

DATED

12 March

2018

(1) MACNEIL LIMITED

-and-

(2) THE ROYAL BANK OF SCOTLAND PLC

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 30 October 2015
Between the Mayor and the Burgesses of the
London Borough of Camden,
MacNeil Limited and The Royal Bank of Scotland
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
The Mamelon Tower
149 Grafton Road
LONDON NW5 4AY

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/1800.455
DoV FINAL



THIS DEED is made on the

12th day of March

2018

BETWEEN

1. **MACNEIL LIMITED** (Co. Regn. No. 4417618) whose registered office is at 9 Essex Park Finchley Central London N3 1ND (hereinafter called "the Owner") of the first part
2. **THE ROYAL BANK OF SCOTLAND PLC** (Co. Regn. No. SC90312) of 2nd Floor Building, 1 Centrium, Griffiths Way, St. Albans, Herts AL1 2RD (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, Macneil Limited and The Royal Bank of Scotland entered into an Agreement dated 3 May 2016 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 LN82634 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 21 July 2017 for which the Council resolved to grant permission conditionally under reference 2017/3666/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 3 May 2015 made between the Council Macneil Limited and The Royal Bank of Scotland

2.8.3 "the Original Planning Permission" change of use of upper floors from ancillary public house accommodation (A4) to 5 (3 x 1Bed, 2 x 2Bed) self-contained flats (Class C3); erection of 2 storey side extension on South - East (Queen's Crescent) elevation at first and second floor levels and mansard roof extension with associated fenestration alterations as shown on drawing numbers (Prefix 1704.) OS-01, EX-14, EX.21, EX.22, EX.23, EX.25, EX.26, EX.27, EX2.8, P.17, P.22, P.23, P.24 Rev A, P.25, P.26, P.28, P.29 and Lifetime Homes Statement

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 3 (approved plans) of planning permission 2015/1211/P dated 03/05/2016 (for change of use of upper floors from ancillary PH accommodation (A4) to 5 flats; erection of 2 storey side extension and mansard roof extension), namely replacement of all

existing windows with timber framed windows and additional windows at 1st and 2nd floor on the rear (north west) elevation and change to the number, size and position of windows at 1st and 2nd floor on the side (south west) elevation (retrospective).3.1.2 "Planning Permission" the planning permission for the Development under reference number 2017/3666/P granted by the Council in the form of the draft annexed hereto as shown on drawing numbers:-

Superseded: 1704.P.22; 1704.P.23;
1704.P.24A; 1704.P.25; 1704.P.26; 1704.P.27

Proposed: 1704.P.42; 1704.P.43; 1704.P.44;
1704.P.45; 1704.P.46; 1704.P.47

3.1.3 "Planning Application" the application for Planning Permission in respect of the Property submitted on 21 July 2017 by the Owner and given reference number 2017/3666/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2015/1211/P" shall be replaced with "Planning Permission reference 2017/3666/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 2017/3666/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)
MACNEIL LIMITED)
acting by a Director and its Secretary)
or by two Directors)

[Handwritten signature]
.....

Director

[Handwritten signature]
.....

Director/Secretary

EXECUTED as a Deed)
By THE ROYAL BANK OF SCOTLAND PLC)
by)
in the presence of:-)

[Handwritten signature]
.....
Frances Parratt

Signed as a deed by
[Handwritten signature]
as the Attorney in their capacity
as Documentor
Sheffield Credit Documentation
for and on behalf of Royal
Bank of Scotland Plc

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

[Handwritten signature]
.....

Authorised Signatory





Mr Nilesh Lukka
MacNeil House
407 Nether Street
London N3 1QG

Application Ref: **2017/3666/P**

20 December 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 AGREEMENT

Address:

**The Mamelon Tower
149 Grafton Road
LONDON NW5 4AY**

Proposal:

DECISION
Variation of condition 3 (approved plans) of planning permission 2015/1211/P dated 03/05/2016 (for change of use of upper floors from ancillary PH accommodation (A4) to 5 flats; erection of 2 storey side extension and mansard roof extension), namely replacement of all existing windows with timber framed windows and additional windows at 1st and 2nd floor on the rear (north west) elevation and change to the number, size and position of windows at 1st and 2nd floor on the side (south west) elevation (retrospective).

Drawing Nos:

Superseded: 1704.P.22; 1704.P.23; 1704.P.24A; 1704.P.25; 1704.P.26; 1704.P.27

Proposed: 1704.P.42; 1704.P.43; 1704.P.44; 1704.P.45; 1704.P.46; 1704.P.47

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 Details of the facing brickwork (colour, texture, face-bond and pointing) shall be as approved by planning permission 2017/1136/P dated 26/05/2017. The approved panel shall be retained on site until the work has been completed.

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 London Borough of Camden Local Plan 2017.

- 2 For the purposes of this decision, condition no.3 of planning permission 2015/1211/P shall be replaced with the following condition:

REPLACEMENT CONDITION 3

The development hereby permitted shall be carried out in accordance with the following approved plans: (Prefix 1704.) OS-01, EX-14, EX.21, EX.22, EX.23, EX.25, EX.26, EX.27, EX.28, P.17, P.29, 1704.P.42; 1704.P.43; 1704.P.44; 1704.P.45; 1704.P.46; 1704.P.47 and Lifetime Homes Statement

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

- 3 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

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 London Borough of Camden Local Plan 2017.

- 4 The approved flat roof shall only be used as a green roof and for associated maintenance purposes and shall not be used as a roof terrace.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy A1 of the London Borough of Camden Local Plan 2017.

- 5 The lifetime homes features and facilities, as indicated on the drawings and documents hereby approved shall be provided in their entirety prior to the first occupation of any of the new residential units.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy H6 of the London Borough of Camden Local Plan 2017.

- 6 Details of the proposed waste storage area shall be as approved by planning permission 2017/1289/P dated 12/06/2017 and shall be provided prior to the first occupation of any of the new units and permanently retained thereafter.

Reason: To ensure that sufficient provision for the storage and collection of waste has been made in accordance with the requirements of policy CC5, A1 and A4 of the London Borough of Camden Local Plan 2017.

- 7 Prior to the first occupation of the building a plan showing details of the green roof including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long term viability of the green roof, and a programme for a scheme of maintenance shall be submitted to and approved in writing by the local planning authority. The green roof shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme of maintenance.

Reason: To ensure that the green roof is suitably designed and maintained in accordance with the requirements of policies CC1, CC2, CC3, CC4, D1, and A3 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Reason for granting permission

The proposed alteration to the windows on the south west elevation would be sympathetic to the host property and would match the windows on the ground floor which are being considered as part of a related application 2017/3663/P. Timber is considered to be an appropriate material. The proposed additional windows on the North West elevation would not raise any concerns regarding overlooking or loss of privacy as this side elevation faces towards garages with commercial buildings beyond.

No objections have been received. The planning and appeal 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 D1 and A1 of the Camden Local Plan 2017. The development also accords with the NPPF and the London Plan 2016.

- 2 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.

- 3 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which 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, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 4 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 Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (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.
- 5 The Mayor of London intends to introduce a Community Infrastructure Levy (CIL) to help pay for Crossrail on 1st April 2012. Any permission granted after this time will need to pay a CIL including those submitted before April. This CIL will be collected by Camden on behalf of the Mayor of London. From April Camden will be sending out liability notices setting out how much CIL will need to be paid if an affected planning application is implemented and who will be liable. The proposed charge in Camden will be £50 per m² on all uses except affordable housing, education, healthcare, and development by charities for their charitable purposes. You will be expected to advise us when planning permissions are implemented and we will issue a CIL demand notice setting out what monies needs to be paid when and how to pay. The CIL will be collected from Camden on behalf of the Mayor.
- 6 The correct street number or number and name must be displayed permanently on the premises in accordance with regulations made under Section 12 of the London Building (Amendments) Act 1939.
- 7 The private forecourt area adjacent to Grafton Road has an established public right of way which has been enjoyed by the public as a right of way for over 20 years. Under section 31 of the Highways Act 1980, therefore, we would consider this forecourt as being dedicated highway, although not maintainable at the public expense.
- 8 In good time, prior to the start of construction (or if appropriate, demolition) on site, the contractor shall discuss and agree with the Council's Engineering Service Network Management team (tel: 020-7974 2410) detailed arrangements for the transportation of goods and materials to and from the site. The Council will prosecute those responsible for any breaches of the provisions of the Highways and Litter Acts which occur as a result of construction on the site. In addition, it is the responsibility of the applicant to ensure that any relevant highways licences are sought.

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

DRAFT

DECISION





DATED

12 March

2018

(1) MACNEIL LIMITED

-and-

(2) THE ROYAL BANK OF SCOTLAND PLC

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 30 October 2015
Between the Mayor and the Burgesses of the
London Borough of Camden,
MacNeil Limited and The Royal Bank of Scotland
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
The Mamelon Tower
149 Grafton Road
LONDON NW5 4AY

Andrew Maughan
Head of Legal Services
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