

DATED

18 November

2016

(1) 31 HEATH DRIVE LIMITED

-and-

(2) RAVINDER KUMAR GUPTA and ANINDITA GUPTA

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 8 August 2016
Between the Mayor and the Burgesses of the
London Borough of Camden,
**31 Heath Drive Limited and Ravinder Kumar Gupta
and Anindita Gupta**
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
FLAT 1 AND 2 31 HEATH DRIVE LONDON NW3 7SB

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

Tel: 020 7974 5680
Fax: 020 7974 1920



THIS DEED is made on the 18 day of November 2016

BETWEEN

1. **31 HEATH DRIVE LIMITED** (Co. Regn. No. 1198609) whose registered office is at 31 Heath Drive Hampstead London NW3 7SB (hereinafter called "the Freeholder") of the first part
2. **RAVINDER KUMAR GUPTA and ANINDITA GUPTA** of Flat 1 31 Heath Drive, London NW3 7SB (hereinafter called "the Leaseholder") 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 and the Owner entered into an Agreement dated 8 August 2016 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 The Freeholder is registered at the Land Registry as the freehold proprietor with Title Absolute under title number 122392 and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.3 The Leaseholder is registered at the Land Registry as the freehold proprietor with Title Absolute under title numbers NGL776736 and NGL776672 and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.4 The Freeholder and the Leaseholder shall herein after be called the "Owner".
- 1.5 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.
- 1.6 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 19 August 2016 for which the Council resolved to grant permission conditionally under reference 2016/4634/P subject to the conclusion of this Deed.

1.7 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.

1.8 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, 7 and 8 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 08 August 2016 made between the Council and the Owner

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 8 August 2016 referenced 2016/2189 for the Amalgamation of two flats; external & internal alterations at basement, ground & first floor levels inc. window/door alterations; and extension of existing basement (Below Ground Works) as previously approved under App Ref's 2015/3738/P & 2015/3953/L as shown on drawing numbers:- 1193-700B (Existing Basement Floor Plan), 1193-700H (Existing Original Historic Basement Floor Plan), 1193-710 (Cleaned Existing Basement Floor Plan), 1193-701 C (Existing Ground Floor Plan), 1193-701H (Existing Original Historic Ground Floor Plan), 1193-711 (Cleaned Existing Ground Floor Plan), 1193-709 (Existing First Floor Plan), 1193-708H (Existing Original Historic First Floor Plan), 1193-712 (Cleaned Existing First Floor Plan), 1193-702 A (Location Plan), 1193-703 A (Context Plan), 1193-704 (Existing Front & Rear Elevations), 1193-705 A (Existing Elevation A & B), 1193-706.01 A

(Existing Sections), 1193-706.02 (Existing Sections), 1193-706.03 A (Existing Sections), 1193-710 (Existing Basement Floor Plan), 1193-711 (Existing Ground Floor Plan), 1172-100 I (Proposed Basement Floor Plan), 1193-131 B (Proposed Ground Floor Plan), 1193-132 C (Proposed First Floor Plan), 1193-110 A (Site Set Up Plan), 1193-120 A (Proposed Basement Floor Plan), 1193-121 A (Proposed Ground Floor Plan), 1193-122 (Proposed First Floor Plan), 1193-900 (Site Photographs Sheet 1), 1193-901 (Site Photographs Sheet 2), 1193-902 (Site Photographs Sheet 3), 1193-903 (Site Photographs Sheet 4), 1193-200 A (Basement RCP), 1193-201 A (Ground RCP), 1193-202 (First Floor RCP), 1193-300 A (Proposed Elevations A & B), 1193-301.01 C Proposed Section , 1193-301.02 B (Proposed Section), 1193-301.03 B (Proposed Section), 1193-302 (Basement Sliding Pocket Doors), 1193-303 A (Gnd Flr Drawing Room Elevation A), 1193-304.01 B (Gnd Flr Glazed Stairwell Wall), 1193-304.02 A (Gnd Flr Glazed Stairwell Wall), 1193-310 (Gnd Flr Dining Room French Doors), 1193-316 A (Proposed Rear Elevation), 1193-317 (1st Flr Stairs), 1193-318 (First Floor Balcony), Design and Access Statement with Heritage Assessment - Alistair Grills Associates, BIA - UK-Hydrosiences (May 2015), FRA and Soil Report - Geotechnical & Environmental Associates (May 2015), BIA Audit Response - Geotechnical & Environmental Associate

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 08 August 2016 for the variation of condition 4 of planning permission ref 2016/2189/P (dated 08/08/2016) for amalgamation of two flats external & internal alterations at basement, ground & first floor levels - to replace the word 'development' with the word 'basement' (therefore the details of the engineer for the basement shall be required prior to the commencement of any basement works) as shown on drawing numbers: 1193-700 B (Existing Basement Floor Plan), 1193-700H (Existing Original Historic Basement Floor Plan), 1193-710 (Cleaned Existing Basement Floor Plan), 1193-701 C (Existing Ground Floor Plan), 1193-701H (Existing Original Historic Ground Floor Plan), 1193-711 (Cleaned Existing Ground Floor Plan), 1193-709 (Existing First Floor Plan), 1193-708H (Existing Original Historic First Floor Plan), 1193-712 (Cleaned Existing First Floor Plan), 1193-702 A (Location Plan), 1193-703 A (Context Plan), 1193-704 (Existing Front & Rear Elevations), 1193-705 A (Existing Elevation A & B), 1193-706.01 A (Existing Sections), 1193-706.02 (Existing Sections), 1193-706.03 A (Existing Sections), 1193-710 (Existing Basement Floor Plan), 1193-711 (Existing Ground Floor Plan), 1172-100 I (Proposed Basement Floor Plan), 1193-131 B (Proposed Ground Floor Plan), 1193-132 C (Proposed First Floor Plan), 1193-110 A (Site Set Up Plan), 1193-120 A (Proposed Basement

Floor Plan), 1193-121 A (Proposed Ground Floor Plan), 1193-122 (Proposed First Floor Plan), 1193-900 (Site Photographs Sheet 1), 1193-901 (Site Photographs Sheet 2), 1193-902 (Site Photographs Sheet 3), 1193-903 (Site Photographs Sheet 4), 1193-200 A (Basement RCP), 1193-201 A (Ground RCP), 1193-202 (First Floor RCP), 1193-300 A (Proposed Elevations A & B), 1193-301.01 C Proposed Section , 1193-301.02 B (Proposed Section), 1193-301.03 B (Proposed Section), 1193-302 (Basement Sliding Pocket Doors), 1193-303 A (Gnd Flr Drawing Room Elevation A), 1193-304.01 B (Gnd Flr Glazed Stairwell Wall), 1193-304.02 A (Gnd Flr Glazed Stairwell Wall), 1193-310 (Gnd Flr Dining Room French Doors), 1193-316 A (Proposed Rear Elevation), 1193-317 (1st Flr Stairs), 1193-318 (First Floor Balcony), Design and Access Statement with Heritage Assessment - Alistair Grills Associates, BIA - UK-Hydrosciences (May 2015), FRA and Soil Report - Geotechnical & Environmental Associates (May 2015), BIA Audit Response - Geotechnical & Environmental Associates (16.12.15), FRA Audit response - Geotechnical & Environmental Associates (16.12.15), Ground Movement Assessment Report - Geotechnical & Environmental Associates (17.12.15) BIA Final Audit - Campbell Reith (January 2016), CMP Part 1 - Text (CD&B) , CMP Part 2 - Appendix A - Structural Design Calculations (MMP Design), CMP Part 3 - Appendix A - Structural Dwg No 4467 01 (MMP Design), CMP Part 4 - Appendix A - Structural Dwg No 4467 02 (MMP Design), CMP Part 6 - Appendix B - Propping Diagram (CD&B), CMP Part 7 - Appendix C - Proposed Site Set Up (Callender Howorth), CMP Part 8 -

Appendix D - Noise, Vibration & Dust Management Plan (NVDMP) (CD&B) , CMP Part 9 - Appendix E - Construction Traffic Management Plan (CTMP) (CD&B), CMP Part 10 - Appendix F - Contractors Method Statement (CMS) (CD&B)

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2016/4634/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 19 August 2016 by the Owner and given reference number 2016/4634/P

3.2 After the words "2016/2189/P" in clauses 5.2, 5.6 and 6.1 of the Original Agreement the words "or "2016/4634/P" (as the case may be)" shall be inserted.

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 2016/4634/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 has caused this Deed to be executed as a Deed the day and year first
above written.

EXECUTED AS A DEED BY
31 HEATH DRIVE LIMITED
in the presence of:-

) BASANTI CHATTERJEE
)
)

Anindita Gupta

.....
Director

Basanti

.....
Director/Secretary

EXECUTED AS A DEED BY
RAVINDER KUMAR GUPTA
in the presence of:

)
) *Basanti*
)

B. Chatterjee

.....
Witness Signature

Witness Name: BASANTI CHATTERJEE

Address: 66 BRIDGEACRE GARDENS, COVENTRY CV3 2NN

Occupation: Interpreter

EXECUTED AS A DEED BY
ANINDITA GUPTA
in the presence of:

)
) *Anindita Gupta*
)

B. Chatterjee

.....
Witness Signature

Witness Name: BASANTI CHATTERJEE

Address: 66 BRIDGEACRE GARDENS, COVENTRY CV3 2NN

Occupation: Interpreter

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

was hereunto affixed by Order:-

.....
Duly Authorised Officer





31 HEATH DRIVE LONDON NW3 7SB



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Alistair Grills Associates
4 Chisholm Road
Richmond
TW10 6JH
United Kingdom

Application Ref: **2016/4634/P**

08 November 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:

**Flats 1 & 2
31 Heath Drive
London
NW3 7SB**

Proposal:

DECISION
Variation of condition 4 of planning permission ref 2016/2189/P (dated 08/08/2016) for amalgamation of two flats external & internal alterations at basement, ground & first floor levels - to replace the word 'development' with the word 'basement' (therefore the details of the engineer for the basement shall be required prior to the commencement of any basement works)

Drawing Nos:

1193-700 B (Existing Basement Floor Plan), 1193-700H (Existing Original Historic Basement Floor Plan), 1193-710 (Cleaned Existing Basement Floor Plan), 1193-701 C (Existing Ground Floor Plan), 1193-701H (Existing Original Historic Ground Floor Plan), 1193-711 (Cleaned Existing Ground Floor Plan), 1193-709 (Existing First Floor Plan), 1193-708H (Existing Original Historic First Floor Plan), 1193-712 (Cleaned Existing First Floor Plan), 1193-702 A (Location Plan), 1193-703 A (Context Plan), 1193-704 (Existing Front & Rear Elevations), 1193-705 A (Existing Elevation A & B), 1193-706.01 A (Existing Sections), 1193-706.02 (Existing Sections), 1193-706.03 A (Existing Sections), 1193-710 (Existing Basement Floor Plan), 1193-711 (Existing Ground Floor Plan), 1172-100 I (Proposed Basement Floor Plan), 1193-131 B (Proposed Ground Floor Plan), 1193-132 C (Proposed First Floor Plan), 1193-110 A (Site Set Up Plan), 1193-120 A (Proposed Basement Floor Plan), 1193-121 A (Proposed Ground Floor Plan), 1193-122 (Proposed First Floor Plan), 1193-900 (Site Photographs Sheet 1), 1193-901 (Site Photographs

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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 Replacement Condition 4 - The basement works hereby approved shall not commence until such time as a suitably qualified chartered engineer with membership of the appropriate professional body has been appointed to inspect, approve and monitor the critical elements of both permanent and temporary basement construction works throughout their duration to ensure compliance with the design which has been checked and approved by a building control body. Details of the appointment and the appointee's responsibilities shall be submitted to and approved in writing by the local planning authority prior to the commencement of the basement works. Any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Development Policies and policy DP27 (Basements and Light wells) of

the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

1 Reason for granting planning consent:

This application is for the variation of condition 4 of planning permission ref: 2016/2189/P (dated 08/08/2016) to replace the word 'development' with the word 'basement works'. This would therefore require the details of an engineer to inspect, approve and monitor the basement works to be submitted to and approved by the Council prior to the commencement of any basement works, rather than prior to the commencement of any development on the site.

The proposed variation of condition 4 is considered to be reasonable and the condition as varied would meet the statutory tests of being necessary; relevant to planning and; to the development to be permitted; enforceable; precise and; reasonable in all other respects.

Condition 4 requires details of a qualified engineer to be commissioned to oversee the basement works on the site to be submitted to the Council. The original condition required these details to be submitted prior to the commencement of any development on the site. The condition as varied would require these details to be submitted prior to the commencement of the basement works only. As the engineer is required to oversee the basement works, it is considered reasonable to permit this variation. Condition 4 is related to the basement works only and should not hold up the rest of the development.

The above ground development would still need to be implemented in accordance with the Construction Management Plan (CMP) which was secured by legal agreement on the original permission and would ensure that the development does not impact on highway safety or residential amenity.

The development would otherwise remain the same as previously approved. As such, the proposed development is in general accordance with policies CS5, CS6, CS11, CS14 of the London Borough of Camden Local Development Framework Core Strategy, and policies DP2, DP16, DP18, DP20, DP24, DP25, DP26, DP27, DP28, & DP32 of the London Borough of Camden Local Development Framework Development Policies, CPG1, CPG2, CPG4, CPG6, CPG7 & CPG8 and the Redington Froggnal Conservation Area Statement. The proposed development also accords with the London Plan 2016, The London Plan Housing SPG, the National Planning Policy Framework and the National Technical Housing Standards.

2 This approval under Section 73 of the 1990 Act effectively varying condition 4 of the previous planning permission ref 2016/2189/P (dated 08/08/2016) is subject otherwise to the same terms, drawings, conditions and obligations 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

Supporting Communities Directorate

DRAFT

DECISION



DATED

18 November

2016

(1) 31 HEATH DRIVE LIMITED

-and-

(2) RAVINDER KUMAR GUPTA and ANINDITA GUPTA

-and-

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

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FLAT 1 AND 2 31 HEATH DRIVE LONDON NW3 7SB

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