

DATED

19 May

2016

(1) FITZROVIA PROPERTIES LIMITED

-and-

(2) CLOSE BROTHERS LIMITED

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 23 November 2012
Between the Mayor and the Burgesses of the
London Borough of Camden,
Fitzrovia Properties Limited and the Royal Bank of Scotland Public Limited Company
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
7 Fitzroy Square and 11 Grafton Mews London W1T 5HL

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

Tel: 020 7974 1918
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CLS/COM/ESA/1781.677
DoV FINAL



THIS DEED is made on the

19th day of

May

2016

BETWEEN

1. **FITZROVIA PROPERTIES LIMITED** (incorporated in Isle of Man) and whose address for service in the United Kingdom is 70 Charlotte Street, London W1T 4QG (hereinafter called "the Owner") of the first part
2. **CLOSE BROTHERS LIMITED** (Co. Regn. No. 00195626) of 10 Crown Place, London EC2A 4FT (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, Fitzrovia Properties Limited and Royal Bank of Scotland Public Limited Company entered into an Agreement dated 23 November 2012 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 NGL929369 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 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 18 December 2015 for which the Council resolved to grant permission conditionally under reference 2015/7070/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 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 23 November 2012 made between the Council, Fitzrovia Properties Limited and Royal Bank of Scotland Public Limited Company

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 23 November 2012 referenced 2011/5382/P allowing the change of use of No. 7 Fitzroy Square from offices (Class B1) to residential (Class C3) and erection of building to rear comprising basement; lower ground, ground, first to third floor and mansard roof storey (following demolition of No. 11 Grafton Mews (Class B1) to provide 1 x studio, 3 x 1-bedroom and 2 x 2-bedroom flats and 1 x 3-bedroom (in rear building) and 1 x 4-bedroom house with staff accommodation (in front building and lower ground floor of rear building), installation of glass lift shaft on rear elevation of 7 Fitzroy Square and replacement of windows at basement and ground floor level on front elevation of 7 Fitzroy Square. as shown on drawing numbers 919-P000 (Site Location Map); PH01; E001; E002; E003; E004; E005; E006; E008; E009; E010; E011; P001; P002; P003; P004; P005; P006; P007; P008; P009; P010; P011; and JP001.

Supporting Information: Basement Impact Assessment Rev A by Lyons/O'Neill dated 2nd March 2012; Basement Impact Assessment (Information on the Proposed Structural Works) by Lyons/O'Neill dated 9th May 2012; Additional Information for Groundwater Assessment and Modelling by ARUP dated 1st March 2012; Lifetime Homes Assessment by Brooks Murray Architects dated October 2011; External Noise Assessment Cover Note by Brooks Murray Architects dated October 2011; Details of Living/ Green Wall by BioTecture Ltd; Code for Sustainable Homes Pre-assessment Rev A by the KUT Partnership dated 14th October 2011; Fitzroy Square Energy Strategy by Bobby Gilbert & Associates Ltd dated September 2009; 7 Fitzroy Square Energy Strategy Addendum by Southern renewables dated May 2012; Eco Homes Pre-Assessment cover note by Brooks Murray Architects dated October 2011; Energy, water and gas efficiency for the Listed Building by Brooks Murray Architects dated June 2012; Waste and Recycling Report by Brooks Murray Architects dated October 2011; Daylight and Sunlight report by David Maycox & Co. dated 30th June 2011; Daylight and Sunlight report by David Maycox & Co. (for rear lower ground floor and upper ground floor windows of 8 Fitzroy Square) dated 30th May 2012; Marketing Material Cover Note by Brooks Murray Architects dated October 2011; and Additional Marketing Details by KR Planning dated 12th June 2012

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 3 (approved plans) of planning permission 2011/5382/P dated 23/11/2012 for erection of building to provide 1 x studio, 3 x 1-bedroom and 2 x 2-bedroom flats, 1 x 3-bedroom and 5 bed dwellinghouse, namely to alter the pitch of the roof extension to the Grafton Mews building and amend the mix of units to create 2 x studio, 4 x 1 bed, 2 x 2 bed and 5 bed dwellinghouse as shown on drawing numbers:-

Superseded Plans: P006

Revised Plans: Grafton Mews Apartment 6-7-8 Third Floor Rev A and Grafton Mews Apartment 6-7-8 Fourth Floor

3.1.2 "Planning Permission" the Original Planning Permission amended by the planning permission for the Development under reference number 2015/7070/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 18 December 2015 by the Owner and given reference number 2015/7070/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2011/5382/P" shall be replaced with "Planning Permission reference 2011/5832/P as varied by Planning Permission reference 2015/7070/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 2015/7070/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

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.

THE COMMON SEAL OF)
EXECUTED AS A DEED BY)
FITZROVIA PROPERTIES LIMITED)
was hereunto affixed)
in the presence of:-)

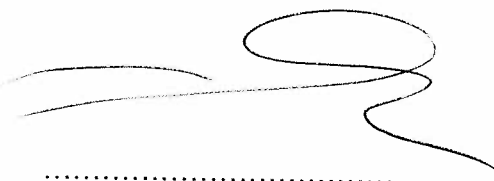

.....
Director


.....
Director/Secretary



CONTINUATION OF DEED OF VARIATION AGREEMENT IN RELATION TO 7 FITZROY
SQUARE AND 11 GRAFTON MEWS LONDON W1T 5HL

EXECUTED by **CLOSE BROTHERS LIMITED**
as a Deed pursuant to a Power of Attorney dated
16 December 2015 (filed at Land Registry Head
Office under reference 115/136/169)



.....
Authorised Signatory

ANNABELLE CHARMAN

.....
Name



.....
Witnessed by

.....
10 CROWN PLACE

.....
LONDON

.....
EC2A 4FT

.....
Address



.....
Authorised Signatory

ROWLAND THOMAS

.....
Name



.....
Witnessed by

.....
10 CROWN PLACE

.....
LONDON

.....
EC2A 4FT

.....
Address

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

was hereunto affixed by Order:-

.....
R Alexander

.....
Duly Authorised Officer

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