

DATED

22 June

2017

**(1) TRIUMPH ESTATES LIMITED**

-and-

**(2) MIZRAHI TEFAHOT BANK LIMITED**

-and-

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

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**DEED OF VARIATION**

Relating to the Agreement dated 16 March 2015  
Between the Mayor and the Burgesses of the  
London Borough of Camden and  
Jayantilal Bhikhabhai Mistry Limited  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
**6 HIGHGATE ROAD, LONDON NW5 1NR**

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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/00/1800.278



THIS DEED is made on the 22<sup>nd</sup> day of June 2017

**BETWEEN**

1. **TRIUMPH ESTATES LIMITED** (Co. Regn. No. 07023293) whose registered office is at Gable House 239 Regents Park Road, Finchley, London, N3 3LF (hereinafter called "the Owner") of the first part;
2. **MIZRAHI TEFAHOT BANK LIMITED** of (incorporated in Israel)(UK Regn. No. FC011504) of 30 Old Broad Street, London EC2N 1HT (hereinafter called "the Mortgagee") of the second part; and
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 Jayantilal Bhikhabhai Mistry Limited entered into an Agreement dated 16 March 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 of the Property with Title Absolute under title number NGL223231 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 21 February 2017 for which the Council resolved to grant permission conditionally under reference 2017/0465/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 16 March 2015 made between the Council and Jayantilal Bhikhabhai Mistry Limited

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 16 March 2015 referenced 2014/3517/P allowing the Demolition of 2 storey Class D1 surgery and erection of 3 storey building with mansard roof extension comprising ground floor Class D1 surgery and 1st - 3rd floors 2-bedroom self-contained Class C3 maisonette as shown on drawing numbers SSC 1000/LOC01, PL01 (existing), PL02A (proposed elevations), PL02B (proposed floorplans), PL03A (proposed side elevations), PL04A (sections)

### **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" shall mean the development authorised by the planning permission with reference 2014/3517/P dated 16 March 2015 as amended by:

Variation of condition 5 (development in accordance with approved plans) of planning permission ref 2014/3517/P dated 16/03/2015 (for Demolition of 2 storey Class D1 surgery and erection of 3 storey building with mansard roof extension comprising ground floor Class D1 surgery and upper floors 2-bedroom self-contained Class C3 maisonette), namely to allow altered fenestration to front and rear elevations and minor roof alterations as shown on drawing numbers HRKT.ga01 revC, HRKT.GA02 revA.

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2017/0465/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 25 January 2017 by the Owner and given reference number 2017/0465/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference "2014/3517/P" shall be replaced with "Planning Permission reference "2017/0465/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 2017/0465/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**

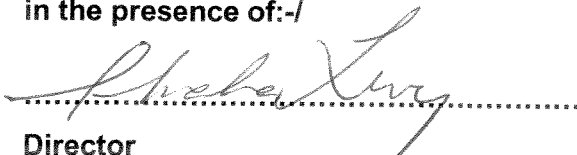
- 6.1 This Deed shall be registered as a Local Land Charge

7. **MORTGAGEE EXEMPTION**

- 7.1 The 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 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.
- 7.2 The Parties agree that the obligations contained in this Agreement shall not be enforceable against any mortgagee or chargee of the whole or any part of the Property unless it takes possession of the Property in which case it will be bound by the obligations as a person deriving title from the Owner.

**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 )  
TRIUMPH ESTATES LIMITED )  
acting by a Director )  
in the presence of:-/ )

  
.....  
Director

  
.....  
Witness Signature

Witness Name: *Jaime Diaz*

Address: *Flat 2, Little court, 268 Ballard Lane, NZ OES*

Occupation: *Property Manager*

CONTINUATION OF THE DEED OF VARIATION IN RELATION TO 6 HIGHGATE ROAD, LONDON NW5 1NR

**SIGNED AS A DEED**

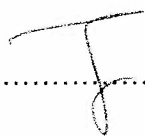
for and on behalf of

**MIZRAHI TEFAHOT BANK LIMITED**

by

)  
)  
)  
)

.....  
Authorised Signatory



MICHAEL GEHLER  
HEAD OF CORPORATE LENDING  
MIZRAHI TEFAHOT BANK LIMITED  
LONDON BRANCH

.....  
Authorised Signatory

ELTON HILLMAN  
HEAD OF CREDIT  
MIZRAHI TEFAHOT BANK LIMITED  
LONDON BRANCH

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

was hereunto affixed by Order:-

)  
)  
)  
)

.....  
Authorised Signatory





Paul Evans Design Associates Ltd  
9 Dalmeny Road  
London N7 0HG

Application Ref: **2017/0465/P**

01 June 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:  
**6 Highgate Road**  
**London NW5 1NR**

**PROPOSAL**  
Proposal:

Variation of condition 5 (development in accordance with approved plans) of planning permission ref 2014/3517/P dated 16/03/2015 (for Demolition of 2 storey Class D1 surgery and erection of 3 storey building with mansard roof extension comprising ground floor Class D1 surgery and upper floors 2-bedroom self-contained Class C3 maisonette), namely to allow altered fenestration to front and rear elevations and minor roof alterations.

Drawing Nos: HRKT.ga01 revC, HRKT.GA02 revA.

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 2014/3517/P dated 16/03/2015.

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- HRKT.ga01 revC, HRKT.GA02 revA.

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

- 3 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the adjoining building at no.8 Highgate Road; all new windows shall match the sash windows at no.8 Highgate Road in terms of size, location, design and method of opening.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 4 The 2nd floor flat roof of the rear wing shall not be used as an amenity terrace to the new maisonette.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 5 Prior to occupation of the new maisonette, the proposed windows on the rear elevation on 1st, 2nd and 3rd floors shall be obscure glazed and fixed shut up to a point 1.7m above floor level. The windows shall be permanently maintained as such thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 6 Details of the shopfront and entrance door shall be submitted to and approved in writing by the Council before the relevant part of the work is begun. The relevant part of the works shall be carried out in accordance with the details thus approved.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

1 Reasons for granting permission.

The proposed scheme involves a rationalisation to the floorplans and a variation to the elevations previously approved in the scheme granted permission ref 2014/3517/P dated 06/06/2014. It is considered that the amendments are an improvement to the previous scheme.

The internal layout swaps around the 2 single and double bedrooms, but the accommodation effectively remains the same in size and occupancy and meets housing standards. The altered mansard roof so that the roof pitch is reversed from that approved will not be noticeable from the street. The introduction of a parapet over the rear extension will not affect the property's appearance in this enclosed location nor impact on neighbouring amenities. The variations in number, size and location of windows at rear do not materially alter the elevational appearance of the building or neighbour amenity and are acceptable. The revised window arrangement at the front will line up and replicate the pattern of windows at the neighbouring property of no.8 Highgate Road in terms of spacing, size and position. This is considered an enhancement to both the property and streetscene and will not harm the setting of listed buildings opposite. The simplification of the shopfront is acceptable in the light of surrounding shop units; details to suit future tenant requirements are to be reserved by condition.

The proposal is not considered to cause any adverse impacts on the amenity of adjoining residential occupiers at the rear, and the previous conditions to prevent overlooking will continue to be imposed.

The scheme remains acceptable as before in terms of landuse and transport considerations and it also still complies with new policies in the Submission Draft Camden Local Plan. The S106 clauses for the previous permission relating to car-free housing, CMP and highway works will be secured for this scheme via a Deed of Variation. The same conditions and informatives as before will be imposed.

One objection has been received prior to making this decision. This and the planning history of the site have been 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, policies DP24, DP25 and DP26 of the London Borough of Camden Local Development Framework Development Policies, and policies D1, D2, D3 and A1 of the Camden Local Plan Submission Draft 2016. The proposed development also accords with the London Plan 2016 and the National Planning Policy Framework 2012.

The Inspector's report on the Local Plan was published on 15 May 2017 and concludes that the plan is 'sound' subject to modifications being made to the Plan. While the determination of planning applications should continue to be made in accordance with the existing development plan until formal adoption, substantial weight may now be attached to the relevant policies of the emerging plan as a material consideration following publication of the Inspector's report, subject to any relevant recommended modifications in the Inspector's report.

- 2 You are advised that this proposal will be liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL as the additional floorspace exceeds 100sqm GIA or one unit of residential accommodation. Based on the information given on the plans, the Mayor's CIL Charging Schedule and the Camden Charging Schedule, the charge is likely to be £4250 (85sqm x £50) for the Mayor's CIL and £42,500 (85sqm x £500) for the Camden CIL.

This amount is an estimate based on the information submitted in your planning application. The liable amount may be revised on the receipt of the CIL Additional Information Requirement Form or other changes in circumstances. Both CIL's will be collected by Camden after the scheme has started and could be subject to surcharges for failure to assume liability or submit a commencement notice PRIOR to commencement and/or for late payment. We will issue a formal liability notice once the liable party has been established. CIL payments will also be subject to indexation in line with the construction costs index.

- 3 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 4 Your proposals may be subject to control under the Party Wall etc Act 1996 which covers party wall matters, boundary walls and excavations near neighbouring buildings. You are advised to consult a suitably qualified and experienced Building Engineer.
- 5 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Noise and Licensing Enforcement Team, Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.

- 6 This permission is granted without prejudice to the necessity of obtaining consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Application forms may be obtained from the Council's website, [www.camden.gov.uk/planning](http://www.camden.gov.uk/planning) or the Camden Contact Centre on Tel: 020 7974 4444 or email [env.devcon@camden.gov.uk](mailto:env.devcon@camden.gov.uk).
- 7 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.
- 8 You are reminded of the need to provide adequate space for internal and external storage for waste and recyclables. For further information contact Council's Environment Services (Waste) on 020 7974 6914/5 or see the website <http://www.camden.gov.uk/ccm/content/environment/waste-and-recycling/twocolumn/new-recycling-rubbish-and-reuse-guide.en>.

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





DATED

22 June

2017

**(1) TRIUMPH ESTATES LIMITED**

-and-

**(2) MIZRAHI TEFAHOT BANK LIMITED**

-and-

**(3) THE MAYOR AND THE BURGESSES OF  
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