

DATED

11 September

2017

(1) MARK IVOR DAVIES and SUSAN DAVIES

and

(2) SVENSKA HANDELSBANKEN AB (PUBL)

and

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

DEED OF VARIATION

Relating to the Agreement dated 1 September 2016
Between the Mayor and the Burgesses of the
London Borough of Camden,
Mark Ivor Davies, Susan Davies and Svenska Handelsbanken AB (Publ)
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
30A Thurlow Road, London, NW3 5PH

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/1800.369
FINAL



THIS DEED is made on the 11th day of September 2017

BETWEEN

1. **MARK IVOR DAVIES and SUSAN DAVIES** of 30A Thurlow Road, London, NW3 5PH (hereinafter called "the Owner") of the first part
2. **SVENSKA HANDELSBANKEN AB (PUBL)** (incorporated in Sweden) of (UK Co. Regn. No. FC014392) of 4M Building, Malaga Avenue Manchester Airport, Manchester M90 3RR (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, The Owner and the Mortgagee entered into an Agreement dated 1 September 2016 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 An application for a non-material amendment was submitted to the Council on 2 December 2016 and given reference number 2016/6647/P for the relocation of privacy screen to north east boundary, omission of walk on rooflight (lower ground floor), rooflights at upper ground floor level, stairs to lower level on boundary with 41 Rossllyn hill, and spiral staircase to lightwell, increased width of slot windows at upper ground floor level, replacement of French doors and fixed glazing with sliding windows at basement level, increase of width of building by 0.2m, replacement of obscure glazing with transparent glazing to front part of north east elevation corner window, alteration to location of windows on rear elevation, increase in size of lightwell, and alteration to location of stairs at rear, all to three storey house approved under planning permission 2015/5409/P dated 22/06/16 and was granted on 17 January 2017.
- 1.3 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title numbers NGL331276 and NGL418808 subject to a charge to the Mortgagee.

- 1.4 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.5 The Council is the local planning authority for the purposes of the Act and considers it expedient in the interests of the proper planning of its area that the Development of the Property should be restricted or regulated in accordance with this Deed.
- 1.6 A new Planning Application in respect of the Property and to amend the Original Planning Permission was submitted to the Council by the Owner and validated on 22 May 2017 for which the Council resolved to grant permission conditionally under reference 2017/2907/P subject to the conclusion of this Deed.
- 1.7 This Deed of Variation is made by virtue of the Town and Country Planning Act 1990 Section 106A (as amended) and is a planning obligation for the purposes of that section.
- 1.8 Without prejudice to the terms of the other covenants contained in the Existing Agreement the parties hereto have agreed to vary the terms of the Existing Agreement as hereinafter provided.

2. **INTERPRETATION**

- 2.1 All words and phrases defined in the Existing Agreement shall have the same meaning in this Deed save where the context otherwise dictates and for the avoidance of any doubt the Existing Agreement shall remain in full force and effect save as varied by this Deed.
- 2.2 All reference in this Deed to clauses in the Existing Agreement are to clauses within the Existing Agreement.
- 2.3 Where in this Deed reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Agreement.

2.4 Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not be construed as part of this Agreement and shall not effect the construction of this Deed.

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

2.6 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5 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 1 September 2016 made between the Council and the Owner and the Mortgagee

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 1 September 2016 referenced 2015/5409/P allowing the demolition of existing single storey house and erection of three storey house including excavation of basement levels as shown on drawing numbers Site location plan; 1503-L-:011; 014; 015; 016; 017; 018; 019; 020; 021; 111B; 113C; 114C; 115B; 117A; 120A; 029A; 112D; 116D; 119D.

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" the Original Planning Permission as varied by: variation of planning permission dated 1 September 2016 (2015/5409/P) for the demolition of an existing single storey house and erection of a three storey house including excavation of basement levels as shown on drawings:- Basement impact assessment prepared by LBH Wembley dated June 2017; LBH Query Tracker
- 3.1.2 "Planning Permission" the planning permission for the Development under reference number 2015/5409/P as varied by 2017/2907/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 2017/2907/P
- 3.2.1 "Detailed Basement Construction Plan" a plan setting out detailed information relating to the design and construction of the basement forming part of the Development with a view to minimising any or all impacts of the Development on Neighbouring Properties and the water environment and to provide a programme of detailed mitigating measures to be undertaken and put in place by the Owner with the objective of maintaining the structural stability of the Property and Neighbouring Properties as described in the Basement Impact Assessment

by LBH Wembley dated December 2015 submitted with the Planning Application and to include (but not be limited to) the following:-

- the Owner to update the Basement Impact Assessment to the satisfaction of the Council with confirmation of geotechnical design parameters, construction methodology and provision of outline retaining wall calculations, outline temporary works scheme, including sequencing and propping, ground movement and damage assessment (based on the confirmed geotechnical design parameters, construction methodology) and outline structural monitoring plan; and
- details of the appointment of a suitably qualified chartered engineer with membership of the appropriate professional body to be appointed to inspect, approve and monitor the critical elements of both permanent and temporary basement construction works throughout their duration to ensure compliance with the design which has been checked and approved by a building control body; and
- details of the appointment and the appointee's responsibilities shall be submitted to and approved in writing by the local planning authority prior to the commencement of development and any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.

3.2 Clauses 4.3.3, 4.3.5 and 4.3.6 shall be deleted from the Existing Agreement.

3.3 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2015/5409/P" shall be replaced with "Planning Permission reference 2017/2907/P".

3.4 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 2017/2907/P.

5. PAYMENT OF THE COUNCIL'S LEGAL COSTS

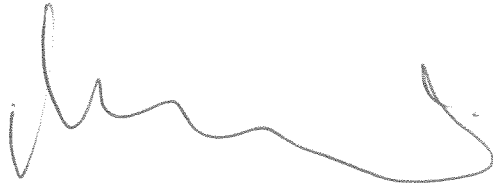
5.1 The Owner agrees to pay the Council (on or prior to completion of this Deed) its reasonable legal costs incurred in preparing this Deed

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 and the Mortgagee have executed this instrument as their Deed the day and year first before written

**EXECUTED AS A DEED BY
MARK IVOR DAVIES
in the presence of:**

)
)
)




.....
Witness Signature

Witness Name *Karl Gini*

Address *38 WIGMORE STREET, LONDON W1U 2K4*

Occupation *Solicitor*

CONTINUATION OF DEED OF VARIATION IN RELATION TO 30A THURLOW ROAD,
LONDON, NW3 5PH

EXECUTED AS A DEED BY
SUSAN DAVIES
in the presence of:

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)
) 




.....
Witness Signature

Witness Name KAZ GILL

Address 38 WIGNORE ST, LONDON W14 2R4.

Occupation Solicitor

EXECUTED as a Deed
By SVENSKA HANDELSBANKEN AB (PUBL)
By
in the presence of:-

)
)
)
) 



HANDELSBANKEN
Second Floor
High Hill House
6a Hampstead High Street
London
NW3 1PR

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

.....
Authorised Signatory



Mr Daniel Leon
Square Feet Architects
8a Baynes Mews
London
NW3 5BH

Application Ref: **2017/2907/P**
Please ask for: **David Peres Da Costa**
Telephone: 020 7974 5262

29 August 2017

DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Section 106A Granted Subject to a Section 106 Legal Agreement

Address:
30A Thurlow Road
London
NW3 5PH

DECISION

Proposal:

Application under section 106A (3) to modify a legal agreement and amend clause 2.11 (Detailed Basement Construction Plan) of the S106 associated with planning permission 2015/5409/P dated 01/09/2016 (as amended by 2016/6647/P dated 17/01/2017) (for demolition of existing single storey house and erection of three storey house including excavation of basement levels), namely to amend the BCP to only require: confirmation of geotechnical design parameters, construction methodology and provision of outline retaining wall calculations, outline temporary works scheme, including sequencing and propping, ground movement and damage assessment (based on the confirmed geotechnical design parameters, construction methodology) and outline structural monitoring plan.

Drawing Nos: Basement impact assessment prepared by LBH Wembley dated June 2017;
LBH Query Tracker

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

Executive Director Supporting Communities



Informative(s):

1

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.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

Director of Regeneration and Planning

DRAFT

DECISION



DATED

11 September

2017

(1) MARK IVOR DAVIES and SUSAN DAVIES

and

(2) SVENSKA HANDELSBANKEN AB (PUBL)

and

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

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