

DATED

29 August

2018

(1) AS&K COMMERCIAL PROPERTIES LTD

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 10 March 2016
Between the Mayor and the Burgesses of the
London Borough of Camden and
AS&K Commercial Properties Limited
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
5 Underhill Street, London, NW1 7HS

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 1918
Fax: 020 7974 2962

CLS/COM/OO/1800.790



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

BETWEEN

1. **AS&K COMMERCIAL PROPERTIES LTD** (Co. Regn. No.07931961) whose registered office is at 52 High Street, Pinner, England, HA5 5PW (hereinafter called "the Owner") of the first 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 second part

WHEREAS:

- 1.1 The Council and AS&K Commercial Properties Limited entered into an Agreement dated 10 March 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 48374.

- 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 28 August 2017 for which the Council resolved to grant permission conditionally under reference 2017/4332/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, 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 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 10 March 2016 made between the Council and AS&K Commercial Properties Limited
- 2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 10 March 2016 referenced 2015/0034/P allowing the extensions and alterations to the existing building including erection of a single storey extension to the roof fronting Underhill Street to provide 1 x 3 bed self-contained flat (Class C3 use) with external roof terrace and metal privacy screen, erection of two storey lift shaft to the rear at first and second floor level, installation of external fire escape staircase from ground to second floor level, alterations to the ground floor front elevation to create a new ground floor residential entrance and office entrance fronting Underhill Street, replacement of ground floor window openings with doors to bin store area and office storage area, and installation of roof light on the roof of the single storey front/side extension of the existing office building (Class B1 use). as shown on drawing numbers 14.8396.01; 14.8396.02; 14.8396.03; 14.8396.04; 14.8396.05B; 14.8396.06B; 14.8396.07B; 14.8396.08B; Flood Risk Assessment produced by Avis Appleton and Associates dated 19th December 2014; Sustainability Checklist dated 05th July 2011

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" shall mean the development authorised by the planning permission with reference 2015/0034/P dated 10 March 2016 as amended by:

Variation to condition 3 of planning permission 2015/0034/P dated 10/03/2016, for extensions and alterations to the existing building including erection of a single storey extension to the roof fronting Underhill Street to provide 1 x 3 bed self-contained flat (Class C3 use); namely to include increase in the height of the extension by 0.17m, increase in footprint, installation of new windows in the southwestern side elevation and alterations to the design and fenestration of the single storey extension at roof level as shown on drawing numbers: 14.8396.01; 14.8396.02; 14.8396.03; 14.8396.04; 14.8396.05B; 101 rev D; 300 rev E; 301 rev D; Flood Risk Assessment produced by Avis Appleton and Associates dated 19th December 2014; Sustainability Checklist dated 05th July 2011

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2017/4332/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 31 July 2017 by the Owner and given reference number 2017/4332/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2015/0034/P" shall be replaced with "Planning Permission reference 2017/4332/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 2017/4332/P.

5 **PAYMENT OF THE COUNCIL'S LEGAL COSTS**

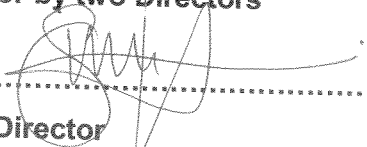
5.1 The Owner agrees to pay the Council (on or prior to completion of this Deed) its reasonable legal costs incurred in preparing this Deed

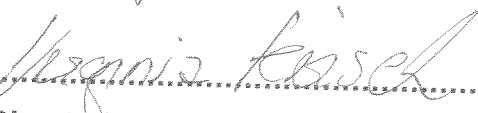
6. **REGISTRATION AS LOCAL LAND CHARGE**

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 have executed this document as their Deed the day and year first before written

EXECUTED AS A DEED BY)
AS&K COMMERCIAL PROPERTIES LTD)
in the presence of:)
acting by a Director and its Secretary)
or by two Directors)



.....
Director


.....
Director/Secretary

CONTINUATION OF THE DEED OF VARIATION IN RELATION TO 5 UNDERHILL STREET,
LONDON, NW1 7HS

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




.....
Duly Authorised Officer

The House Designers
Camboro Business Park
Oakington Road
Girton
Cambridge
CB3 0QH

Application Ref: **2017/4332/P**

20 August 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:
5-6 Underhill Street
LONDON
NW1 7HS

DECISION

Proposal:
Variation to condition 3 of planning permission 2015/0034/P dated 10/03/2016, for extensions and alterations to the existing building including erection of a single storey extension to the roof fronting Underhill Street to provide 1 x 3 bed self-contained flat (Class C3 use); namely to include increase in the height of the extension by 0.17m, increase in footprint, installation of new windows in the southwestern side elevation and alterations to the design and fenestration of the single storey extension at roof level.

Drawing Nos: 14.8396.01; 14.8396.02; 14.8396.03; 14.8396.04; 14.8396.05B; 101 rev D; 300 rev E; 301 rev D; Flood Risk Assessment produced by Avis Appleton and Associates dated 19th December 2014; Sustainability Checklist dated 05th July 2011.

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 this permission.

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 of the London Borough of Camden Local Plan 2017.

- 3 Before the relevant part of the work is begun, detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority:

a) Manufacturer's specification details of all facing materials (to be submitted to the Local Planning Authority) and samples of those materials (to be provided on site) to include:

- zinc cladding
- glazed safety screen

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.

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 of the London Borough of Camden Local Plan 2017.

- 4 For the purposes of this decision, condition no. 3 of planning permission 2015/0034/P shall be replaced with the following condition:

REPLACEMENT CONDITION

The development hereby permitted shall be carried out in accordance with the following approved plans- 14.8396.01; 14.8396.02; 14.8396.03; 14.8396.04; 14.8396.05B; 101 rev D; 300 rev E; 301 rev D; Flood Risk Assessment produced by Avis Appleton and Associates dated 19th December 2014; Sustainability Checklist dated 05th July 2011.

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

- 5 The use of the roof as a terrace shall not commence until the screen, as shown on the approved drawings, has been constructed. The screen shall be permanently retained thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policies A1 and D1 of the London Borough of Camden Local Plan 2017.

- 6 Prior to commencement of development , full details in respect of the living roof in the area indicated on the approved roof plan shall be submitted to and approved by the local planning authority. The details shall include
- i. a detailed scheme of maintenance
 - ii. sections at a scale of 1:20 with manufacturers details demonstrating the construction and materials used
 - iii. full details of planting species and density

The living roofs 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.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies G1, CC1, CC2, CC3, D1, D2 and A3 of the London Borough of Camden Local Plan 2017.

- 7 Notwithstanding the details shown on drawing no: 1300 rev C the bin storage double doors and office storage double doors on the ground floor single storey extension fronting onto Underhill Street shall not open outwards over the pavement. Details of the bin storage doors and office storage doors shall be submitted to and approved in writing by the local planning authority before the relevant part of the works has begun and thereafter shall be retained and maintained in accordance with the approved scheme.

Reason: To ensure that the pedestrian safety is not harmed and is maintained in accordance with policy T3 of the Camden Local Plan 2017.

Informative(s):

- 1 Reason for granting permission-

Single storey roof extension: The proposed changes to the single storey third floor roof extension would include an increase to its size (footprint) and, following revisions during the course of the application, would include a modest increase in height (0.17m) from 2.1m above the parapet to 2.27m. The detailed design of the extension has been revised to include vertical zinc cladding and reduced height windows on the front elevation that includes integrated shutters with recessed blank panels adjacent to the window openings. CPG1 (Design) states that roof extensions should have regard to the following general principles which include visual prominence, scale and bulk of the extension and the use of high quality materials. The increase in the footprint of the single storey roof extension in the context of the building would be mainly confined to views from the side/rear. Given the modest increase in the size of the extension together with its location at the side/rear it is considered that the roof extension would not detract from the character or appearance of the building or the surrounding conservation area. The windows and recessed blank panels would be simple in terms of the design and would add depth and interest at this level. The slim window frames would ensure that the extension as a whole would appear lightweight.

Glass balustrade: The original permission included the installation of a glass balustrade across the top of the pediment feature on the front elevation. The proposed drawings have been amended during the course of the application to set the glass balustrade behind the existing roof parapet on the front elevation of the building. It would now appear less prominent from street views from within the conservation area and would respect the traditional feature of the existing building. This would be considered acceptable.

Roof terrace screens: The approved scheme included galvanised steel slatted screen to match the sliding shutters. The proposal now includes aluminium screens to match the colour of the zinc cladding of the single storey extension at roof level. This is considered acceptable.

A condition would be attached for the submission of manufacturers' specs for the zinc cladding and the glass balustrade to ensure the visual quality of the completed building and in particular to allow the main historic building to retain its quality and character.

Fenestration changes: It is proposed to revise the position of the two new window openings in the north western side elevation of the single storey roof extension from the approved scheme. The size and proportions of the windows would relate to the fenestration below but would include a single pane of glass to retain a simple, lightweight appearance. A new high level slot window would be installed on the northwest side elevation. Its size, proportion and location are considered acceptable.

Amenity

Daylight: There were a number of objections from local residents from properties along Arlington Road who raised concerns about loss of light to the original proposal. The approved single storey roof extension projected 2.1m above the parapet wall of the roof. It was considered that this would not significantly reduce the level of daylight into the habitable rooms to sustain a reason for refusal. The proposed increase in height of 0.17m would be modest in terms of the overall building and would not result in any further harmful loss of daylight to the rear windows of the neighbouring properties along Arlington Road, particularly nos. 138 and 140, that are located approximately 4m to the west.

- 2 Overlooking: It is proposed to include a high level window opening on the southwest side elevation of the roof extension to serve the dining room/living area. Given that the lower window cill would be 1.7m above the internal floor level there would be no potential for direct views into the upper floor windows and rear gardens of the neighbouring properties along Arlington Road and would be considered acceptable.

The two windows on the northeast side elevation of the extension would be repositioned serving a bedroom and the living area. The nearest residential properties at nos. 157 Camden High Street would be located approximately 34m to the east. Given the separation distance, there would be no harmful overlooking between the habitable rooms of the properties and the new residential flat.

The proposal would include shutters to screen the roof terrace garden at the rear. This remains unchanged from the approved scheme and would be considered acceptable.

Outlook: The modest increase in height of the single storey extension at roof level by 0.17m to 2.27m would not be considered to result in any further harmful loss of outlook from the rear windows of the neighbouring properties at nos. 138 and 140 Arlington Road whose rear elevations lie approximately 4m to the west of the site.

Reduction in size of garden terrace: The approved scheme includes a useable rear garden terrace area that measures 18.8 sq. m. The proposal would reduce the size of the garden terrace by 11 sq. m to 6.4 sq. m. Although the reduction in the size of the terrace is regrettable a small area of outdoor space would still be available for use by the occupiers of the family-sized flat.

No objections have been received prior to making this decision. The planning 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 2013.

As such, the proposed development is in general accordance with Policies G1, A1, A3, D1, D2, T3, CC1, CC2, and CC3 of the Camden Local Plan 2017. The proposed development also accords with the London Plan 2016 and the National Planning Policy Framework 2012.

- 3 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).
- 4 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.
- 5 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.
- 6 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.
- 7 If a revision to the postal address becomes necessary as a result of this development, application under Part 2 of the London Building Acts (Amendment) Act 1939 should be made to the Camden Contact Centre on Tel: 020 7974 4444 or Environment Department (Street Naming & Numbering) Camden Town Hall, Argyle Street, WC1H 8EQ.
- 8 Under Section 25 of the GLC (General Powers) Act 1983, the residential accommodation approved is not permitted for use as holiday lettings or any other form of temporary sleeping accommodation defined as being occupied by the same person(s) for a consecutive period of 90 nights or less. If any such use is intended, then a new planning application will be required which may not be approved.

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

29 August

2018

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-and-

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

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