

DATED

6 December

2017

(1) EMMA ASSET MANAGEMENT LIMITED

-and-

(2) CAMDEN 159 PROPERTY MANAGEMENT LTD

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 16 May 2006
Between the Mayor and the Burgesses of the
London Borough of Camden,
Suryakant Chunibhai Patel and AIB Group (UK) PLC
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
159-165 Camden High Street, London (NW1 7JY)

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/OO/1800.446
DoV



THIS DEED is made on the 6th day of December 2017

BETWEEN

1. **EMMA ASSET MANAGEMENT LIMITED** (Co. Regn. No. 09152447) whose registered office is at 34-35 Clarges Street, London, England, W1J 7EJ (hereinafter called "the Freeholder") of the first part
2. **CAMDEN 159 PROPERTY MANAGEMENT LTD** (Co. Regn. No. 010637964) whose registered office is at 34-35 Clarges Street, London, England, W1J 7EJ (hereinafter called "the Leaseholder") 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, Suryakant Chunibhai Patel and AIB Group (UK) PLC entered into the Existing Agreement dated 16 May 2006 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 On 5 August 2010, the Council issued permission 2009/3719/P to amend the Original Planning Permission and entered into a deed of variation to the Existing Agreement with Suryakant Chunibhai Patel and AIB Group (UK) PLC on the same date.
- 1.3 The Freeholder is registered at the Land Registry as the freehold proprietor with Title Absolute under title number 334797.
- 1.4 The Freeholder is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.5 The Leaseholder is registered at the Land Registry as the leasehold proprietor with Title absolute of the Property under Title Number NGL971118.
- 1.6 The Leaseholder is the leasehold owner of and is interested in the Property for the purposes of Section 106 of the Act.

- 1.7 The Freeholder and the Leaseholder shall hereinafter be jointly referred to as “the Owner”.
- 1.8 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.
- 1.9 An application in respect of the Property to amend the Existing Agreement pursuant to section 106A of the Town and Country Planning Act 1990 (as amended) was submitted to the Council and validated on 22 May 2017 for which the Council resolved to enter into this Deed.
- 1.10 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.
- 1.11 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, 4, 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 date hereof.

2.7 References in this Deed to the Owner 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 May 2006 made between the Council, Suryakant Chunibhai Patel and AIB Group (UK) PLC and as amended by the deed of variation dated 5 August 2010 made by the same parties

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 16 May 2006 referenced 2006/0776/P allowing the demolition of existing 3 and 4 storey buildings and the redevelopment of the site through the erection of a five-storey plus basement level building, with retail (Class A1) at basement and ground floor levels, and 14 self-contained flats above (Class C3) with associated Conservation Area Consent

application (Ref. 2005/0777/C) (as amended by 2009/3719/P dated 5 August 2010) as shown on drawing numbers Location Plan; P02; P03; P04; P05; P06; P07; P08; P09A; P10A; P20A; P21A; P22A; P23A; P24A; P25A; P26A; P27A; P28A; P29A; P30A

3. VARIATION TO THE EXISTING AGREEMENT

3.2 The below wording in Schedule 1 of the Existing Agreement to be amended as follows:-

"General

- All deliveries to the site to be made via ~~Underhill Street rather than~~ Camden High Street given the limited amount of loading space and the disruption to pedestrians this would cause."

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 date hereof.

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

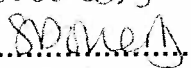
6.1 This Deed shall be registered as a Local Land Charge

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owners have executed this instrument as a Deed the day and year first before written

EXECUTED AS A DEED BY)
EMMA ASSET MANAGEMENT LIMITED)
in the presence of:-)

.....

Director


a witness
.....

Director/Secretary

WITNESS
Siobhan Doherty
16 Great Queen Street
London

EXECUTED AS A DEED BY)
CAMDEN 159 PROPERTY MANAGEMENT LTD)
in the presence of:-)

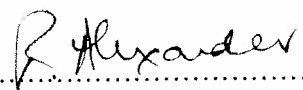
a witness
.....

Director

.....

Director/Secretary

WITNESS
16 Great Queen Street
London

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

.....

Duly Authorised Officer





Louise Braine
CGMS
140 London Wall
London
EC2Y 5DN

Application Ref: **2017/2891/P**
Please ask for: **David Peres Da Costa**
Telephone: 020 7974 5262

9 November 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:

**159-161 Camden High Street
London
NW1 17Y**

DECISION

Proposal:

Application under section 106A (3) to modify a legal agreement and amend Schedule 1 (service management plan) of the S106 associated with planning permission 2006/0776/P dated 16/05/2006 (as amended by 2009/3719/P dated 05/08/2010) (for the demolition of existing 3 and 4 storey buildings and the redevelopment of the site through the erection of a five-storey plus basement level building, with retail (Class A1) at basement and ground floor levels, and 14 self-contained flats above (Class C3)), namely to allow deliveries via Camden High Street rather than Underhill Street.

Drawing Nos: Cover letter prepared by CGMS dated 19th May 2017 including site location plan

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 Reason for granting

The application seeks to modify the legal agreement and amend Schedule 1 (service management plan) of the S106 associated with planning permission 2006/0776/P to allow deliveries via Camden High Street rather than Underhill Street. Camden High Street is part of the Transport for London Road Network (TLRN). The servicing management plan relates to the retail space at ground floor level (sub-divided into two units). The approved development also includes residential flats above.

It is unclear why the original application sought servicing from Underhill Street. However, it is noted servicing the property from Underhill Street would be problematical. Underhill Street is a narrow cul-de-sac and any servicing activity would most likely cause traffic congestion in the vicinity of the M&S car park. It would also most likely obstruct access to the M&S loading bay. In addition, goods would need to be transferred via the footpath adjacent to the property. This would lead to conflicts with pedestrians using the footpath. It would also cause unnecessary noise adjacent to residential properties. The Council's transport officer has therefore confirmed that the change to servicing from Camden High Street would be acceptable subject to agreement from TFL.

TFL raised initial concerns to servicing from Camden High Street. However, TFL have now confirmed the applicant has demonstrated by means of a loading survey that the proposal is unlikely to have a severely negative strategic transport impact on the adjacent TLRN. An informative would be included on decision advising of the need to liaise with TfL Road Space Management and TfL Planning to discuss loading in the vicinity once the new foodstore is occupied.

One comment was received and has been duly taken into account. One letter of support was also received. The planning and appeal history of the site has been taken into account when coming to this decision.

Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

As such, the proposed development is in general accordance with policies A1, TC4, T4 and DM1 of the London Borough of Camden Local Plan 2017. The proposed development also accords with the London Plan 2016 and the National Planning Policy Framework.

2 You are advised to continue to liaise with TfL Road Space Management and TfL Planning to discuss loading in the vicinity, once the new foodstore is occupied.

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

6 December

2017

(1) EMMA ASSET MANAGEMENT LIMITED

-and-

(2) CAMDEN 159 PROPERTY MANAGEMENT LTD

-and-

**(3) THE MAYOR AND THE BURGESSES OF
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