

DATED

23 June

2016

(1) EMPYREAN FORTESS LIMITED

-and-

(2) SUNMIST LIMITED

-and-

(3) ROSEFROST LIMITED

-and-

(4) ALDERMORE BANK PLC

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 20 May 2015
Between the Mayor and the Burgesses of the
London Borough of Camden,
Empyrean Fortess Limited, Bank One Limited,
Sunmist Limited and Rosefrost Limited
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
19 FORTESS ROAD
LONDON NW5 1AD

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/FP/1781.581 (2015/6792/P)
FINAL

THIS DEED is made on the 23rd day of June

2016

BETWEEN

1. **EMPYREAN FORTESS LIMITED** (Co. Regn. No.7752635) whose registered office is at 32 Junction Road First Floor Roydon Mansions London N19 5RE (hereinafter called "the Owner") of the first part
2. **SUNMIST LIMITED** (Co. Regn. No. 8913876) c/o CVS Asset Management Limited Level 1 Devonshire House 1 Mayfair Place London W1J 8AJ (hereinafter called "the First Mortgagee") of the second part
3. **ROSEFROST LIMITED** (Co. Regn. No. 8913892) of CVS Asset Management Ltd Level 1 Devonshire House 1 Mayfair Place London W1J 8AJ (hereinafter called "the Second Mortgagee") of the third part
4. **ALDERMORE BANK PLC** (Co. Regn. No. 947662) of 1st Floor Block B Western House Lynch Wood Peterborough PE2 6FZ (hereinafter called "the Third Mortgagee") of the fourth part
5. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the fifth part

WHEREAS:

- 1.1 The Council, the Owner, Bank One Limited, the First Mortgagee and the Second Mortgagee entered into an Agreement dated 20 May 2015 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 324866 subject to a charge to the First Mortgagee, the Second Mortgagee and the Third 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 3 December 2015 for which the Council resolved to grant permission conditionally under reference 2015/6792/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, 6 and 7 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 20 May 2015 made between the Council, the Owner, Bank One Limited, the First Mortgagee and the Second Mortgagee

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 20 May 2015 referenced 2014/6976/P allowing the mansard roof extension to provide a 2-bed self-contained unit, rear extension at 1st floor level including use of rear 2nd floor roof as a terrace with surrounding black railings, installation of rear rooflight at 1st floor level, alterations to enlarge rear windows, and installation of new windows as shown on drawing numbers PL200.001, PL 200.002, PL 200.010, PL 300.011, R 300.012, PL 200.018, PL 200.019, R 300.020, R 300.022, R 300.023, PL 200.029, PL 200.030, R 300.031, R 300.032, PL 200.032a, R 300.033, PL 200.040, R 300.041, R 300.042, R 300.043, R 300.044,

PL 200.045, PL 200.050, PL 200.051, PL 200.052, Design and access Statement, Lifetime Home Statement

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 20 May 2015 (Ref. No. 2014/6976/P) to variation of condition 3 (approved plans) of planning permission 2014/6976/P granted on 20/05/2015 for the erection of a mansard roof extension to provide a 2-bed self-contained unit, namely to form a roof terrace to third floor flat as shown on drawing numbers PL 200.012; PL 200.021; PL 200.031; PL 200.031 B; PL 200.032; PL 200.032 B; PL 200.041; and PL 200.041 B

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2015/6792/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 3 December 2015 by the Owner and given reference number 2015/6792/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2014/6976/P" shall be replaced with "Planning Permission reference 2015/6792/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 2015/6792/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 the Second Mortgagee and the Third 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 6.1 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.

8. **THIRD PARTY RIGHTS**

- 8.1 The parties to this Deed do not intend that any of the terms of this Deed shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1990 by any person not a party to it.


9. **TERMINATION**

- 9.1 This Deed of Variation shall cease to have effect and its obligations will be extinguished automatically if this Planning Permission shall be quashed, be revoked or lapse without having been implemented.

[CONTINUATION OF DEED OF VARIATION FOR 19 FORTRESS ROAD LONDON NW5
1AD - 2015/6792/P]

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 BY
EMPYREAN FORTRESS LIMITED
was hereunto affixed
in the presence of:-


.....
Director


.....
~~Director/Secretary~~ WITNESS


1 VAUGHAN AVS
HORNCHURCH
ESSEX RM12 6SL

EXECUTED AS A DEED by the
~~Attorney Authorised on behalf of~~
SUNMIST LIMITED


.....
~~Duly Authorised Signatory~~ WITNESS
NICHOLAS CHARALAMBOUS
15 WALSELEY ROAD, LONDON N8 8NR


DIRECTOR

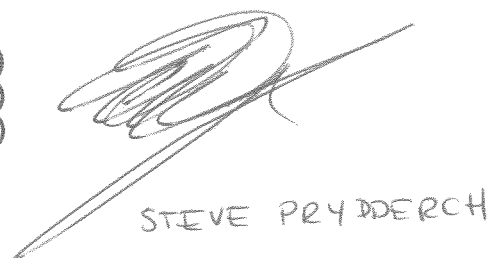
EXECUTED AS A DEED by the
~~Attorney Authorised on behalf of~~
ROSEFROST LIMITED


.....
~~Duly Authorised Signatory~~ WITNESS
NICHOLAS CHARALAMBOUS
15 WALSELEY ROAD, LONDON, N8 8NR


DIRECTOR

EXECUTED AS A DEED by the
Attorney Authorised on behalf of
ALDERMORE BANK PLC

.....
Duly Authorised Signatory


STEVE PRYDDERCH

[CONTINUATION OF DEED OF VARIATION FOR 19 FORTESS ROAD LONDON NW5
1AD – 2015/6792/P]

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

)
)
)
)

R. Alexander

.....
Duly Authorised Officer



CG Architects
221 East Barnet Road
Barnet
Hertfordshire
EN4 8QS

Application Ref: **2015/6792/P**

08 June 2016

Dear Sir/Madam

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:
**19 Fortess Road
London
NW5 1AD**

Proposal:
Variation of Condition 3 (approved plans) of planning permission 2014/6976/P granted on 20/05/2015 for the erection of a mansard roof extension to provide a 2-bed self-contained unit, namely to form a roof terrace to third floor flat.
Drawing Nos: PL 200.012; PL 200.021; PL 200.031; PL 200.031 B; PL 200.032; PL 200.032 B; PL 200.041; and PL 200.041 B.

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 3 of planning permission 2014/6976/P shall be replaced with the following condition:

REPLACEMENT CONDITION 3

The development hereby permitted shall be carried out in accordance with the following approved plans -

PL200.001, PL 200.002, PL 200.010, PL 200.011, PL 200.018, PL 200.019, R 300.020, R 300.022, R 300.023, PL 200.030, R 300.031, PL 200.040, PL 200.045, PL 200.050, PL 200.051, PL 200.052, Design and access Statement, Lifetime Home Statement; PL 200.012; PL 200.021; PL 200.031; PL 200.031 B; PL 200.032; PL 200.032 B; PL 200.041; and PL 200.041 B.

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

Informative(s):

- 1 Reasons for granting permission.

The proposed amendment, namely the formation of a roof terrace for the third floor flat, is not considered to alter the concept of the previously approved scheme. Given the location and nature of the proposed amendment, the change would not significantly alter the appearance of the building or its roof form. The full impact of the scheme has already been assessed by virtue of the previous approval granted on 20/05/2015 under ref: 2014/6976/P. In the context of the permitted scheme, it is considered that the amendments would not have any material effect on the approved development in terms of appearance and neighbour impact.

No objections have been received. The site's planning history and relevant appeal decisions were taken into account when coming to this decision.

As such, the proposed development is in general accordance with policies CS5 and CS14 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. The proposed development also accords with policies 7.4 and 7.6 of the London Plan 2015; and paragraphs 14, 17 and 66 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).
- 3 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

Culture and Environment Directorate

DRAFT

DECISION

DATED

23 June

2016

(1) EMPYREAN FORTESS LIMITED

-and-

(2) SUNMIST LIMITED

-and-

(3) ROSEFROST LIMITED

-and-

(4) ALDERMORE BANK PLC

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 20 May 2015
Between the Mayor and the Burgesses of the
London Borough of Camden,
Empyrean Fortess Limited, Bank One Limited,
Sunmist Limited and Rosefrost Limited
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
19 FORTESS ROAD
LONDON NW5 1AD

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/FP/1781.581 (2015/6792/P)
FINAL