

DATED

27 may

2016

(1) 65 HOLMES ROAD LIMITED

-and-

(2) EFG PRIVATE BANK LIMITED

-and-

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

FIRST DEED OF VARIATION

Relating to the Agreement dated 6 March 2014
Between the Mayor and the Burgesses of the
London Borough of Camden,
65 Holmes Road Limited 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
Magnet 65-69 Holmes Road London NW5 3AN

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 1918
Fax: 020 7974 1920

1781.555



THIS AGREEMENT is made on the 27 day of May 2016

BETWEEN

1. **65 HOLMES ROAD LIMITED** (Co. Regn. No. 6403136) whose registered office is at 46 Great Marlborough Street London W1F 7JW (hereinafter called "the Owner") of the first part
2. **EFG PRIVATE BANK LIMITED** (Co.Regn.No.2321802) whose registered office is at Leconfield House Curzon Street London W1J 5JB (hereinafter called "the Mortgagee") of the second part
3. **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 6th 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 of the Property under title number NGL211408 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 28 September 2015 for which the Council resolved to grant permission conditionally under reference 2015/5435/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.

1.8 The Mortgagee as mortgagee under a legal charge registered under Title Number NGL211408 and dated 20 December 2007 is willing to enter into this Agreement to give its consent to the same.

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 6th March 2014 made between the Council, the Owner and the Mortgagee

2.3.3 "the Original Planning Permission" means the planning permission granted by the Council on 6th March 2014 referenced

2013/7130/P allowing the erection of part seven, part three storey building above two basement levels to provide student accommodation comprising 273 units (337 rooms and 439 bed spaces) with ancillary facilities (sui generis), warehouse (Class B8) at basement and ground floor levels and coffee shop (Class A1) at ground floor level following demolition of existing B8 buildings as shown on drawing numbers EX00; EX01; EX02; EX03; EX04; 131050 A(GA) -P080 B; -P090 A; -P100 C; -P110 B; -P120 B; -P130 B; -P140 B; -P150 B; -P160 B; -P170 A; -P300 A; -P301 A; -P302 A; -P303 A; -P400 B; -P401 A; P402A; -P403 A; 131050 A(VIS) P001; -P002; Sustainability Statement, Oct 2013, prepared by Hodkinson Consultancy; Sunlight and Daylight, 22 Oct 2013, prepared by BMT Fluid Mechanics Ltd; Basement Impact Assessment, Oct 2013, prepared by Pringuer-James Consulting Engineers; Design & Access Statement, Nov 2013 rev A, prepared by Contemporary Design Solutions; Planning Statement, Oct 2013, prepared by KR Planning; Energy Statement, Oct 2013, prepared by Hodkinson Consultancy; Transport Statement, Oct 2013, prepared by URS; Construction Traffic Management Plan, Oct 2013, prepared by URS; Workplace Travel Plan, Oct 2013, prepared by URS; Student Travel Plan, Oct 2013, prepared by URS; email from KR Planning dated 7 Feb 2014, entitled Holmes Road; revised room schedule, submitted 11 Feb 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 20 (approved plans) of planning permission 2013/7130/P dated 06/03/2014 (for the erection of a part seven, part three storey building above two basement levels to provide student accommodation comprising 273 units with ancillary facilities (sui generis), warehouse (B8) at basement and ground floor levels and a coffee shop (A1) at ground floor level following the demolition of existing B8 buildings); changes are to extend the lower basement level to relocate part of the warehouse (B8) use from the mezzanine floor, internal reconfigurations, introduction of social space and study rooms on the mezzanine level, changes between double and twin rooms, lift overrun, new rooflights and lightwells as shown on drawing numbers: Revised Plans: (131050-A(GA))P080 Rev C; P090 Rev C; P100 Rev E; P110 Rev D; P120 Rev D; P130 Rev D; P140 Rev D; P150 Rev D; P160 Rev D; P170 Rev B; P300 Rev B; P301 Rev B; P302 Rev B; P303 Rev B; P304; P400 Rev C; P401 Rev B; P402 Rev A; P403

Rev B, D & A Statement - s73 Update (Addendum to Approved scheme D&A Statement - 2013/7130/P) dated November 2015 and Basement Impact Assessment Addendum to Approved Document dated 28/08/2015. Superseded Plans: (131050-A(GA))P080 Rev A; P090 Rev A; P100 Rev B; P110 Rev B; P120 Rev B; P130 Rev B; P140 Rev B; P150 Rev B; P160 Rev B; P170 Rev A; P300 Rev A; P301 Rev A; P302 Rev A; P303 Rev A; P400 Rev B; P401 Rev A; P402 Rev A; P403 Rev A and revised room schedule submitted 11 Feb 2014.

3.1.2 "Planning Permission" the planning permission under reference number 2015/5435/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 24 September 2015 by the Owner and given reference number 2015/5435/P

3.2 After the words "2013/7130/P" in clause 5.2 of the Original Agreement the words "or "2015/5435/P" (as the case may be)" shall be inserted.

3.3 After the words "2013/7130/P" in clause 5.6 of the Original Agreement the words "or "2015/5435/P" (as the case may be)" shall be inserted

3.4 After the words "2013/7130/P" in clause 6.1 of the Original Agreement the words "or "2015/5435/P" (as the case may be)" shall be inserted.

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

4. MORTGAGEE EXEMPTION

4.1 The Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 hereof and for the avoidance of doubt agrees to be bound by the said

obligations only in the event that it becomes a mortgagee in possession of the Property.

5. PAYMENT OF THE COUNCIL'S LEGAL COSTS

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

6. REGISTRATION AS LOCAL LAND CHARGE

6.1 This Agreement shall be registered as a Local Land Charge

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

EXECUTED AS A DEED BY
65 HOLMES ROAD LIMITED
acting by a Director

Director Name: (CAPITALS)

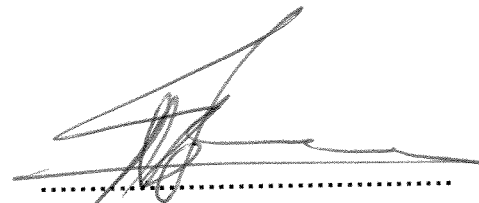
Director Signature:

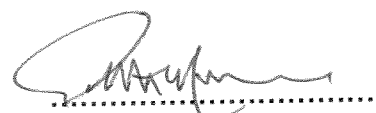
in the presence of:
Witness Signature:

Witness Name: (CAPITALS)

Address:

Occupation:

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)

.....
NABIL FATTAL
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)
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)

.....
GERNSEY KEVINE
46 Great Marlborough Street
London W1F 7JW
.....
Lawyer
.....

EXECUTED AS A DEED BY
EFG PRIVATE BANK LIMITED
acting by a Director and its Secretary
or by two Directors

.....
Director


.....
Director/Secretary

THE COMMON SEAL OF THE MAYOR
AND BURGESSES OF THE LONDON
BOROUGH OF CAMDEN

was hereunto affixed by Order:-

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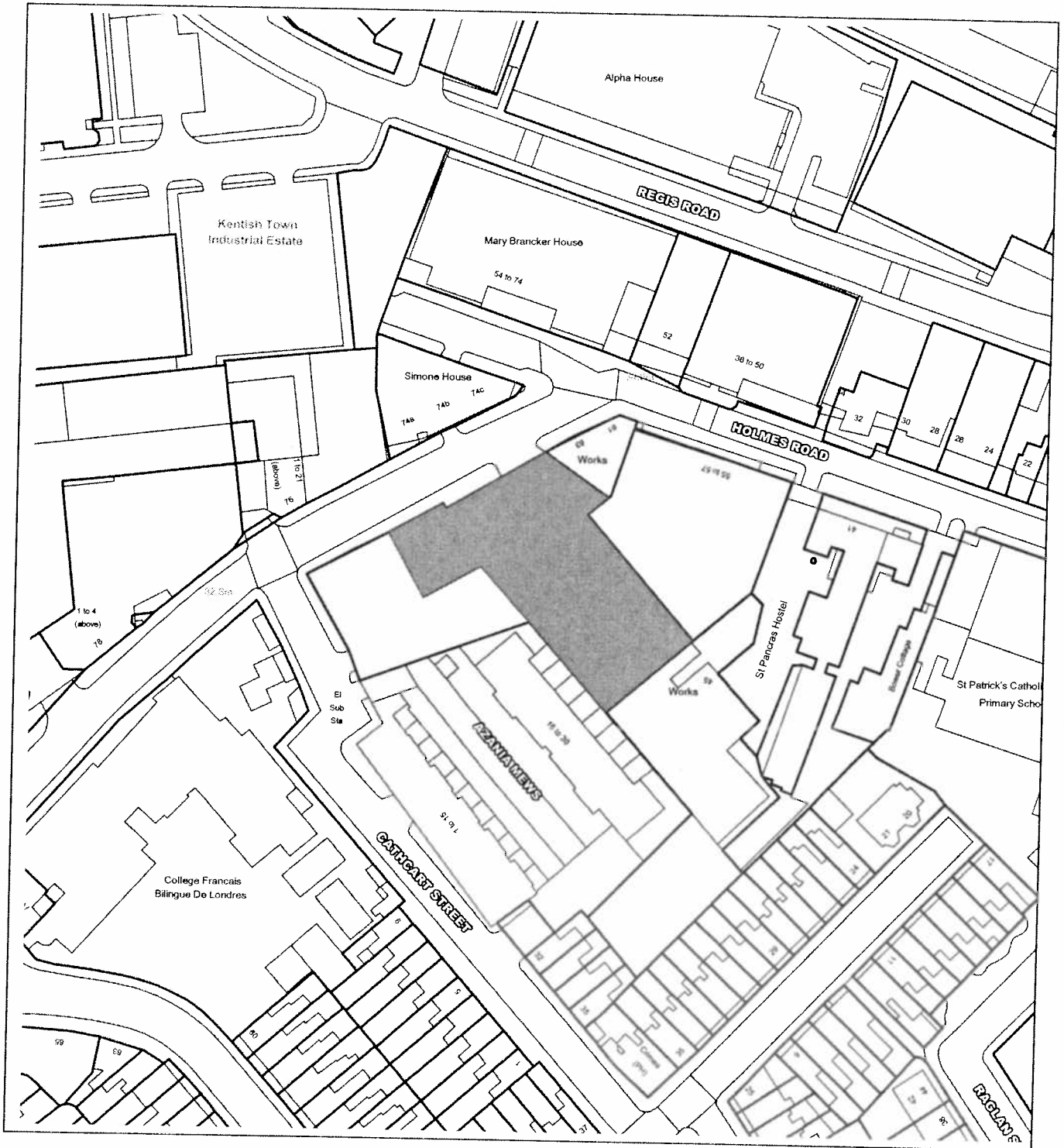
R. Alexander

.....
Duly Authorised Officer



6A

Magnet 65-69 Holmes Road London NW5 3AN



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KR Planning
Kieran Rafferty
KR Planning
183 Seafield Road
Boumemouth
Dorset BH6 5LJ

Application Ref: **2015/5435/P**

18 April 2016

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:

**Magnet 65-69 Holmes Road
London
NW5 3AN**

DECISION
Proposal: Variation of Condition 20 (approved plans) of planning permission 2013/7130/P dated 06/03/2014 (for the erection of a part seven, part three storey building above two basement levels to provide student accommodation comprising 273 units with ancillary facilities (sui generis), warehouse (B8) at basement and ground floor levels and a coffee shop (A1) at ground floor level following the demolition of existing B8 buildings); changes are to extend the lower basement level to relocate part of the warehouse (B8) use from the mezzanine floor, internal reconfigurations, introduction of social space and study rooms on the mezzanine level, changes between double and twin rooms, lift overrun, new rooflights and lightwells.

Drawing Nos:

Revised Plans: (131050-A(GA))P080 Rev C; P090 Rev C; P100 Rev E; P110 Rev D; P120 Rev D; P130 Rev D; P140 Rev D; P150 Rev D; P160 Rev D; P170 Rev B; P300 Rev B; P301 Rev B; P302 Rev B; P303 Rev B; P304; P400 Rev C; P401 Rev B; P402 Rev A; P403 Rev B, D & A Statement - s73 Update (Addendum to Approved scheme D&A Statement - 2013/7130/P) dated November 2015 and Basement Impact Assessment Addendum to Approved Document dated 28/08/2015.

Superseded Plans: (131050-A(GA))P080 Rev A; P090 Rev A; P100 Rev B; P110 Rev B; P120 Rev B; P130 Rev B; P140 Rev B; P150 Rev B; P160 Rev B; P170 Rev A; P300 Rev A; P301 Rev A; P302 Rev A; P303 Rev A; P400 Rev B; P401 Rev A; P402 Rev A; P403

Rev A and revised room schedule submitted 11 Feb 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 For the purposes of this decision, condition no.20 of planning permission 2013/7130/P shall be replaced with the following condition:

REPLACEMENT CONDITION 20

The development hereby permitted shall be carried out in accordance with the following approved plans, except in respect of the windows in the elevation of the proposed building facing towards adjoining No 61 and 63 Holmes Road, which shall be deleted and fresh details of this element of the scheme shall be submitted: EX00; EX01; EX02; EX03; EX04; (131050-A(GA))P080 Rev C; P090 Rev C; P100 Rev E; P110 Rev D; P120 Rev D; P130 Rev D; P140 Rev D; P150 Rev D; P160 Rev D; P170 Rev B; P300 Rev B; P301 Rev B; P302 Rev B; P303 Rev B; P304; P400 Rev C; P401 Rev B; P402 Rev A; P403 Rev B; (131050-A(VIS))P001 and P002; Sustainability Statement, Oct 2013, prepared by Hodkinson Consultancy; Sunlight and Daylight, 22 Oct 2013, prepared by BMT Fluid Mechanics Ltd; Basement Impact Assessment, Oct 2013, prepared by Pringuer-James Consulting Engineers; Design & Access Statement, Nov 2013 rev A, prepared by Contemporary Design Solutions; Planning Statement, Oct 2013, prepared by KR Planning; Energy Statement, Oct 2013, prepared by Hodkinson Consultancy; Transport Statement, Oct 2013, prepared by URS; Construction Traffic Management Plan, Oct 2013, prepared by URS; Workplace Travel Plan, Oct 2013, prepared by URS; Student Travel Plan, Oct 2013, prepared by URS; email from KR Planning dated 7 Feb 2014, entitled Holmes Road; D & A Statement - s73 Update (Addendum to Approved scheme D&A Statement - 2013/7130/P) dated November 2015; Basement Impact Assessment Rev 1 dated October 2013 and Basement Impact Assessment Addendum to Approved Document dated 28/08/2015.

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). It is also noted that there are a number of pre-commencement conditions to be discharged.

- 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

DRAFT

Culture and Environment Directorate

DECISION





DATED

27 may

2016

(1) 65 HOLMES ROAD LIMITED

-and-

(2) EFG PRIVATE BANK LIMITED

-and-

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

FIRST DEED OF VARIATION

Relating to the Agreement dated 6 March 2014
Between the Mayor and the Burgesses of the
London Borough of Camden,
65 Holmes Road Limited 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
Magnet 65-69 Holmes Road London NW5 3AN

Andrew Maughan
Borough Solicitor
London Borough of Camden
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London WC1H 9LP

Tel: 020 7974 1918
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