

DATED

22 May

2018

(1) AMBER PROPERTIES LIMITED

and

(2) LLOYDS BANK PLC

and

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

DEED OF VARIATION

Relating to the Agreement dated 25 October 2017
Between the Mayor and the Burgesses of the
London Borough of Camden,
Amber Properties Limited and Lloyds Bank
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
7-8 Midford Place London W1T 5BG

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/1800.626
DoV FINAL

THIS DEED is made on the 22nd day of May

2018

BETWEEN

- i. **AMBER PROPERTIES LIMITED** (incorporated in Gibraltar) and whose address for service in the United Kingdom is Messrs Stone Rowe Brewer, Stone House, 12-13 Church Street, Twickenham TW1 3NJ (hereinafter called "the Freeholder") of the first part
- ii. **LLOYDS BANK PLC** of (Co. Regn. No. 2065) of Pendeford Securities Centre, Pendeford Business Park, Wobaston Road Wolverhampton WV9 5HZ (hereinafter called "the Mortgagee") of the second part
- iii. **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, Amber Properties Limited and Lloyds Bank PLC entered into an Agreement dated 25 October 2017 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 The Freeholder is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number NGL917468 subject to a charge to the Mortgagee and Title Number NGL946114 free of charges.
- 1.3 The Freeholder is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.4 The Freeholder shall hereinafter be jointly referred to as "the Owner".
- 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 26 October 2017 for which the Council resolved to grant permission conditionally under reference 2017/5935/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 25 October 2017 made between the Council, Amber Properties Limited and Lloyds Bank PLC

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 25 October 2017 referenced 2017/3651/P allowing the erection of three storey extension to B1(a) office building in east elevation from first to third floor, erection of roof extension to part of west roof including installation of rooflights (north, south and west slopes). Replacement extension to north facing elevation at second floor. Installation of rooflights and plant louvres at second floor in north east roof (rear). Revised fenestration to the north (including installation of windows at third floor), east and west elevations as shown on drawing numbers:- Daylight and Sunlight Study 25 April 2017, Design & Access Statement, MID P 01 B, MID P 02 C, MID P 03 C, MID P 04 C, MID P 05 C, MID P 06 C, MID P 07 C, MID P 14 B, MID P 16 C, MID P 17 C, MID P 08 M, MID P 09 H, MID

P 10 H, MID P 11 E, MID P 12 E, MID P 13 D,
MID P 15 C, MID P 11 G and MID P 15 C

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 2017/3651/P dated 25/10/2017, namely to retain a chimney in the rear elevation, move location of terrace access doors at rear second floor, remove bathroom windows at second and third floor to east elevation. The approved AC units are to be moved to the east side of the second floor roof and a new skylight is proposed at second floor. as shown on drawings:- Superseded:
MID P 11 E and MID P 15 C.

Proposed:

MID P 11 L and MID P 15 F.

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2017/5935/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 26 October 2017 by the Owner and given reference number 2017/5935/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2017/3651/P" shall be replaced with "Planning Permission reference 2017/3651/P as varied by 2017/5935/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 2017/5935/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
AMBER PROPERTIES LIMITED**

acting by a Director and its Secretary
or by two Directors

.....
Director


.....
Director/Secretary

**EXECUTED as a Deed
By LLOYDS BANK PLC
by
in the presence of:-**

SIGNED AS A DEED	
BY ADAM PETER ROSE as authorised signatory for Lloyds Bank in the presence of signature of witness	Per Pro Lloyds Bank <i>[Signature]</i>
<i>[Signature]</i> Wobaston Rd, Wolverhampton WV9 5HZ	

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

[Signature]
.....
Authorised Signatory



Arta Architectural
51 Colney Hatch Lane
Hornsey
London
N10 1LJ

Application Ref: **2017/5935/P**

29 March 2018

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:
7-8 Midford Place
London
W1T 5BG

PROPOSAL
Proposal:

Variation of condition 3 (approved plans) of planning permission 2017/3651/P dated 25/10/2017, namely to retain a chimney in the rear elevation, move location of terrace access doors at rear second floor, remove bathroom windows at second and third floor to east elevation. The approved AC units are to be moved to the east side of the second floor roof and a new skylight is proposed at second floor.

Drawing Nos: Superseded:
MID P 11 E and MID P 15 C.

Proposed:
MID P 11 L and MID P 15 F.

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 planning permission 2017/3651/P dated 25/10/2017.

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

- 2 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 [and D2 if in CA] of the London Borough of Camden Local Plan 2017

- 3 For the purposes of this decision, condition no.3 of planning permission 2017/3651/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:

Daylight and Sunlight Study, Design & Access Statement, MID P 01 B, MID P 02 C, MID P 03 C, MID P 04 C, MID P 05 C, MID P 06 C, MID P 07 C, MID P 14 B, MID P 16 C, MID P 17 C, MID P 08 M, MID P 09 H, MID P 10 H, MID P 11 L, MID P 12 E, MID P 13 D, MID P 15 F, MID P 11 G and MID P 15 C.

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

- 4 The external noise level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the lowest existing background noise level by at least 10dBA, by 15dBA where the source is tonal, as assessed according to BS4142:1997 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies G1, CC1, D1, and A1 of the London Borough of Camden Local Plan 2017.

- 5 The approved cycle storage details shown in plan 'MID P 08 O' shall be provided in its entirety prior to the first occupation of the premises and permanently retained thereafter.

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

Informative(s):

1 Reason for granting permission:

The revised design is for a window in the rear elevation at second floor to be replaced with glazed double doors providing access to the outdoor area. The previously approved access door to the terrace on the east elevation would be replaced with a window, and two sets of windows proposed to serve the bathrooms would be omitted. The chimney on the west elevation would be retained. The AC units will be relocated to the east side of the second floor roof and a skylight will be installed.

The revised proposal is considered acceptable in design terms, retaining the chimney is supported as this is part of the historic fabric of the building. The new doors are to be timber framed and sympathetic to the main building. The proposed window is consistent in appearance with the existing windows.

The AC units have been previously approved at second floor level. The noise condition (noise to be 10dBA below existing background noise) shall still apply to the revised scheme and the new location is considered acceptable. The proposed rooflight shall be flush with the second floor flat roof and not overly visible due to it siting and location in the rear of the property.

The proposed amendments do not cause any harm in terms of amenity given they either remove windows (east elevation bathroom windows) or where windows are introduced, there is already glazing at the same level in the existing building. Given no additional floorspace would be added, no loss of light or outlook would occur.

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

Neighbouring occupiers were consulted on the application. No objections have been received prior to making this decision. The site's planning history was taken into account in coming to this decision.

As such, the proposed development is in general accordance with policies G1, E1, E2, A1, A4, D1, D2, T1, T2 and T4 of the Camden Local Plan 2017. The proposed development also accords with the Fitzrovia Area Action Plan, London Plan 2016; and the National Planning Policy Framework.

- 2 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).

- 3 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.
- 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 Noise and Licensing Enforcement Team, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (Tel. No. 020 7974 4444 or search for 'environmental health' on the Camden website 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 Your proposals may be subject to control under the Party Wall etc Act 1996 which covers party wall matters, boundary walls and excavations near neighbouring buildings. You are advised to consult a suitably qualified and experienced Building Engineer.

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

Executive Director Supporting Communities



DATED

22 May

2018

(1) AMBER PROPERTIES LIMITED

and

(2) LLOYDS BANK PLC

and

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

DEED OF VARIATION

Relating to the Agreement dated 25 October 2017
Between the Mayor and the Burgesses of the
London Borough of Camden,
Amber Properties Limited and Lloyds Bank
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
7-8 Midford Place London W1T 5BG

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/1800.626
DoV FINAL