

DATED

18 April

2016

(1) RENOUGH LIMITED

-and-

(2) INVESTEC BANK (CHANNEL ISLANDS) 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 2 November 2015  
Between the Mayor and the Burgesses of the  
~~London Borough of Camden,~~  
Renough Limited and Investec Bank (Channel Islands) Limited  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
**41 Frognal London NW3 6YD**

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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  
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CLS/COM/ESA/1781.650  
DoV FINAL



THIS DEED is made on the 18<sup>th</sup> day of April 2016

**BETWEEN**

1. **RENOUGH LIMITED** (incorporated in Isle of Man) of Clinch's House, Lord Street, Douglas, Isle of Man, IM99 1RZ as Trustee for the Loretta Trust and whose address for service in the United Kingdom is 41 Frognal NW3 6YD (hereinafter called "the Owner") of the first part
2. **INVESTEC BANK (CHANNEL ISLANDS) LIMITED** (incorporated in Channel Islands) of La Vieille Cour, La Plaiderie, St Peter Port, Guernsey, GY1 3LP, Channel Islands (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, Renough Limited and Investec Bank (Channel Islands) Limited entered into an Agreement dated 2 November 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 NGL630652 and title number 108284 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 30

November 2015 for which the Council resolved to grant permission conditionally under reference 2015/6538/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 2 November 2015 made between the Council, Renough Limited and Investec Bank (Channel Islands) Limited

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 2 November 2015 referenced 2015/2026/P allowing the Part 2/part 3 storey rear and side extension including the excavation of a basement and the creation of an additional self contained dwelling as shown on drawing numbers:- Design and Access Statement (dated March 2015), KM Heritage- Heritage Statement (dated March 2015), DP9 Planning Statement (dated April 2015), Landmark Trees Arboricultural Assessment (dated March 2015), Motion Transport Statement (dated March 2015), Sustainability and Energy Statement (dated March 2015), DSG Acoustic Report, GIA Daylight and Sunlight Assessment (dated June 2015), DS2 Affordable Housing Statement (dated April 2015), Construction Management Plan (dated April 2015) and Construction Method Statement (dated March 2015)

### 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 development authorised by the Original Planning Permission as amended by the following: variation of condition 3 (approved plans) of planning permission 2015/2026/P dated 30/03/2015 (for Part 2/part 3 storey rear and side extension including the excavation of a basement and the creation of an additional self-contained dwelling) namely alterations to fenestration and doors on the side and rear elevations, excavation of a further 0.5 metres, removal of external swimming pool and relocation of ventilation intakes and extract grilles as shown on drawing numbers:-~~

Superseded: 14044-P090, 14044-P100, 14044-P110, 14044-P120, 14044-P310, 14044-P311, 14044-P312, 14044-P313

Superseded supporting documents: Design and Access Statement (dated March 2015), KM Heritage- Heritage Statement (dated March 2015), DP9 Planning Statement (dated April 2015), Landmark Trees Arboricultural Assessment (dated March 2015), Sustainability and Energy Statement (dated March 2015), DSG Acoustic Report, and Construction Method Statement (dated March 2015).

Proposed: 14044-P090 Rev A, 14044-P100 Rev A, 14044-P101, 14044-P110 Rev A, 14044-P120 Rev A, 14044-P202, 14044-P310 Rev A,

14044-P311 Rev A, 14044-P312 Rev A and 14044-P313 Rev A

Supporting documents: Updated Design and Access Statement (November, 2015) prepared by KSR Architects; GIA Daylight and Sunlight Assessment (dated June 2015); DS2 Affordable Housing Statement (dated April 2015); ~~Construction Management Plan (dated April 2015)~~; Updated Structural Engineering Report and Subterranean Construction Method Statement (November, 2015) prepared by Elliott Wood; Updated Heritage Statement (November, 2015) KM Heritage; Updated Sustainability and Energy Statement (November, 2015) Integration; Motion Transport Statement (dated March 2015); Updated Acoustic Assessment (November, 2015) CSG Acoustics; Updated Basement Impact Assessment (November, 2015) GEA Limited; and Landmark Trees Arboricultural Assessment (dated March 2015).

3.1.2 "Planning Permission"

the Original Planning Permission amended by the planning permission granted for the Development under reference number 2015/6538/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 19 November 2015 by the Owner and given reference number 2015/6538/P

- 3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2015/2026/P" shall be replaced with "Planning Permission reference 2015/2026/P as varied by reference 2015/6538/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 2015/6538/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 on behalf of)**

**RENOUGH LIMITED )**

**a company incorporated in )**

**the Isle of Man by )**

**and )**

**being persons who in accordance)**

**with the laws of that territory are )**

**acting under the authority of )**

**the company )**

.....  
**Authorised Signatory**


.....  
**Authorised Signatory**



CONTINUATION OF DEED OF VARIATION AGREEMENT IN RELATION TO 41  
FROGNAL LONDON NW3 6YD

EXECUTED as a Deed )  
By INVESTEC BANK (CHANNEL ISLANDS) LIMITED )  
by )  
in the presence of:- )



Theresa Mabepege  
.....  


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

was hereunto affixed by Order:-

f. Alexander

.....  
Duly Authorised Officer





DP9 Ltd  
100 Pall Mall  
London  
SW1Y 5NQ

Application Ref: **2015/6538/P**

10 March 2016

Dear Sir/Madam

**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:  
**41 Frognal**  
**London**  
**NW3 6YD**

**Proposal:**

Variation of condition 3 (approved plans) of planning permission 2015/2026/P dated 02/11/2015 (for Part 2/part 3 storey rear and side extension including the excavation of a basement and the creation of an additional self-contained dwelling) namely alterations to fenestration and doors on the side and rear elevations, excavation of a further 0.5 metres, removal of external swimming pool and relocation of ventilation intakes and extract grilles.

Drawing Nos: Superseded: 14044-P090, 14044-P100, 14044-P110, 14044-P120, 14044-P310, 14044-P311, 14044-P312, 14044-P313.

Superseded supporting documents: Design and Access Statement (dated March 2015), KM Heritage- Heritage Statement (dated March 2015), DP9 Planning Statement (dated April 2015), Landmark Trees Arboricultural Assessment (dated March 2015), Sustainability and Energy Statement (dated March 2015), DSG Acoustic Report, and Construction Method Statement (dated March 2015).

Proposed: 14044-P090 Rev A, 14044-P100 Rev A, 14044-P101, 14044-P110 Rev A, 14044-P120 Rev A, 14044-P202, 14044-P310 Rev A, 14044-P311 Rev A, 14044-P312 Rev A and 14044-P313 Rev A

Supporting documents: Updated Design and Access Statement (November, 2015) prepared by KSR Architects; GIA Daylight and Sunlight Assessment (dated June 2015); DS2 Affordable Housing Statement (dated April 2015); Construction Management Plan (dated April 2015); Updated Structural Engineering Report and Subterranean Construction

Method Statement (November, 2015) prepared by Elliott Wood; Updated Heritage Statement (November, 2015) KM Heritage; Updated Sustainability and Energy Statement (November, 2015) Integration; Motion Transport Statement (dated March 2015); Updated Acoustic Assessment (November, 2015) CSG Acoustics; Updated Basement Impact Assessment (November, 2015) GEA Limited; and Landmark Trees Arboricultural Assessment (dated March 2015).

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 For the purposes of this decision, condition no. 3 of planning permission 2015/2026/P dated 02/11/2015, shall be replaced with the following condition

**REPLACEMENT CONDITION 3**

The development hereby approved shall be carried out in accordance with the approved plans.

Superseded: 14044-P090, 14044-P100, 14044-P110, 14044-P120, 14044-P310, 14044-P311, 14044-P312, 14044-P313.

Superseded supporting documents: Design and Access Statement (dated March 2015), KM Heritage- Heritage Statement (dated March 2015), DP9 Planning Statement (dated April 2015), Sustainability and Energy Statement (dated March 2015), DSG Acoustic Report, and Construction Method Statement (dated March 2015).

Proposed: 14044-P090 Rev A, 14044-P100 Rev A, 14044-P101, 14044-P110 Rev A, 14044-P120 Rev A, 14044-P202, 14044-P310 Rev A, 14044-P311 Rev A, 14044-P312 Rev A and 14044-P313 Rev A

Supporting documents: Updated Design and Access Statement (November, 2015) prepared by KSR Architects; GIA Daylight and Sunlight Assessment (dated June 2015); DS2 Affordable Housing Statement (dated April 2015); Construction Management Plan (dated April 2015); Updated Structural Engineering Report and Subterranean Construction Method Statement (November, 2015) prepared by Elliott Wood; Updated Heritage Statement (November, 2015) KM Heritage; Updated

Sustainability and Energy Statement (November, 2015) Integration; Motion Transport Statement (dated March 2015); Updated Acoustic Assessment (November, 2015) CSG Acoustics; Updated Basement Impact Assessment (November, 2015) GEA Limited; and Landmark Trees Arboricultural Assessment (dated March 2015).

Informative(s):

1. Reason for granting minor material amendment:

The proposal, involving alterations to fenestration and doors on the side and rear elevations, excavation of a further 0.5 metres, removal of external swimming pool and relocation of ventilation intakes and extract grilles is considered acceptable.

The positioning of the windows is being altered, but the materials are considered to be the same. The alterations to the positioning of the windows would not be visible from the wider public realm and the overall character and proposal would not change as a result of the proposal. The changes to the positioning of the windows would not result in additional harm to neighbouring residents in terms of overlooking.

An updated BIA was submitted and it has been considered that the further excavation by 500mm would not result in adverse harm to the natural and built environment.

The relocation of ventilation intakes and extract grilles will not create any additional noise or vibration nuisance. Thus the proposal is not considered to cause any adverse impacts on the amenity of adjoining residential occupiers.

No objections have been received to this element of the application 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 development is in general accordance with policies CS5 and CS14 of the London Borough of Camden Local Development Framework Core Strategy, and policies DP24, DP25, DP26, DP27 and DP28 of the London Borough of Camden Local Development Framework Development Policies. The proposed development also accords with policies 7.4, 7.6 and 7.21 of the London Plan 2015 and paragraphs 14, 17, 56-66 and 118 of the National Planning Policy Framework.

- 2 You are advised that this decision relates only to the changes highlighted on the plans and/or set out in the description and on the application form and shall only be read in the context of the substantive permission granted on 02/11/2015 under reference 2015/2026/P and is bound by all the conditions and obligations attached to that permission.
- 3 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).

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

Culture and Environment Directorate

**DRAFT**

**DECISION**



DATED

18 April

2016

(1) RENOUGH LIMITED

-and-

(2) INVESTEC BANK (CHANNEL ISLANDS) LIMITED

-and-

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

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Relating to development at premises known as  
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