

DATED

29 May

2018

(1) MARESFIELD GARDENS NO. 9 LIMITED

and

(2) DORON BARSAM and ESTHER BARSAM

and

(3) JEREMY NIGEL CURTIS and ELAINE JOANNA CURTIS

and

(4) BANK OF SCOTLAND PLC

and

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

DEED OF VARIATION

Relating to the Agreement dated 11 July 2017
Between the Mayor and the Burgesses of the
London Borough of Camden,
Maresfield Gardens No. 9 Limited Doron Barsam and Esther Barsam Jeremy Nigel Curtis
and Elaine Joanna Curtis Talia Barsam, Allon Barsam, Doron Barsam, Elaine Curtis and
Jeremy Curtis and the Bank of Scotland PLC
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
9 Maresfield Gardens London NW3 5SJ

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/1800.561
DoV FINAL



THIS DEED is made on the 29th day of May 2018

BETWEEN

- i. **MARESFIELD GARDENS NO. 9 LIMITED** (Co. Regn. No. 5790625) whose registered office is at 9 Maresfield Gardens, London NW3 5SJ (hereinafter called "the Freeholder") of the first part
- ii. **DORON BARSAM and ESTHER BARSAM** of 9A Maresfield Gardens, London NW3 5SJ (hereinafter called "the First Leaseholder") of the second part
- iii. **JEREMY NIGEL CURTIS and ELAINE JOANNA CURTIS** of Flat 32, Harley House, Marylebone Road, London NW1 5HF (hereinafter called "the Second Leaseholder") of the third part
- iv. **BANK OF SCOTLAND PLC** (Co. Regn. No. SC327000) of The Mound, Edinburgh EH1 1YZ (hereinafter called "the Mortgagee") of the fourth part
- v. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the fifth part

WHEREAS:

- 1.1 The Council, Maresfield Gardens No. 9 Limited Doron Barsam and Esther Barsam Jeremy Nigel Curtis and Elaine Joanna Curtis Talia Barsam, Allon Barsam, Doron Barsam, Elaine Curtis and Jeremy Curtis and the Bank of Scotland PLC entered into an Agreement dated 11 July 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 222458.
- 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 First Leaseholder is registered at the Land Registry as the leasehold proprietor with Title absolute of the Property under Title Number NGL897137 subject to a charge to the Mortgagee.
- 1.5 The Second Leaseholder is registered at the Land Registry as the leasehold proprietor with Title absolute of the Property under Title Number NGL926993.
- 1.6 The First Leaseholder and Second Leaseholder (“the **Leaseholders**”) are the leasehold owners of and are interested in the Property for the purposes of Section 106 of the Act.
- 1.7 The Freeholder and the Leaseholders 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 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 11 October 2017 for which the Council resolved to grant permission conditionally under reference 2017/5634/P subject to the conclusion of 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, 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 11 July 2017 made between the Council and Maresfield Gardens No. 9 Limited Doron Barsam and Esther Barsam Jeremy Nigel Curtis and Elaine Joanna Curtis Talia Barsam, Allon Barsam, Doron Barsam, Elaine Curtis and Jeremy Curtis and the Bank of Scotland PLC

2.8.3 "the Original Planning Permission"

means the planning permission granted by the Council on 11 July 2017 referenced 2016/4136/P allowing the Excavation of the basement extension to existing semi-basement to create four new dwellings comprising 1 x 2 bed, 3 x 1 bed units and ground floor rear extensions with roof lantern to allow rearrangement of existing dwellings to provide 2 x 3 bed units with rear balcony/terrace and staircases as shown on drawing numbers OS Analysis of Site Layout for Daylight and Sunlight, Planning, Design & Access Statement, Arboricultural Appraisal and Implications Assessment, Basement Impact Assessment 8972_FS_GB, Sustainability Statement, CPG2 Statement, Heritage Statement, 3009(EXI)100, 3009(EXI)101, 3009(EXI)102, 3009(EXI)103, 3009(EXI)200, 3009(EXI)201, 3009(EXI)202, 3009(EXI)203, 3009(EXI)300, 3009(EXI)301, 3009(PLA)100, 3009(PLA)101, 3009(PLA)102, 3009(PLA)201, 3009(PLA)201-1, 3009(PLA)202, 3009(PLA)203, 3009(PLA)203-1, 3009(PLA)204, 3009(PLA)300_301, 3009(PLA)400 and 3009(PLA)001

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 2016/4136/P dated 11/07/2017 (for excavation of basement extension to existing semi-basement to create four new dwellings comprising 1x 2 bed and 3

x1 bed units and ground floor rear extensions with roof lantern to allow rearrangement of existing dwellings to provide 2 x 3 bed units with rear balcony/terrace and staircases), namely to infill the gap between the two approved rear extensions at lower ground and ground floor and the addition of no.1 ground floor rear window as shown on drawings:- Superseded: 3009(PLA)100, 3009(PLA)101, 3009(PLA)102, 3009(PLA)203, 3009(PLA)203-1.

Proposed:

9MG-PP-01A Revision A, 9MG-PP-02A Revision A, 9MG-PP-03A Revision A, 9MG-PP-04A Revision A and 9MG-PP-05A Revision A.

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2017/5634/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 11 October 2017 by the Owner and given reference number 2017/5634/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2016/4136/P" shall be replaced with "Planning Permission reference 2016/4136 as varied by planning permission 2017/5634/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 2017/5634/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)
MARESFIELD GARDENS NO. 9 LIMITED)
acting by a Director and its Secretary)
or by two Directors)

E. C. J.
.....
Director

Esther Mandell
.....
Director/Secretary

EXECUTED AS A DEED BY)
DORON BARSAM)
in the presence of:)

DB

IS
.....
Witness Signature *I Sterling*

Witness Name *INGRID STERLING*

Address *9 Templewood Ave, Hampstead, London*

Occupation *Sculptor*

CONTINUATION OF DEED OF VARIATION AGREEMENT IN RELATION TO 9
MARESFIELD GARDENS LONDON NW3 5SJ

EXECUTED AS A DEED BY
ESTHER BARSAM
in the presence of:

)
)
)
Esther Mandell

.....
Witness Signature

Ingrid Sterling

Witness Name

INGRID STERLING

Address

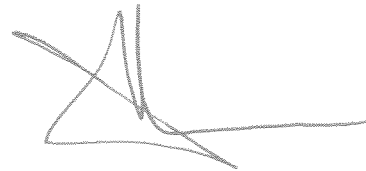
9 Templewood Ave, London. NW3 7UY

Occupation

Sculptor -

EXECUTED AS A DEED BY
JEREMY NIGEL CURTIS
in the presence of:

)
)
)



Sarah Parnold

.....
Witness Signature

Witness Name

Sarah Parnold

Address

2F Warpe Road Mews, Wimbledon

Occupation

Graphic designer

EXECUTED AS A DEED BY
ELAINE JOANNA CURTIS
in the presence of:

)
)
)

E. Curtis

Shireen Patel

.....
Witness Signature

Witness Name

SHIREEN PATEL

Address

3 HURLEY CLOSE, WALTON ON THAMES, SURREY

Occupation

GRAPHIC DESIGNER

CONTINUATION OF DEED OF VARIATION AGREEMENT IN RELATION TO 9
MARESFIELD GARDENS LONDON NW3 5SJ

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

.....

Executed as a deed by Susan Dorothy Patrick
as attorney for and on behalf of Bank of Scotland plc

SD Patrick

In the presence of:

AM Dewhurst

Witness: ~~Alice May Dewhurst~~
Name: **Alice May Dewhurst**
Address: Trinity Road Halifax HX1 2RG

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

R. Alexander

.....
Authorised Signatory



qR Architects Ltd
Spectrum House, Unit 34
32-34 Gordon House Road
London
NW5 1LP

Application Ref: **2017/5634/P**

08 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:
9 Maresfield Gardens
London
NW3 5SJ

DECISION
Proposal:
Variation of Condition 3 (approved plans) of planning permission 2016/4136/P dated 11/07/2017 (for excavation of basement extension to existing semi-basement to create four new dwellings comprising 1x 2 bed and 3 x1 bed units and ground floor rear extensions with roof lantern to allow rearrangement of existing dwellings to provide 2 x 3 bed units with rear balcony/terrace and staircases), namely to infill the gap between the two approved rear extensions at lower ground and ground floor and the addition of no.1 ground floor rear window.

Drawing Nos: Superseded:
3009(PLA)100, 3009(PLA)101, 3009(PLA)102, 3009(PLA)203, 3009(PLA)203-1.

Proposed:
9MG-PP-01A Revision A, 9MG-PP-02A Revision A, 9MG-PP-03A Revision A, 9MG-PP-04A Revision A and 9MG-PP-05A Revision A.

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 2016/4136/P dated 11/07/2017 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:

OS Analysis of Site Layout for Daylight and Sunlight, Planning, Design & Access Statement, Arboricultural Appraisal and Implications Assessment, Basement Impact Assessment 8972_FS_GB, Sustainability Statement, CPG2 Statement, Heritage Statement, 3009(EXI)100, 3009(EXI)101, 3009(EXI)102, 3009(EXI)103, 3009(EXI)200, 3009(EXI)201, 3009(EXI)202, 3009(EXI)203, 3009(EXI)300, 3009(EXI)301, 3009(PLA)201, 3009(PLA)201-1, 3009(PLA)202, 3009(PLA)204, 3009(PLA)300_301, 3009(PLA)400, 3009(PLA)001, 9MG-PP-01A Revision A, 9MG-PP-02A Revision A, 9MG-PP-03A Revision A, 9MG-PP-04A Revision A and 9MG-PP-05A Revision A.

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

- 2 The development hereby permitted must be begun not later than the end of three years from the date of the original planning permission ref 2016/4136/P dated 11/07/2017.

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

- 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 policies D1 and D2 of the Camden Local Plan 2017.

- 4 The development hereby approved shall not commence until such time as a suitably qualified chartered engineer with membership of the appropriate professional body has been 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. 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. Any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policy A5 of the Camden Local Plan 2017.

- 5 Before the development commences, details of secure and covered cycle storage area for 5 cycle spaces shall be submitted to and approved by the local planning authority. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units and permanently retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policies T1 and T2 of the Camden Local Plan 2017.

- 6 The proposed roof lantern on the rear extension at ground floor level shall be obscure glazed and shall be permanently retained and maintained thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises 90 Fellows Road in accordance with the requirements of policy A1 of the Camden Local Plan 2017.

- 7 All work shall be carried out in accordance with the relevant recommendations of British Standard 3998: 2010. (Recommendation for Tree Work)

Reason: To ensure the preservation of the amenity value and health of the tree(s).

- 8 Any trees or areas of planting (other than those which are shown to be removed as part of this application) which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policies A1 and A3 of the Camden Local Plan 2017.

Informative(s):

- 1 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).
- 2 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.
- 3 The Mayor of London introduced a Community Infrastructure Levy (CIL) to help pay for Crossrail on 1st April 2012. Any permission granted after this time which adds more than 100sqm of new floorspace or a new dwelling will need to pay this CIL. It will be collected by Camden on behalf of the Mayor of London. 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 sqm 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. Please use the forms at the link below to advise who will be paying the CIL and when the development is to commence. You can also access forms to allow you to provide us with more information which can be taken into account in your CIL calculation and to apply for relief from CIL.

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

We will then issue a CIL demand notice setting out what monies needs to paid when and how to pay. Failure to notify Camden of the commencement of development will result in a surcharge of £2500 or 20% being added to the CIL payment. Other surcharges may also apply for failure to assume liability and late payment. Payments will also be subject to indexation in line with the construction costs index.

Please send CIL related documents or correspondence to CIL@Camden.gov.uk

- 4 Some highway licenses would be required to facilitate the proposed works. The applicant would need to obtain such highway licences from the Council prior to commencing work on site. Any such licence requirements should be discussed in the CMP. Details for the highway licences mentioned above are available on the Camden website at the hyperlink below:

<http://www.camden.gov.uk/ccm/content/business/business-regulations/licensing-and-permits/licences/skips-materials-and-building-licences/building-licences/>

- 5 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

DRAFT

Supporting Communities Directorate

DECISION





DATED

29 May

2018

- (1) MARESFIELD GARDENS NO. 9 LIMITED
and
(2) DORON BARSAM and ESTHER BARSAM
and
(3) JEREMY NIGEL CURTIS and ELAINE JOANNA CURTIS
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(4) BANK OF SCOTLAND PLC
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