

DATED

2017

(1) [APPLICANT/OWNER/FREEHOLDER]

and

[(2) MORTGAGEE]

and

[(3) INTERESTED PARTY/LEASEHOLDER]

and

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

DEED OF VARIATION

of the S106 Agreement dated 29th June 2015 relating to land known as

**Parliament Hill School, William Ellis School & La Swap Sixth Form
Highgate Road, London NW5 1RN**

**pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended) and
Section 278 of the Highways Act 1980**

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PLANNING/PM/1781.26
Shadow s106 Agreement – Deed of Variation
FINAL 030817

THIS DEED OF AGREEMENT is made on the day of 2017

B E T W E E N:

1. **[APPLICANT/OWNER/FREEHOLDER]** (Co. Regn. No.) whose registered office is at (hereinafter called “the Owner”)

2. **[MORTGAGEE]** (Co. Regn. No.) whose registered office is at (hereinafter called “the Mortgagee”)

3. **[INTERESTED PARTY/LEASEHOLDER]** of (hereinafter called “ ”)

4. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council")

WHEREAS:

- 1.1 The Council Original Applicant and Original Mortgagee entered into the Existing Agreement dated 29th June 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 NGL643550 [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 An Application for Sustainability Material Amendments in respect of the Property and to amend the Original Planning Permission was submitted to the Council by the Owner

and validated on 1st July 2016 for which the Council resolved to grant permission conditionally under reference 2016/3505/P subject to the conclusion of this Deed.

- 1.6 This Deed is made by virtue of the Town and Country Planning Act 1990 Section 106 (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 In this Deed the following expression shall unless the context otherwise states have the following meaning now allocated to it.

2.3.1 “Application for Sustainability Material Amendments”

the application for Sustainability Material Amendments in respect of the Property submitted to the Council and validated on the 1st July 2016 for which a resolution to grant approval has been made conditionally by the Council under reference 2016/3505/P subject to the conclusion of this Deed.

2.3.2 “Deed” this Deed of Variation made pursuant to Section 106A of the Act

2.3.3 “Existing Agreement” the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 29th June 2015 made between the Council []

2.4 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 Deed.

2.5 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 Deed and shall not effect the construction of this Deed.

2.6 Unless the context otherwise requires references to the singular shall include the plural and vice versa.

2.7 References in this Deed to the Owner and Mortgagee shall include their successors in title

3. VARIATION TO THE EXISTING AGREEMENT

3.1 The following definitions contained in the Existing Agreement shall be varied as follows:

3.1.1 “the Development”

redevelopment and refurbishment including demolition of buildings along western and southern edge of site, and in between Parliament Hill & William Ellis School, and replacement with 3 storey building along southern boundary (Parliament Hill School); enclose inner courtyard and erect 2 storey extension towards northern boundary (William Ellis School); erection of single storey building located along Highgate Road (La Swap Sixth Form) along with associated alterations to boundary treatment, new multi-use games areas, hard and soft landscaping throughout sites as shown on drawing numbers:- Sixth Form Centre Noise Impact Assessment (For Planning) - 1005073-REP-TH-20141017-3 (Noise Impact Assessment -), prepared by Hoare Lea Acoustics dated 17/10/2014, LB Camden William Ellis School Noise Impact Assessment (For Planning) - 1005073-REP-TH-20140217-2 (Noise Impact Assessment - William Ellis), prepared by Hoare Lea Acoustics dated 17/02/2014, LB Camden Parliament Hill School Noise Impact Assessment (For Planning) - REP-1005073-TH-20140217-4 (Noise Impact Assessment - Parliament Hill), prepared by Hoare Lea Acoustics dated 17/02/2014, Arboricultural Impact Assessment at Parliament Hill School, prepared by Environmental Services, dated 10th February 2015, Arboricultural Impact Assessment at William Ellis School, prepared by Environmental Services, dated 10th February 2015, Archaeological Desk Based Assessment, prepared by Richard Meager and Maurice Hopper, dated April 2008, Parliament Hill School,

William Ellis and Sixth Form Design and Access Statement, prepared by Astudio dated December 2014, L-1151 GAP 01 Revision 06, L-1151-DEEL-001 Revision 03, L-1151-DES-001 Revision 02, L-1151-GAP-01-Landscape Layout – Colour, L-1151-GAS-002 Revision 03, L-1151-PPP 001 Revision 02, L-1151-PRP-01 Revision 02, L-1151-PRP-02 Revision 03, L-1151-PRP-06 Revision 02, Flood Risk Assessment: Parliament Hill and William Ellis Schools, Prepared by Pick Everard dated 18 June 2014, Heritage Statement, prepared by VBUD, dated November 2014, Stage 1: Desktop Study & Walkover Survey - Parliament Hill School, prepared by Constructive Evaluation Limited, dated April 2008, Stage 1: Desktop Study & Walkover Survey - William Ellis School, prepared by Constructive Evaluation Limited, dated April 2008, Planning Statement prepared by VBUD, dated December 2010, Parliament Hill, William Ellis & – Statement of Community Involvement, Transport Statement- Project No. 13-255-01 Rev A, prepared by Odyssey Markides dated December 2014, Sustainability Statement, prepared by Hoare Lea, dated November 2014, BREEAM Pre-Assessment Report - La Swap Building, Parliament Hill School Rev. 1, prepared by Hoare Lea, dated October 2014, BREEAM Pre-Assessment Report - Parliament Hill School Rev. 1, prepared by Hoare Lea, dated August 2014, PERS Audit - Project No. 13-255-03, prepared by Odyssey Markides dated July 2014, CERS Audit - Project No. 13-255-04, prepared by Odyssey Markides dated July 2014, Extended Phase 1 Habitat Survey - Parliament Hill School, prepared by Marishal Thompson Group

Arboricultural & Ecological Consultants, dated 29 November 2013, Extended Phase 1 Habitat Survey - William Ellis School, prepared by Marishal Thompson Group Arboricultural & Ecological Consultants, dated 29 November 2013, Bat Presence / Absence Survey - Buildings and Trees at Parliament Hill School, prepared by Environmental Services, dated 8 October 2014, Bat Presence / Absence Survey - Buildings and Trees at William Ellis School, prepared by Environmental Services, dated 1 October 2014, Air Quality Planning Checklist 2014/ 7683/ P - Parliament Hill School, William Ellis School and Sixth Form Application (REP MC 150210 - AQA Planning Report 10.02.15), dated 10 January 2015, Draft Construction Management Plan (Report No.13-255-02 Rev C), prepared by Odyssey Markides dated December 2014, 13-255-101 Rev A - CONSTRUCTION SITE ENTRY AND EXIT- STAGE 1 (SHEET 1 OF 2), 13-255-102 Rev A - CONSTRUCTION SITE ENTRY AND EXIT- STAGE 1 (SHEET 2 OF 2), 13-255-103 - CONSTRUCTION SITE ENTRY AND EXIT- STAGE 2 (SHEET 1 OF 2), 13-255-104 - CONSTRUCTION SITE ENTRY AND EXIT- STAGE 2 (SHEET 2 OF 2), 13-255-105 - PEDESTRIAN FOOTWAY DIVERSION DURING WORKS, Drawing No. 13-255-001 – Site Location, Drawing No. 13-255-004 - HGV Access to site, Drawing No. 08-255-005 - HGV egress from site, Parliament Hill and William Ellis Schools - Daylight and Sunlight Report, prepared by Point Surveyors, dated 24th June 2014, A-WES – PL-X2 EL-XX-GA 0120 REV P, A-WES – PL-X2 EL-XX 0170 REV P, A-WES – PL-X2 PL-00-GA 0161 REV P, A-WES – PL-X2 PL-00-GA

0101 REV P, A-WES – PL-X2 PL-01-GA 0162
REV P, A-WES – PL-X2 PL-01-GA 0102 REV P,
A-WES – PL-X2 PL-02-GA 0163 REV P, A-WES
– PL-X2 PL-02-GA 0103 REV P, A-WES – PL-
X2 PL-B01-GA 0100 REV P, A-WES – PL-X2 PL-
B01-GA 0160 REV P, A-WES – PL-X2 PL-RF-
GA 0104 REV P, A-WES – PL-X2 PL-RF-GA
0164 REV P, A-WES – PL-X2 SE-AA-GA 0180
REV P, A-WES – PL-X2 SE-XX-GA 0181 REV P,
A-PHS – PL-X- PL-00-SI 0612, A-PHS – PL-X-
PL-00-SI 0500 REV P, A-PHS – PL-X- PL-00-SI
0501 REV P, A-PHS – PL-X- PL-00-SI 0600 REV
P, A-PHS – PL-X- PL-00-SI 0601 REV P, A-PHS
– PL-X- PL-00-SI 0610 REV P, A-PHS – PL-X-
PL-00-SI 0611 REV P, A-PHS – PL-X- PL-00-SI
0612 REV P, A-PHS – PL-X- PL-00-SI 0613 REV
P, A-PHS – PL-X- PL-00-SI 0614 REV P, A-PHS
– PL-X- EL-XX-GA 0120 REV P, A-PHS – PL-X-
EL-XX-GA 0121 REV P, A-PHS – PL-X1- SE-
XX-GA 0180 REV P, A-PHS – PL-X1- SE-XX-GA
0181 REV P, A-PHS – PL-X1- SE-XX-GA 0182
REV P, A-PHS – PL-X1- SE-XX-GA 0183 REV
P, A-LAS – PL-X1- EL-XX-GA 0172 REV P, A-
LAS – PL-X1- PL-00-GA 0165 REV P, A-LAS –
PL-X1- PL-00-GA 0166 REV P, PL-X1- SE-XX-
GA 0185 REV P (LAS PROPOSED SECTION),
A-PHS – PL-X1- EL-XX-GA 0170 REV P, A-PHS
– PL-X1- EL-XX-GA 0171 REV P, PHS A GA-PL-
00-0100 REV P, PHS A GA-PL-01-0101 REV P,
PHS A GA-PL-02-0102 REV P, PHS A GA-PL-
03-0103 REV P, PHS A GA-PL-04-0104 REV P,
A-PHS – PL-X1- PL-00-GA 0161 REV P, A-PHS
– PL-X1- PL-01-GA 0162 REV P, A-PHS – PL-
X1- PL-02-GA 0163 REV P, A-PHS – PL-X1- PL-
RF-GA 0164 REV P, A-PHS – PL-X1- PL-B01-

GA 0160 REV P as amended by the Sustainability Material Amendments.

3.1.2 "Planning Permission"

the Original Planning Permission as amended by the Sustainability Material Amendments given approval under reference number 2016/3505/P to be issued by the Council substantially in the form of the draft annexed hereto

3.2 The following definitions shall be added to the Existing Agreement:-

3.2.1 "Original Planning Permission"

means the planning permission granted by the Council on 29th June 2015 referenced 2014/7683/P allowing redevelopment and refurbishment including demolition of buildings along western and southern edge of site, and in between Parliament Hill & William Ellis School, and replacement with 3 storey building along southern boundary (Parliament Hill School); enclose inner courtyard and erect 2 storey extension towards northern boundary (William Ellis School); erection of single storey building located along Highgate Road (La Swap Sixth Form) along with associated alterations to boundary treatment, new multi-use games areas, hard and soft landscaping throughout sites

3.2.2 "Sustainability Material Amendments"

Variation of conditions 2 (approved plans), 32 (achieve BREEAM 'excellent' rating) and 33 (BREEAM 2014 Pre-Assessment and Sustainability Statement Report) of planning

permission 2014/7683/P dated 29/06/2015 (for Redevelopment including 3 storey building along southern boundary (Parliament Hill School); 2 storey extension towards northern boundary (William Ellis School); erection of single storey building located along Highgate Road (LaSwap Sixth Form) along with associated alterations); NAMELY to change the BREEAM rating to 'very good' as shown on Superseded: BREEAM Pre-Assessment Report - La Swap Building, Parliament Hill School Rev. 1, prepared by Hoare Lea, dated October 2014, BREEAM Pre-Assessment Report - Parliament Hill School Rev. 1, prepared by Hoare Lea, dated August 2014

Proposed: BREEAM Pre-Assessment Report (Parliament Hill School) Rev. 3 April 2016, BREEAM Pre-Assessment Report (La Swap Building, Parliament Hill School) Rev. 3 April 2016 and Revised energy performance targets - 20140052 - Parliament Hill School - Mar 16 - Rev. (granted under planning reference 2016/3505/P in the form annexed hereto pursuant to the completion of this Deed)

3.3 Clause 2.13 of the Existing Agreement shall deleted and replaced as follows:

2.13 “the Energy Efficiency and Renewable Energy Plan”

a strategy setting out a package of measures to be adopted by the Owner in the management of the Development with a view to reducing carbon energy emissions through (but not be limited to) the following:-

- a) The incorporation of the measures set out in the submission documents entitled BREEAM Pre-Assessment Report (Parliament Hill School) Rev. 3 April 2016, BREEAM Pre-Assessment Report (La Swap Building, Parliament Hill School) Rev. 3 April 2016 and Revised energy performance targets - 20140052 - Parliament Hill School - Mar 16 - Rev.
- b) further details of how the Owner will reduce the Development's carbon emissions from renewable energy technologies located on the Property ensuring the Owner will target a reduction of at least 35% in carbon emissions in relation to the Property using a combination of complementary low and zero carbon technologies;
- c) separate metering of all low and zero carbon technologies to enable the monitoring of energy and carbon emissions and savings;
- d) a building management system being an electronic system to monitor the Development's heating cooling and the hours of use of plant;
- e) measures to ensure sufficient space is provided within the new plant room for future expansion of the current low demand Combined Heat and Power (CHP) system to a more substantial CHP plant, together with a commitment to implementing measures to a local energy CHP network when appropriate in the future;
- f) a CHP Air Quality Assessment;

- g) provision of a meter on the CHP unit so the Council can monitor how much energy is being derived from CHP;
- h) measures to enable future connection to a local energy network that has been designed in accordance with the “CIBSE heat networks; code of practice for the UK” at the boundary of the Property including:
- safeguarded space for a future heat exchanger;
 - provisions made in the building fabric/ design (such as soft-points in the building plant room walls) to allow pipes to be routed through from the outside to a later date;
 - the provision of domestic hot water isolation valves to facilitate the connection of an interfacing heat exchanger;
 - provision for external buried pipework routes to be safeguarded to a nearby road or similar where connection to the Decentralised Heat Network would be made.
 - Provision of contact details of the person(s) responsible for the development’s energy provision for the purpose of engagement over future connection to a network.
- i) include a pre-Implementation review by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Energy Efficiency and Renewable Energy Plan are achievable in the Development and satisfy the aims and objectives of the Council’s strategic policies on the reduction of carbon emissions contained within its Development Plan;

- j) measures to secure a post construction review of the Development by an appropriately qualified and recognised independent verification body in respect of the Property certifying that the measures incorporated in the Energy Efficiency and Renewable Energy Plan have been achieved in the Development and will be maintainable in the Development's future management and occupation; and
- k) identifying means of ensuring the provision of information to the Council and provision of a mechanism for review and update as required from time to time

3.4 Clause 2.36 of the Existing Agreement shall be deleted and replaced as follows:

2.36 "the Sustainability Plan"

a plan including a post construction review securing the incorporation of sustainability measures in the carrying out of the Development in its fabric and in its subsequent management and occupation in accordance with the following three reports submitted with the Original Planning Application: BREEAM Pre-Assessment Report (Parliament Hill School) Rev. 3 April 2016, BREEAM Pre-Assessment Report (La Swap Building, Parliament Hill School) Rev. 3 April 2016 and Revised energy performance targets - 20140052 - Parliament Hill School - Mar 16 - Rev. and Sustainability Statement Reports which shall:

- a) In relation to the 'Ribbon Building':

i) Prior to commencement, a Design Stage review (undertaken by an appropriately qualified and recognised independent verification body) shall be submitted to and approved by the local planning authority in writing, certifying that the following measures are achievable and will be maintainable in the Development's future management and occupation:

- A minimum BREEAM "Very Good" rating of 60.9%, including targets of 89% in Energy, 67% in Water and 38% in Materials categories.

- A maximum energy consumption of 45 kWh/m² for heating and 100 kWh/m² for all energy use.

- 35% carbon reduction beyond Part L (2013)

ii) Within 6 months of first occupation, the following shall be submitted to and approved by the local planning authority in writing:

- A final Post Construction Assessment (undertaken by an appropriately qualified and recognised independent verification body) and certificate from BRE certifying that BREEAM "Very Good" has been achieved and issued.

- A Passivhaus Planning Package (PHPP) post-construction assessment demonstrating that energy performance after commissioning achieves the 45kWh/m² heating and 100kWh/m² overall energy use targets, has been issued.

- Evidence that the building meets or exceeds 35% reduction in carbon dioxide emissions, with any shortfall offset through the Carbon Offset Fund

b) In relation to the LA Swap Building:

i) Prior to commencement, a Design Stage review (undertaken by an appropriately qualified and recognised independent verification body) shall be submitted to and approved by the local planning authority in writing, certifying that the following measures are achievable and will be maintainable in the Development's future management and occupation:

- A minimum BREEAM "Very Good" rating of 58.74%, including targets of 80% in Energy, 67% in Water and 38% in Materials categories;

- A 35% improvement in carbon dioxide emissions against Part L (Building Regulations 2013)

ii) Within 6 months of first occupation, the following shall be submitted to and approved by the local planning authority in writing:

- A final Post Construction Assessment (by an appropriately qualified and recognised independent verification body) and certificate from BRE certifying that BREEAM "Very Good" has been achieved and issued.

- Evidence that the building meets or exceeds 35% reduction in carbon dioxide emissions, with any shortfall offset through the Carbon Offset Fund

c) To undertake reasonable endeavours to achieve a reduction in carbon dioxide in carbon dioxide emissions against Part L (Building Regulations 2013) and will be maintainable in the

Development's future management and occupation to the part of the development known as the 'William Ellis Extension'

d) achieve a maximum internal water use of 105 litres/person/day, allowing 5 litres/person/day for external water use

e) details of maintenance and management relative to sustainability measures included in the Sustainability Plan;

f) identifying means of ensuring the provision of information to the Council and provision of a mechanism for review and update as required from time to time

g) measures certifying that the measures incorporated in the Sustainability Plan have been achieved in the Development and will be maintainable in the Development's future management and occupation

3.5 In all other respects the Existing Agreement (as varied by this Deed) shall continue in full force and effect.

4. PAYMENT OF THE COUNCIL'S LEGAL COSTS

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

5. REGISTRATION AS LOCAL LAND CHARGE AND HM LAND REGISTRY

5.1 This Deed shall be registered as a Local Land Charge and HM Land Registry

6 COMMENCEMENT

6.1 The provision in this Deed shall take effect on the Council's approval of the pursuant to the Application for Sustainability Material Amendments by for the avoidance of doubt without prejudice to the effect of Clause 3.5 in the Existing Agreement

7 MORTGAGEE'S CONSENT

7.1 The Mortgagee hereby consents to the completion of this Deed and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 5.1 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.

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owner [and the Mortgagee/Interested Party/Leaseholder] have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY)
[APPLICANT/OWNER/FREEHOLDER])
acting by a Director and its Secretary)
or by two Directors)

.....
Director

.....
Director/Secretary

EXECUTED AS A DEED BY)
[MORTGAGEE])
by)
in the presence of:-)

.....

EXECUTED AS A DEED BY)
[INTERESTED PARTY/LEASEHOLDER])

in the presence of:)

.....

Witness Signature

Witness Name:

Address:

Occupation:

THE COMMON SEAL OF THE MAYOR)

AND BURGESSES OF THE LONDON)

BOROUGH OF CAMDEN was hereunto)

Affixed by Order:-)

.....

Authorised Signatory