

DATED

7 April

2017

**(1) ZADAH DEVELOPMENTS LIMITED**

and

**(2) INGENIOUS REAL ESTATE FINANCE LLP**

and

**(3) PRIVATE LABEL MARKETING 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 27 October 2015  
Between the Mayor and the Burgesses of the  
London Borough of Camden,  
Zadeh Developments Limited, Alex Joseph Zadeh, Rosita Yosef Zadeh and  
the Trustees of the Gallery Zadeh Pension Scheme  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
**Land and Garages Adjacent to 42 Falkland Road, London NW5 2PX**

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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/SEA/1800.70  
DoV FINAL



THIS DEED is made on the 7<sup>th</sup> day of April 2017

**BETWEEN**

1. **ZADAH DEVELOPMENTS LIMITED** (Co. Regn. No. 8128383) whose registered office is at Gable House, 239 Regents Park Road, Finchley, London N3 3LF (hereinafter called "the Owner") of the first part
2. **INGENIOUS REAL ESTATE FINANCE LLP** (Co. Regn. No. OC396939) of 15 Golden Square, London W1F 9JG (hereinafter called "First Mortgagee") of the second part
3. **PRIVATE LABEL MARKETING LIMITED** (Co. Regn. No. 01841284) of Dairy House, Money Row Green, Holyport, Maidenhead SL6 2ND (hereinafter called "Second Mortgagee") of the third 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 fourth part

**WHEREAS:**

- 1.1 The Council, Zadeh Developments Limited, Alex Josef Zadeh, Rosita Yosef Zadah and the Trustees of the Gallery Zadah Pension Scheme entered into an Agreement dated 27 October 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 NGL928582 subject to two charges 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 24 November 2016 for which the Council resolved to grant permission conditionally under reference 2016/6445/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.
- 1.8 The First Mortgagee as mortgagee under a legal charge registered under Title Number NGL928582 and dated 22 August 2016 is willing to enter into this Agreement to give its consent to the same.
- 1.9 The Second Mortgagee as mortgagee under a legal charge registered under Title Number NGL928582 and dated 22 August 2016 is willing to enter into this Agreement to give its consent to the same.
- 1.10 The First Mortgagee and the Second Mortgagee shall hereinafter be jointly referred to as "**the Mortgagees**".

## 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 Mortgagees 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 27 October 2015 made between the Council and Zadeh Developments Limited, Alex Josef Zadeh, Rosita Yosef Zadah and the Trustees of the Gallery Zadah Pension Scheme

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 27 October 2015 referenced 2014/5539/P allowing the erection of part 1 storey plus mansard and part 3 storey building,

plus basement to provide 6x flats as shown on drawing numbers Site Location Plan 1099-BA-100; 101; 102; 103; 104; 105; 106 Rev B; 107 Rev B; 108 Rev B; 109 Rev C; 110 Rev C; 111 Rev C; 112 Rev B; 113 Rev C; 114 Rev C; 115 Rev C; 116 Rev B; 117 Rev A; 118 Rev A; 119 Rev A; Design and Access Statement by Donald Shearer Architects dated 27/08/2014; Code for Sustainable Homes Pre-Assessment by Donald Shearer Architects dated 29/08/2014; Basement Impact Assessment by Site Analytical Services Ltd dated December 2013; Lifetime Homes Statement by Donald Shearer Architects dated 29/08/2013; Daylight/Sunlight Report by GVA dated 20/08/2014.

### **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 27 October 2015 (2014/5539/P) to alter the approved plans, namely including amendments to the basement, front garden and internal layouts as shown on drawings Site Location Plan 1099-BA-100; 101; 102; 103; 104; 105; 12516-SPR-XX-AR-15-01-3\_3; 12516-SPR-XX-AR-15-02-3\_3; 12516-SPR-XX-AR-15-03-3\_3; 12516-SPR-XX-AR-15-04-3\_3; 12516-SPR-XX-AR-15-05-3\_3; 12516-SPR-XX-AR-15-06-3\_3; 12516-SPR-XX-AR-30-01-3\_2; 12516-SPR-XX-AR-30-02-3\_2; 12516-SPR-XX-AR-30-03-3\_2; 12516-SPR-XX-AR-20-01-3\_3; 12516-SPR-XX-AR-20-02-3\_3; 12516-SPR-XX-AR-20-03-3\_3; 12516-SPR-XX-AR-20-04-3\_2; Design and Access Statement by Donald Shearer Architects

dated 27/08/2014; Code for Sustainable Homes Pre-Assessment by Donald Shearer Architects dated 29/08/2014; Basement Impact Assessment by Site Analytical Services Ltd dated December 2013; Lifetime Homes Statement by Donald Shearer Architects dated 29/08/2013; Daylight/Sunlight Report by GVA dated 20/08/2014; Letter from Gurney Consulting Engineers ref 9540-001-rmb.

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2016/6445/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 24 November 2016 by the Owner and given reference number 2016/6445/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2014/5539/P" shall be replaced with "Planning Permission reference 2016/6445/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 2016/6445/P.

#### 5. **PAYMENT OF THE COUNCIL'S LEGAL COSTS**

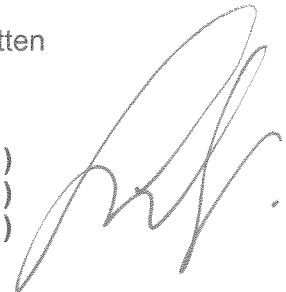
5.1 The Owner agrees to pay the Council (on or prior to completion of this Deed) its reasonable legal costs incurred in preparing this Deed

6. REGISTRATION AS LOCAL LAND CHARGE

6.1 This Deed shall be registered as a Local Land Charge

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owner, 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  
ZADAH DEVELOPMENTS LIMITED  
in the presence of:



.....  
Witness Signature

Witness Name S A Atkinson LL.B. Solicitor  
Solomon Taylor & Shaw  
3 Coach House Yard  
Address Hampstead High Street  
London NW3 1QD  
Occupation Tel: 020 7431 1912  
Fax: 020 7794 7485  
DX No: 144580 Hampstead 2  
e-mail: [scott@solts.co.uk](mailto:scott@solts.co.uk)

EXECUTED AS A DEED BY  
INGENIOUS REAL ESTATE FINANCE LLP  
in the presence of:



.....  
Witness Signature

Witness Name MR SUKHWINDER SINGH BOPARAI  
Address 15 GOLDEN SA, LONDON, W1R 9JG.  
Occupation INVESTMENT ASSOCIATE



CONTINUATION OF DEED OF VARIATION IN RELATION TO LAND AND GARAGES  
ADJACENT TO 42 FALKLAND ROAD, LONDON NW5 2PX

EXECUTED AS A DEED BY  
PRIVATE LABEL MARKETING LIMITED  
in the presence of:

)  
)  
)

*Andrew Jones*

*Nicola Huie*

.....  
Witness Signature

Witness Name *Nicola Huie*

Address *Wall Garage, Highman Lane, Howler-on-Thames, Oxon  
OX9 5D7*

Occupation *Director*

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

)  
)  
)  
)

*R. Alexander*

.....  
Authorised Signatory





Smart Urban Limited  
15 Ardleigh Road  
London  
N1 4HSApplication Ref: **2016/6445/P**

17 February 2017

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:

**Land and Garages Adjacent to 42 Falkland Road  
London  
NW5 2PX**

Proposal:

**DECISION**  
Variation of condition 2 (approved plans) of planning permission reference 2014/5539/P dated 27/10/15 (for erection of part 1 storey plus mansard and part 3 storey building, plus basement, to provide 6x flats) namely amendments to basement, front garden and internal layouts

Drawing Nos: Superseded drawings: Site Location Plan 1099 - BA-106 Rev B; 107 Rev B; 108 Rev B; 109 Rev C; 110 Rev C; 111 Rev C; 112 Rev B; 113 Rev C; 114 Rev C; 115 Rev C; 116 Rev B; 117 Rev A; 118 Rev A; 119 Rev A

Drawings for approval: 12516-SPR-XX-AR-15-01-3\_3; 12516-SPR-XX-AR-15-02-3\_3; 12516-SPR-XX-AR-15-03-3\_3; 12516-SPR-XX-AR-15-04-3\_3; 12516-SPR-XX-AR-15-05-3\_3; 12516-SPR-XX-AR-15-06-3\_3; 12516-SPR-XX-AR-30-01-3\_2; 12516-SPR-XX-AR-30-02-3\_2; 12516-SPR-XX-AR-30-03-3\_2; 12516-SPR-XX-AR-20-01-3\_3; 12516-SPR-XX-AR-20-02-3\_3; 12516-SPR-XX-AR-20-03-3\_3; 12516-SPR-XX-AR-20-04-3\_2; Letter from Gurney Consulting Engineers ref 9540-001-rmb

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 The development hereby permitted must be begun not later than the end of three years from the date of the original planning permission ref. 2014/5539/P dated 27/10/15.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 1099-BA-100; 101; 102;103; 104; 105; 12516-SPR-XX-AR-15-01-3\_3; 12516-SPR-XX-AR-15-02-3\_3; 12516-SPR-XX-AR-15-03-3\_3; 12516-SPR-XX-AR-15-04-3\_3; 12516-SPR-XX-AR-15-05-3\_3; 12516-SPR-XX-AR-15-06-3\_3; 12516-SPR-XX-AR-30-01-3\_2; 12516-SPR-XX-AR-30-02-3\_2; 12516-SPR-XX-AR-30-03-3\_2; 12516-SPR-XX-AR-20-01-3\_3; 12516-SPR-XX-AR-20-02-3\_3; 12516-SPR-XX-AR-20-03-3\_3; 12516-SPR-XX-AR-20-04-3\_2; Design and Access Statement by Donald Shearer Architects dated 27/08/2014; Code for Sustainable Homes Pre-Assessment by Donald Shearer Architects dated 29/08/2014; Basement Impact Assessment by Site Analytical Services Ltd dated December 2013; Lifetime Homes Statement by Donald Shearer Architects dated 29/08/2013; Daylight/Sunlight Report by GVA dated 20/08/2014; Letter from Gurney Consulting Engineers ref 9540-001-rmb.

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

- 3 The units hereby approved shall be designed and constructed in accordance with Building Regulations Part M4 (2),.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 of the London Borough of Camden Local Development Framework Development Policies.

- 4 The cycle storage facilities as indicated on the drawings and documents hereby approved shall be provided and retained in their entirety prior to the first occupation of any of the new residential units.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy CS11 (Promoting sustainable and efficient travel) of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 (Walking, cycling and public transport) of the London Borough of Camden Local Development Framework Development Policies.

- 5 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the adjoining terrace, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 (Securing high quality design) and DP25 (Conserving Camden's Heritage) of the London Borough of Camden Local Development Framework Development Policies.

- 6 No development shall take place until samples of the materials to be used in the construction of the external surfaces hereby permitted have been submitted and approved in writing by the local planning authority. In addition a sample panel of the facing brickwork should be erected on-site and approved by the Council before the relevant parts of the work are commenced. The panel must be 1m by 1m and demonstrate the proposed colour, texture, face-bond and pointing of the brickwork. The relevant part of the works shall then be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 (Securing high quality design) and DP25 (Conserving Camden's Heritage) of the London Borough of Camden Local Development Framework Development Policies.

- 7 Piling or any other foundation designs using penetrative methods shall not be permitted unless a piling method statement detailing the type of piling to be undertaken and the methodology by which such piling will be carried out including measures to prevent and minimise the potential for damage to subsurface water or sewerage infrastructure, and the programme for the works, has been submitted to and approved by the Local Planning Authority in writing in liaison with the relevant utility providers. The piling shall be undertaken in accordance with the approved method statement.

Reason: To safeguard existing below ground public utility infrastructure and controlled waters in accordance with the requirements of policy CS13 of the London Borough of Camden Local Development Framework Core Strategy.

- 8 Before the development commences a drainage strategy detailing any on and/or off site drainage works, shall be submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.

Reason: To ensure that sufficient drainage capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community in accordance with the requirements of policy CS13 of the London Borough of Camden Local Development Framework Core Strategy and policies DP23 and DP27 of the London Borough of Camden Local Development Framework Development Policies.

- 9 The refuse storage facilities as indicated on the drawings and documents hereby approved shall be provided and retained in their entirety prior to the first occupation of any of the new residential units.

Reason: To ensure that sufficient provision for the storage and collection of waste has been made in accordance with the requirements of policy CS18 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

- 1 Reasons for granting planning permission.

The application seeks minor amendments to the approved scheme to rationalise the internal layouts to improve residential amenity, realign the boundaries, remodel the basement and revised the front landscape.

The approved scheme was the result of numerous amendments. The original scheme proposed the erection of 1x 3 storey dwelling and 1x single storey dwelling. This went through various incarnations to increase the size of the dwellings by remodelling the rear of the 3 storey dwelling and adding a mansard to the single storey dwelling, adding a basement to both dwellings and finally changing the make up from two dwellings to 6x flats.

The most recently approved scheme incorporated four storeys at the rear which lead to a rather convoluted internal layout whereby floorplates at the rear of the building were at different levels to floorplates at the front requiring stairs in all flats. The amendment seeks to remove the added storey at the rear, which would ensure three flats, apart from the two maisonettes and Flat 3, would be on one level with no need for stairs. The height of the building would remain the same, as would the front elevation, with only minor changes to the rear elevation,

The amendment would change the set up from 3x 2-beds, 2x 1-beds and 1x studio to 4x 2-beds and 2x 1-beds. These changes would reduce the net internal area by approximately 45sqm, but provide a better standard of accommodation by

improving internal access. The reconfigured units would continue to meet the national space standards.

At basement level it is proposed to increase the size of the lightwells to improve daylight to the basement accommodation. The approved lightwells were covered by grilles, and it is proposed to leave the larger lightwells uncovered. The proposed west lightwell would be approximately 4.4m wide and the east lightwell 3.8m wide, with both extending approximately 1.2m in front of the bay windows. The lightwells would be largely hidden from view by the cycle sheds which remain in their originally approved locations, and newly proposed raised planters. As such the proposed lightwells are not considered to harm the appearance of the street scene or conservation area.

The alterations to the lightwells would require an increase in the footprint of the basement by approximately 16.5sqm. The applicant has submitted a structural engineering statement which indicates that the basement impact would be broadly similar to existing. The revised scheme has not been assessed by the Council's basement consultant, however the approved scheme is subject to a section agreement which requires a basement construction plan to be submitted to and approved by the Council before the development can commence and this will still be required. Due to the proximity to the highway an Approval in Principle will be required and this will be incorporated into the amended section 106 agreement.

Externally, the other alterations are relatively minor. As mentioned, at the rear some changes are proposed including the removal of one window and realignment of two windows to the upper floors. At rear ground floor level the large folding doors are to be replaced with traditional sash windows.

Detained surveys of the site and surrounding elevations differ from the "as existing" drawings previously submitted for approval. Accordingly, the design has been adapted to the correct boundaries and levels to match the design principles of the original application. However, these alterations are relatively minor and not considered to be material.

The amendments are not considered to have a materials impact on the amenity of any adjoining occupiers, nor would there be any material change to the transport impact of the scheme.

## 2 Reasons for granting permission (continued)

No objections have been received prior to making this decision. The planning history of the site has been taken into account when coming to this decision.

As such, the proposed amendment is in general accordance with policies CS1, CS4, CS5, CS6, CS11, CS13, CS14, CS15, CS18 and CS19 of the London Borough of Camden Local Development Framework Core Strategy, and policies DP2, DP5, DP6, DP17, DP18, DP19, DP20, DP21, DP22, DP24, DP25, DP26 and DP27 of the London Borough of Camden Local Development Framework

Development Policies. The proposed development also accords with the London Plan 2016 and the National Planning Policy Framework 2012.

- 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

**DRAFT**

Supporting Communities Directorate

**DECISION**





DATED

7 April

2017

(1) ZADAH DEVELOPMENTS LIMITED

and

(2) INGENIOUS REAL ESTATE FINANCE LLP

and

(3) PRIVATE LABEL MARKETING LIMITED

and

(4) THE MAYOR AND THE BURGESSES OF  
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