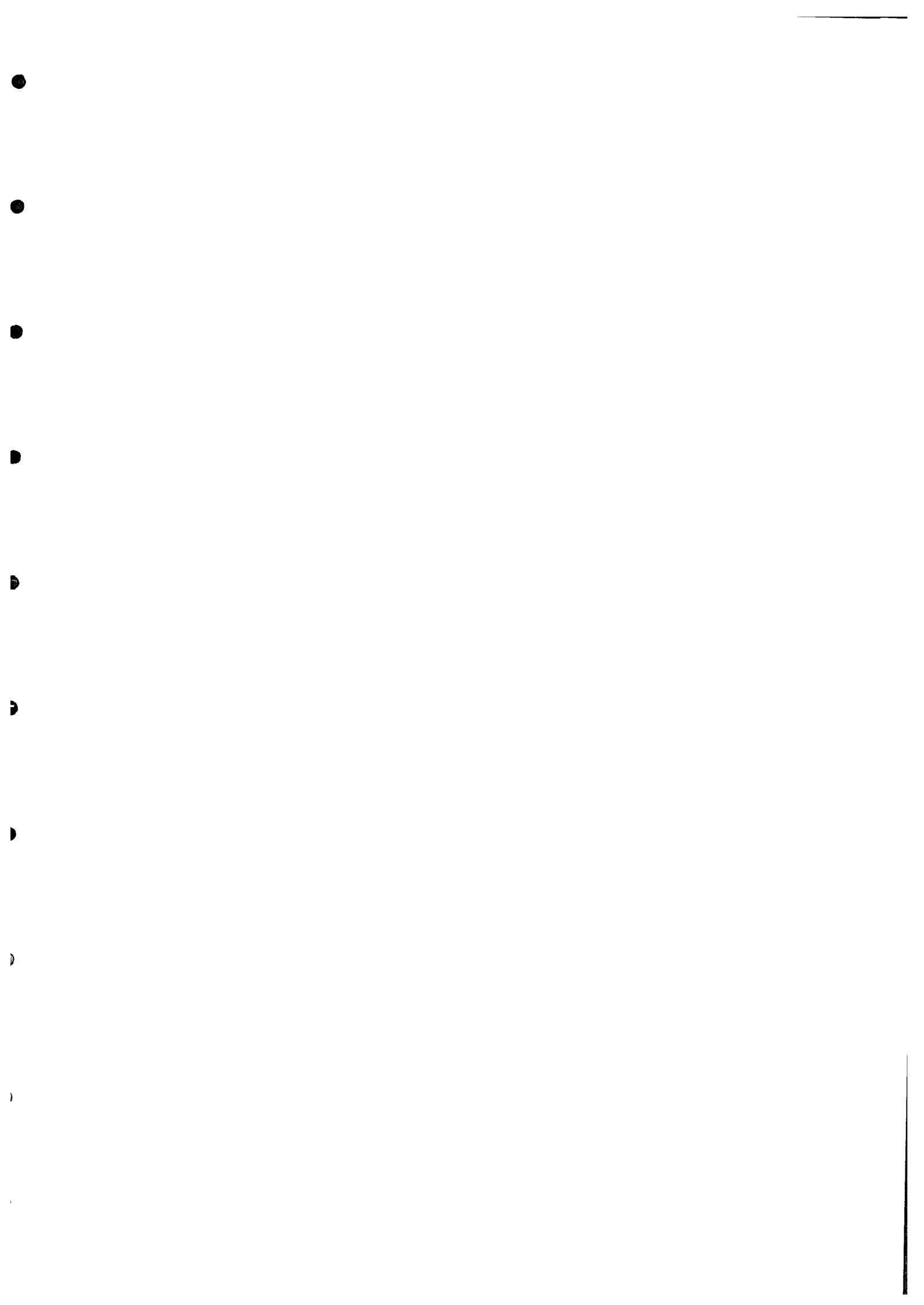
In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Culture and Environment Directorate

**DECISION**





DATED

8 March

2015/16

**(1) NETHERHALL GARDENS LIMITED**

-and-

**(2) BANK LEUMI (UK) PLC**

-and-

**(3) URBAN EXPOSURE REAL ESTATE (IRELAND) LIMITED**

-and-

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

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**DEED OF VARIATION**

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under section 106 and s106A of the Town and  
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