

DATED

20th SEPTEMBER

2018

(1) ADAM KAYE

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 27 April 2017
Between the Mayor and the Burgesses of the
London Borough of Camden and Adam Kaye
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
BAGSHOT SANDS 17 BRANCH HILL LONDON NW3 7NA

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/LN/1800.832
DoV FINAL



THIS AGREEMENT is made on the 20th day of SEPTEMBER 2018

BETWEEN

- i **ADAM KAYE** of 17 Branch Hill London NW3 7NA (hereinafter called "the Owner") of the first part

- ii **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 the Owner entered into an Agreement dated 27 April 2017 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 69002.

- 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 Agreement.

- 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 26 June 2018 for which the Council resolved to grant permission conditionally under reference 2018/2636/P subject to the conclusion of this Agreement.

- 1.6 This Agreement is made by virtue of the Town and Country Planning Act 1990 Section 106 (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 Agreement 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 Agreement.
- 2.2 All reference in this Agreement to clauses in the Existing Agreement are to clauses within the Existing Agreement.
- 2.3 Where in this Agreement 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 Agreement and shall not be construed as part of this Agreement and shall not effect the construction of this Agreement.
- 2.5 Unless the context otherwise requires references to the singular shall include the plural and vice versa.
- 2.6 References in this Agreement to the Owner shall include their successors in title.
- 2.7 In this Agreement the following expression shall unless the context otherwise states have the following meaning now allocated to it.
- | | |
|------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.7.1 "Agreement" | this Deed of Variation made pursuant to Section 106A of the Act |
| 2.7.2 "Existing Agreement" | the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 27 April 2017 made between the Council and the Owner |
| 2.7.3 "the Original Planning Permission" | means the planning permission granted by the Council on 27 April 2017 referenced |

2015/3377/P allowing the erection of part 2 and part 3 storey plus basement single family dwelling (following demolition of existing) with plant room, swimming pool (including air handling unit) and 5 condenser units) as shown on drawing numbers M2-P1; M2-P2; M4-P2; M5-P2; P1-P2; P2-P2; P4-P2; P5-P2; (779)002_P02; (779)003_P02; (779)010_P03; (779)011_P02; (779)012_P02; (779)015_P02; (779)016_P02; (779)017_P02; (779)020_P04; (779)021_P04; (779)023_P02; (779)024_P03; (779)200_P03; (779)201_P03; (779)202_P03; (779)203_P03; (779)204_P03; (779)205_P05; (779)206_P04; (779)207_P04; (779)300_P04; (779)301_P03; (779)302_P02; (779)303_P03; (779)304_P01; (779)311_P02; (779)312_P02; (779)313_P02; 1281_GA_013 P2; 1281_SE_020 P3; 1281_SE_021 P3; 1281_SK_008 P3; 1281_SK_009 P4; 1281_GA_011 P2; 1281_GA_010 P3 BIA prepared by Site Analytical Services Ltd dated October 2015; Preliminary Risk Assessment prepared by Site Analytical Services Ltd dated November 2014; Arboricultural Impact Assessment Report prepared by Landmark Trees dated 27th June 2015; Structural Engineer's Design Statement for Planning prepared by engineersHRW dated June 2015; Design and Access Statement prepared by SHH dated June 2015; Renewable energy statement and sustainability report prepared by ME7 dated June 2015; Construction Management Plan prepared by Construction Planning Associates dated June 2015; Environmental Noise Assessment prepared by Acoustics Plus dated 10/6/2015; Report on a Ground Investigation prepared by Site Analytical Services Ltd dated

May 2015; Ground movement assessment prepared by Card Geotechnics Limited dated January 2016; Letter from Construction Planning Associates dated 11th January 2016.

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" the development authorised by the Original Planning Permission as amended by the following: variation of condition 2 (approved plans) of planning permission 2015/3377/P dated 27/04/2017 (for erection of part 2 and part 3 storey plus basement single family dwelling (following demolition of existing) with plant room, swimming pool (including air handling unit) and 5 condenser units), namely to relocate 2 condenser units to acoustic enclosure in south east corner of garden as shown on drawing numbers: Superseded: (779)020_P04 Proposed: (779)461_PL01; Environmental Noise Assessment prepared by Acoustics Plus dated 23/05/2018; (779)020_P05

3.1.2 "Planning Permission" the Original Planning Permission amended by the planning permission granted for the Development under reference number 2018/2636/P substantially in the draft form annexed hereto

3.1.3 "Planning Application" the application submitted to the Council and validated on 26 June 2018 and given reference 2018/2636/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2015/3377/P" shall be treated as meaning "Planning Permission" as such term is defined in clause 3.1.2 of this Agreement.

3.3 In all other respects the Existing Agreement (as varied by this Agreement) 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 2018/2636/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 Agreement) its reasonable legal costs incurred in preparing this Agreement

6. REGISTRATION AS LOCAL LAND CHARGE

6.1 This Agreement shall be registered as a Local Land Charge

IN WITNESS WHEREOF the Council has caused their Common Seals to be affixed and the Owner has caused this Agreement to be executed as a Deed the day and year first above written.

EXECUTED AS A DEED BY
ADAM KAYE
in the presence of:

) 


.....
Witness Signature

Witness Name: PHILIP SHORTER
Address: 6 YORK STREET,
LONDON W1U 6AD
Occupation: SOLICITOR.

THIS IS A CONTINUATION OF THE DEED OF VARIATION TO THE SECTION 106
AGREEMENT IN RELATION TO 17 BRANCH HILL LONDON NW3 7NA

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

R. Alexander

.....
Duly Authorised Officer



NORTHGATE SE GIS Print Template



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Handwritten signature



SHH Architects
1 Vencourt Place
Ravenscourt Park
London W6 9NU

Application Ref: 2018/2636/P

29 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 AGREEMENTAddress:
17 Branch Hill
London
NW3 7NA

Proposal:

DECISION

Variation of condition 2 (approved plans) of planning permission 2015/3377/P dated 27/04/2017 (for erection of part 2 and part 3 storey plus basement single family dwelling (following demolition of existing) with plant room, swimming pool (including air handling unit) and 5 condenser units), namely to relocate 2 condenser units to acoustic enclosure in south east corner of garden.

Drawing Nos:

Superseded: (779)020_P04

Proposed: (779)461_PL01; Environmental Noise Assessment prepared by Acoustics Plus dated 23/05/2018; (779)020_P05

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 ref 2015/3377/P dated 27/04/2017.

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

- 2 For the purposes of this decision, condition no.2 of planning permission 2015/3377/P shall be replaced with the following condition:

REPLACEMENT CONDITION 2

The development hereby permitted shall be carried out in accordance with the following approved plans:

M2-P1; M2-P2; M4-P2; M5-P2; P1-P2; P2-P2; P4-P2; P5-P2; (779)002_P02; (779)003_P02; (779)010_P03; (779)011_P02; (779)012_P02; (779)015_P02; (779)016_P02; (779)017_P02; (779)020_P05; (779)021_P04; (779)023_P02; (779)024_P04; (779)200_P03; (779)201_P03; (779)202_P03; (779)203_P03; (779)204_P04; (779)205_P06; (779)206_P05; (779)207_P05; (779)300_P04; (779)301_P03; (779)302_P02; (779)303_P03; (779)304_P01; (779)311_P02; (779)312_P02; (779)313_P02; 1281_GA_013 P2; 1281_SE_020 P3; 1281_SE_021 P3; 1281_SK_008 P3; 1281_SK_009 P4; 1281_GA_011 P2; 1281_GA_010 P3; (779)461_PL01

BIA prepared by Site Analytical Services Ltd dated October 2015; Preliminary Risk Assessment prepared by Site Analytical Services Ltd dated November 2014; Arboricultural Impact Assessment Report prepared by Landmark Trees dated 27th June 2015; Structural Engineer's Design Statement for Planning prepared by engineersHRW dated June 2015; Design and Access Statement prepared by SHH dated June 2015; Renewable energy statement and sustainability report prepared by ME7 dated June 2015; Construction Management Plan prepared by Construction Planning Associates dated June 2015; Environmental Noise Assessment prepared by Acoustics Plus dated 10/6/2015; Report on a Ground Investigation prepared by Site Analytical Services Ltd dated May 2015; Ground movement assessment prepared by Card Geotechnics Limited dated January 2016; Letter from Construction Planning Associates dated 11th January 2016; Environmental Noise Assessment prepared by Acoustics Plus dated 23/05/2018

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

- 3 The windows and facing materials of the development shall be carried out in accordance with the details approved under ref: 2018/1256/P dated 23/07/2018 or any subsequent submission in respect of a) and b) approved in writing by the local planning authority before the relevant parts of the works are commenced. The approved samples shall be retained on site during the course of the works.

a) Details including typical sections at 1:10 of windows and typical sample of frame to be submitted to local planning authority.

b) Manufacturer's specification details of all facing materials including grey render and timber cladding (to be submitted to the Local Planning Authority) and 0.4m x 0.4m samples of those materials (to be provided on site).

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 London Borough of Camden Local Plan 2017.

- 4 The dwelling hereby approved shall be designed and constructed in accordance with Building Regulations Part M 4 (2).

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.

- 5 All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the tree protection details approved on 28/06/2017 under ref 2017/2477/P.

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 A2 and A3 of the London Borough of Camden Local Plan 2017.

- 6 Noise levels at a point 1 metre external to sensitive façades shall be at least 10dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 15dB(A) below the LA90, expressed in dB(A).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

- 7 Before the use of the new dwelling commences, the basement plant, swimming pool Air Handling Unit, water booster and condensers shall be provided with anti-vibration measures and sound attenuation in accordance with the Environmental Noise Assessment prepared by Acoustics Plus dated 10/6/2015 and 23/05/2018 hereby approved. All such measures shall thereafter be retained and maintained in accordance with the manufacturers' recommendations.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

- 8 The cycle store for 2 cycles hereby approved shall be provided in its entirety prior to the first occupation of the new dwelling, 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.

- 9 Sustainable urban drainage:

A) The sustainable urban drainage system shall be implemented in accordance with the details approved under ref: 2017/2563/P dated 03/08/2017

B) Prior to first occupation of the development, evidence that the sustainable drainage system has been implemented shall be submitted to the Local Authority and approved in writing. The systems shall thereafter be retained and maintained in accordance with the approved maintenance plan.

Reason: To reduce the rate of surface water run-off from the buildings and limit the impact on the storm-water drainage system in accordance with policies CC1, CC2 and CC3 of the London Borough of Camden Local Plan 2017.

- 10 The bio-diverse green roof shall be provided in accordance with the details approved under ref: 2018/1256/P dated 23/07/2018 or any subsequent submission approved in writing by the local planning authority prior to the first occupation of the building in respect of a plan showing details of the bio-diverse 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. 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.

- 11 The development hereby approved shall achieve a maximum internal water use of 105 litres/person/day, allowing 5 litres/person/day for external water use. Prior to occupation, evidence demonstrating that this has been achieved shall be submitted to and approved by the Local Planning Authority.

Reason: To ensure the development contributes to minimising the need for further water infrastructure in an area of water stress in accordance with policy CC3 of the London Borough of Camden Local Plan 2017.

- 12 Any piling must be undertaken in accordance with the terms of the piling method statement approved under ref: 2017/2563/P dated 03/08/2017.

Reason: To safeguard existing below ground public utility infrastructure and controlled waters in accordance with the requirements of policy CC3 of the London Borough of Camden Local Plan 2017.

- 13 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A-H) and Part 2 (C) of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the local planning authority.

Reason: To safeguard the visual amenities of the area and to prevent over development of the site by controlling proposed extensions and alterations in order to ensure compliance with the requirements of policies D1 and D2 of the London Borough of 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 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 You are advised that this proposal will be liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL as the additional floorspace exceeds 100sqm GIA or one unit of residential accommodation. Based on the information given on the plans, the Mayor's CIL Charging Schedule and the Camden Charging Schedule, the charge is likely to be £4250 (85sqm x £50) for the Mayoral CIL and £42,500 (85sqm x £500) for the Camden's CIL (Zone C Residential).

This amount is an estimate based on the information submitted in your planning application. The liable amount may be revised on the receipt of the CIL Additional Information Requirement Form or other changes in circumstances. Both CIL's will be collected by Camden after the scheme has started and could be subject to surcharges for failure to assume liability or submit a commencement notice PRIOR to commencement and/or for late payment. We will issue a formal liability notice once the liable party has been established. CIL payments will also be subject to indexation in line with the construction costs index.

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

20th SEPTEMBER

2018

(1) ADAM KAYE

-and-

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

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