

DATED

8 September

2017

(1) SASHA TRADERS LIMITED

-and-

(2) CLOSE BROTHERS LIMITED

-and-

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

FOURTH DEED OF VARIATION

Relating to the Existing Agreement dated 29 November 2013 (as varied by the First Deed of Variation dated 27 January 2015 and the Second Deed of Variation dated 9 August 2016 and the Third Deed of Variation dated 15 May 2017)

Between the Mayor and the Burgesses of the
London Borough of Camden,
Sasha Traders Limited and Yorkshire Building Society
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
192 Haverstock Hill London NW3 2AJ

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/ESA/1800.171
DoV FINAL



THIS DEED is made on the 8th day of September 2017

BETWEEN

1. **SASHA TRADING LIMITED** (Co. Regn. No. 05653731) whose registered office is at 192 Haverstock Hill, London NW3 2AJ (hereinafter called "the Owner") of the first part
2. **CLOSE BROTHERS LIMITED** (Co. Regn. No. 195626) 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, Sasha Trading Limited and Yorkshire Building Society entered into an Agreement dated 29 November 2013 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 The Council, Sasha Trading Limited and Yorkshire Building Society entered into a further agreement dated 27 January 2015 pursuant to section 106A of the Town and Country Planning Act 1990 (as amended) to vary the terms of the Existing Agreement.
- 1.3 The Council and Sasha Trading Limited entered into another agreement dated 9 August 2016 pursuant to section 106A of the Town and Country Planning Act 1990 (as amended) to vary the terms of the Existing Agreement.
- 1.4 The Council and Sasha Trading Limited entered into a further agreement dated 15 May 2017 pursuant to section 106A of the Town and Country Planning Act 1990 (as amended) to vary the terms of the Existing Agreement.
- 1.5 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number NGL923489.
- 1.6 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.

- 1.7 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.
- 1.8 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 15 May 2017 for which the Council resolved to grant permission conditionally under reference 2017/1935/P subject to the conclusion of this Deed.
- 1.9 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.
- 1.10 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 "this Agreement" this Deed of Variation made pursuant to Section 106A of the Act

2.8.2 "the First Deed of Variation" the deed of variation under s106A of the Town and Country Planning Act 1990 (as amended) dated 27 January 2015 referenced 2014/6672/P

2.8.3 "Existing Agreement" the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 29 November 2013 made between the Council and Sasha Trading Limited and Yorkshire Building Society

2.8.4 "the Original Planning Permission" means the planning permission granted by the Council on 29 November 2013 referenced 2012/5391/P allowing the erection of a five storey building, plus basement, to create retail space at ground and basement levels (Class A1), and five self contained flats (1x studio, 1x1 bed, 2x2 bed & 1x3 bed) from first to fourth floor level (Class C3), following demolition of existing single storey

building (Class A1) as more particularly described in the Second Deed of Variation

2.8.5 “the Second Deed of Variation”

the deed of variation under s106A of the Town and Country Planning Act 1990 (as amended) dated 9 August 2016 referenced 2016/1480/P

2.8.6 “the Second Planning Permission”

means the planning permission granted by the Council on 27 January 2015 referenced 2014/6672/P allowing variation of condition 2 (approved plans) of planning permission 2012/5391/P dated 29/11/2013 (for erection of a five storey building, plus basement, to create retail space at ground and basement levels (Class A1), and five self-contained flats), namely to reduce the width of the upper floors by 1m

2.8.7 “the Third Planning Permission”

variation of condition 2 (approved plans) of planning permission 2012/5391/P dated 29/11/2013 and as amended by planning permission 2014/6672/P dated 27/01/2015 for the Erection of a five storey building, plus basement, to create retail space at ground and basement levels (Class A1), and five self-contained flats (1x studio, 1x1 bed, 2x2 bed & 1x3 bed) from first to fourth floor level (Class C3), following demolition of existing single storey building (Class A1); namely to allow an overall increase in height of the building of 1.2 metres, an increase in the width of the ground floor by 1 metre, an increase in the width of the upper floors by 0.585 metres, alterations to fenestration and external appearance, alterations to internal layout and change in dwelling mix

2.8.8 "the Third Deed of Variation" the deed of variation under s106A of the Town and Country Planning Act 1990 (as amended) dated 15 May 2017 referenced 2016/7028/P

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 condition 2 (approved plans) of planning permission 2012/5391/P dated 29/11/2013, as amended by planning permission 2016/7028/P dated 15/05/2017, 2014/6672/P dated 27/01/2015 and 2016/1480/P dated 09/08/2016 (for the erection of a 5 storey building, plus basement, to create retail space at ground and basement levels (Class A1), and 5x self-contained flats above (Class C3), following demolition of existing single storey building (Class A1); namely to allow: inclusion of 5x condensor units within plant enclosure on roof, amendment to plant enclosure footprint, alterations to façade materials as shown on drawing numbers:-

Revised Plans: 15047_G200_P_RF_001-C;
15047_G200_E_NW_001-D

Superseded plans: 15047_G200_P_RF_001-B;
15047_G200_E_NW_001-C

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2017/1935/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 15 May 2017 by the Owner and given reference number 2017/1935/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2012/5391/P" shall be replaced with "Planning Permission reference 2017/1935/P".

3.3 In all other respects the Existing Agreement (as varied by this Agreement) 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 2017/1935/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.

SASHA TRADERS LIMITED)
acting by a Director and its Secretary)
or by two Directors)

.....
Director

.....
Director/Secretary

EXECUTED by **CLOSE BROTHERS LIMITED**

as a Deed pursuant to a Power of Attorney dated

21 December 2016 (filed at Land Registry Head

Office under reference CAS/Close Brothers Limited/2017

pursuant to a facility letter dated 5 January 2017)

.....
Authorised Signatory

GARY FLETCHER

.....
Name

.....
Authorised Signatory

Richard Hemmings

.....
Name

.....
Witnessed by

Kirstie Ratchford

.....
10 CROWN PLACE

.....
LONDON EC2A 4FT

Address

.....
Witnessed by

Kirstie Ratchford

.....
10 CROWN PLACE

.....
LONDON EC2A 4FT

Address

**CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO 192 HAVERSTOCK
HILL LONDON NW3 2AJ**

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

was hereunto affixed by Order:-

)
)
)
)



R. Alexander
.....
Duly Authorised Officer

Nicholas Taylor + Associates
31 Windmill Street
London
W1T 2JN

Application Ref: 2017/1935/P

31 July 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 AGREEMENTAddress:
192 Haverstock Hill
London
NW3 2AJ

Proposal:

DECISION

Variation of condition 2 (approved plans) of planning permission 2012/5391/P dated 29/11/2013, as amended by planning permission 2016/7028/P dated 15/05/2017, 2014/6672/P dated 27/01/2015 and 2016/1480/P dated 09/08/2016 (for the erection of a 5 storey building, plus basement, to create retail space at ground and basement levels (Class A1), and 5x self-contained flats above (Class C3), following demolition of existing single storey building (Class A1); namely to allow: inclusion of 5x condenser units within plant enclosure on roof, amendment to plant enclosure footprint, alterations to façade materials

Drawing Nos: Revised Plans: 15047_G200_P_RF_001-C; 15047_G200_E_NW_001-D

Superseded plans: 15047_G200_P_RF_001-B; 15047_G200_E_NW_001-C

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 permission 2012/5391/P, dated 29/11/2013.

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

- 2 For the purpose of this decision, Condition 2 of planning permission 2012/5391/P, dated 29/11/2013, shall be replaced with the following condition:

REPLACEMENT CONDITION

The development hereby permitted shall be carried out in accordance with the following approved plans: 15047_G200_P_00_001-C; 15047_G200_P_B1_001-C; 15047_G200_P_01_001-D; 15047_G200_P_02_001-B; 15047_G200_P_03_001-B; 15047_G200_P_04_001-B; 15047_G200_P_RF_001-C; 15047_G200_S_AA_001-C; 15047_G200_S_BB_001-B; 15047_G200_E_SW_001-C; 15047_G200_E_SE_001-D; 15047_G200_E_NE_001-C; 15047_G200_E_NW_001-D.

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

- 3 Detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the Council before the relevant part of the work is begun:

- a) Typical details of new balustrade at a scale of 1:10 including materials and finish.
- b) Plan, elevation and section drawings of all new doors and windows including jambs, head and cill, at a scale of 1:10
- c) Samples and manufacturer's details of new facing materials to be provided on site and retained on site during the course of the works.

The relevant part of the works shall then be carried 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 D1 of the Camden Local Plan 2017.

- 4 The details in respect of the means of enclosure outside opening hours of the ground floor recessed area on the Haverstock Hill frontage shall not be carried out other than in accordance with the details approved in connection with planning application reference 2016/4503/P, dated 18/10/2016. The approved details shall be implemented prior to first use of building and thereafter be permanently retained.

Reason: In order to seek to protect the amenity of occupiers from possible instances of crime, fear of crime and anti-social behaviour and to safeguard the appearance of the premises and the character of the immediate area, in accordance with Policies D1 and C5 of the Camden Local Plan 2017.

- 5 Prior to the first occupation of any new residential units the green roof on the drawings and documents hereby approved shall be provided in its entirety. The green roof shall be installed strictly in accordance with the details hereby approved and shall be retained and maintained as such thereafter.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with Policies A3 and CC3 of the Camden Local Plan 2017.

- 6 The hard and soft landscaping and means of enclosure of all un-built, open areas shall not be carried out other than in accordance with the details approved in connection with planning application reference 2016/4503/P, dated 18/10/2016.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area in accordance with the requirements of Policies D1, A2 and A3 of the Camden Local Plan 2017.

- 7 All hard and soft landscaping works shall be carried out in accordance with the approved landscape details by not later than the end of the planting season following completion of the development or any phase of the development, whichever is the sooner. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a high quality of visual amenity in the scheme in accordance with the requirements of Policies D1, A2 and A3 of the Camden Local Plan 2017.

- 8 All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the details approved in connection with planning application reference 2016/4503/P, dated 18/10/2016. Tree protection measures shall be implemented prior to the commencement of development and retained throughout the construction period.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of Policies D1, A2 and A3 of the Camden Local Plan 2017.

- 9 Prior to the first occupation of any new residential units all of the bird/bat boxes and bricks on the drawings and documents hereby approved shall be provided in their entirety. The boxes / bricks shall be installed strictly in accordance with the details hereby approved and shall be retained and maintained as such thereafter.

Reason: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity in accordance with Policy A3 of the Camden Local Plan 2017.

- 10 Prior to the first occupation of any new residential units the whole of the 6 spaces of cycle parking provision shown on the approved drawings shall be provided. The whole of the cycle parking provision shall be permanently retained and maintained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of Policy T1 of the Camden Local Plan 2017.

- 11 The foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent) shall not be carried out other than in accordance with the details approved in connection with planning application reference 2016/4503/P, dated 18/10/2016.

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason: To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with Policies T1, T2 and T4 of the Camden Local Plan 2017.

- 12 Prior to the first occupation of any of the new residential units the whole of the waste storage and removal facilities shown on the approved drawings shall be provided. The whole of the waste storage and removal provision shall be permanently maintained and retained thereafter.

Reason: To ensure the development provides adequate waste storage and removal facilities and to safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of Policies D1 and CC5 of the Camden Local Plan 2017.

- 13 Only the areas specifically shown on the plans hereby approved as an external terrace or balcony shall be used for such purposes; and no other flat roofed areas (such as the roof level or the green roof area) shall be used as a roof terrace, and any access out onto these areas shall be for maintenance purposes only.

Reason: In order to prevent any detrimental impacts of overlooking and/or noise and disturbance of the neighbouring premises in accordance with the requirements of Policy A1 of the Camden Local Plan 2017.

- 14 Prior to the first occupation of any residential units all north (side) elevation windows (facing Allingham Court) detailed as obscure glazed on the approved drawings shall be fully installed with obscure glazing and shall be permanently retained and maintained thereafter.

Reason: In order to prevent any detrimental impacts of overlooking of the neighbouring premises in accordance with the requirements of Policy A1 of the Camden Local Plan 2017.

- 15 Prior to the first occupation of any of the new residential units, details shall be submitted to and approved in writing by the Council, of the external noise level emitted from plant/ machinery/ equipment and mitigation measures as appropriate. The measures shall ensure that the external noise level emitted from plant, machinery/ equipment will be lower than the lowest existing background noise level by at least 10dBA as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity. A post installation noise assessment shall be carried out where required to confirm compliance with the noise criteria and additional steps to mitigate noise shall be taken, as necessary.

Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

Reason: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from plant/mechanical installations/ equipment, in accordance with Policy A4 of the Camden Local Plan 2017.

- 16 Prior to the first occupation of any of the new residential units, details of anti-vibration measures shall be submitted to and approved in writing by the Council. The measures shall ensure that plant equipment and ducting are mounted with proprietary anti-vibration isolators and fan motors are vibration isolated from the casing and adequately silenced.

Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

Reason: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by vibration, in accordance with Policy A4 of the Camden Local Plan 2017.

- 17 Prior to the first occupation of any of the new residential units, details shall be submitted to and approved in writing by the Council, of building vibration levels and, together with appropriate mitigation measures where necessary. Details shall demonstrate that vibration will meet a level that has low probability of adverse comment and the assessment method shall be as specified in BS 6472:2008.

No part of the development shall be occupied until the approved details have been implemented. Approved details shall thereafter be permanently retained.

Reason: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by ground- or airborne vibration, in accordance with Policy A4 of the Camden Local Plan 2017.

- 18 The noise level in rooms at the development hereby approved shall meet the noise standard specified in BS8233:2014 for internal rooms and external amenity areas.

Reason: To ensure that the amenity of occupiers of the development site and surrounding premises is not adversely affected by noise and vibration, in accordance with Policy A4 of the Camden Local Plan 2017.

Informative(s):

- 1 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.
- 2 This approval under Section 73 of the 1990 Act effectively varying the relevant condition of the previous planning permission is subject otherwise to the same terms, drawings, conditions (and obligations where applicable) 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).
- 3 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.
- 4 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that 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, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).

- 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, Judd St, Kings Cross, London NW1 2QS (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 If a revision to the postal address becomes necessary as a result of this development, application under Part 2 of the London Building Acts (Amendment) Act 1939 should be made to the Camden Contact Centre on Tel: 020 7974 4444 or Environment Department (Street Naming & Numbering) Camden Town Hall, Argyle Street, WC1H 8EQ.
- 7 You are advised that Section 44 of the Deregulation Act 2015 [which amended the Greater London Council (General Powers) Act 1973]] only permits short term letting of residential premises in London for up to 90 days per calendar year. The person who provides the accommodation must be liable for council tax in respect of the premises, ensuring that the relaxation applies to residential, and not commercial, premises.
- 8 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 or the Camden Contact Centre on Tel: 020 7974 4444 or email env.devcon@camden.gov.uk.

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

8 September

2017

(1) SASHA TRADERS LIMITED

-and-

(2) CLOSE BROTHERS LIMITED

-and-

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

FOURTH DEED OF VARIATION

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Between the Mayor and the Burgesses of the
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Sasha Traders Limited and Yorkshire Building Society
under section 106 of the Town and
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Relating to development at premises known as
192 Haverstock Hill London NW3 2AJ

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Head of Legal Services
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