

DATED

30 May

2018

(1) SOUTH QUAY DECO LIMITED

-and-

(2) MI LIMITED AND NEW LIFE INVESTMENTS LIMITED

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 9 May 2014
Between the Mayor and the Burgesses of the
London Borough of Camden,
Eugenio Francesco Chiappetta and
London & District Housing Limited
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
12 Westbere Road, London NW2 3SR

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/00/1800.639



THIS DEED is made on the 30th day of May 2018

BETWEEN

1. **SOUTH QUAY DECO LIMITED** (Co. Regn. No. 04138581) whose registered office is at 168 Thornbury Road, Isleworth, Middlesex, TW7 4QE (hereinafter called "the Owner") of the first part
2. **MI LIMITED** (incorporated in Jersey) of Suite 4, 4 Wharf Street, St Helier, Jersey, JE2 3NR and **NEW LIFE INVESTMENTS LIMITED** (incorporated in Jersey) of Elizabeth House, 9 Castle Street, St Helier, Jersey, JE2 3RT (hereinafter together called "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, Eugenio Francesco Chiappetta and London & District Housing Limited entered into an Agreement dated 9 May 2014 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 NGL429119 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 The Mortgagee as the new mortgagee under a legal charge registered under Title Number NGL429119, dated 11 August 2017 is willing to enter into this Deed to give its consent to the same.

- 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 16 January 2018 for which the Council resolved to grant permission conditionally under reference 2018/0216/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, 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 9 May 2014 made between the Council, Eugenio Francesco Chiappetta and London & District Housing Limited

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 9 May 2014 referenced 2013/7688/P allowing the erection of a part 2 part 3 storey and basement level building to provide 2x3bed residential dwellings following demolition of houses as shown on drawing numbers 5267/01, 5267/05, 5267/06, 5267/07, 5267/10, 5267/11, 5267/12, 5267/13, 5267/14, 5267/15, 5267/16, 5267/21 A, 5267/22 A, 5267/23 A, 5267/30, 5267/31, Basement Impact Assessment by Create Consulting Engineers Ltd dated 16 January 2014, Arboricultural Impact Assessment by Arbol EuroConsulting dated 19 November 2013, Daylight/Sunlight Analysis Report by Create Consulting Engineers Ltd dated November 2013 and Sustainable Design

and Construction Statement by Create Consulting Engineers Ltd dated November 2013

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 2013/7688/P dated 9 May 2014 as amended by:

Variation of Condition 3 of planning permission dated 09/05/2014 ref. 2013/7688/P, for Erection of a part 2 part 3 storey and basement level building to provide 2x3bed residential dwellings following demolition of houses, namely to to alter fenestration, revise rooflights and alter flat roof as shown on drawing numbers: 5267/05, 5267/06, 5267/07, 304 Revision N, 300 Revision B, 305 Revision K, 302 Revision K, 303 Revision H, 301 Revision G, Basement Impact Assessment by Creat consulting Engineers Ltd dated 16 January 2014, Arboricultural Impact Assessment by Arbol EuroConsulting dated 19 November 2013, Daylight/Sunlight Analysis Report by Create Consulting Engineers Ltd dated November 2013 and Sustainable Design and Construction Statement by Create Consulting Engineers Ltd dated November 2013

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2018/0216/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 5 March 2018 by the Owner and given reference number 2018/0216/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2013/7688/P" shall be replaced with "Planning Permission reference 2018/0216/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 2018/0216/P.

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

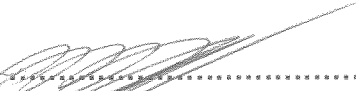
5.1 The Owner agrees to pay the Council (on or prior to completion of this Deed) its reasonable legal costs incurred in preparing this Deed


6. **REGISTRATION AS LOCAL LAND CHARGE**

6.1 This Deed shall be registered as a Local Land Charge

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

EXECUTED AS A DEED BY)
SOUTH QUAY DECO LIMITED)
in the presence of:-)


.....
Director

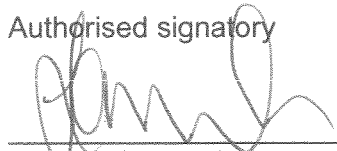

.....
Director/Secretary **WITNESS**
JEMMAR ATTFIELD
1 FORE ST, LONDON, EC2Y 9DT
PARALEGAL

Executed as a deed by **MI LIMITED**
a company incorporated in Jersey
acting by **JAMES MARTINGALE**, who
in accordance with the laws of that
territory, is acting under the authority of
the company

Signature in the name of the company
MI LIMITED

Signature of James Martingale

Authorised signatory



James Martingale


CONTINUATION OF THE DEED OF VARIATION IN RELATION TO 12 WESTBERE ROAD, LONDON NW2 3SR

Executed as a deed by
NEW LIFE INVESTMENTS LIMITED
a company incorporated in Jersey
acting by **NIGEL CHARLES SYVRET**,
who in accordance with the laws of that
territory, is acting under the authority of
the company

Signature in the name of the company
NEW LIFE INVESTMENTS LIMITED

Signature of Nigel Charles Syvret

Authorised signatory

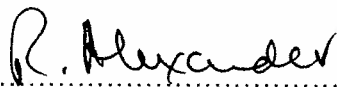


Nigel Charles Syvret

**THE COMMON SEAL OF THE MAYOR
AND BURGESSES OF THE LONDON
BOROUGH OF CAMDEN**

was hereunto affixed by Order:-

)
)
)
)



.....
Duly Authorised Officer



Troy Planning + Design
Aldwych House
71-91 Aldwych
London
WC28 4HN

Application Ref: **2018/0216/P**

8 May 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:
Former 12 Westbere Road
London
NW2 3SR

DECISION
Proposal:

Variation of Condition 3 (approved plans) of planning permission dated 09/05/2014 ref. 2013/7688/P, for Erection of a part 2 part 3 storey and basement level building to provide 2x3bed residential dwellings following demolition of houses, namely to alter fenestration, revise flat rooflights and lightwells, erect pitched roof to rear platform, and add privacy screen to terrace.

Drawing Nos: 300 Rev. B, 301 Rev. G, 302 Rev. K, 303 Rev. H, 304 Rev. N, 305 Rev. K,
Planning Statement.

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 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.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans 5267/05, 5267/06, 5267/07, 304 Revision N, 300 Revision B, 305 Revision K, 302 Revision K, 303 Revision H, 301 Revision G, Basement Impact Assessment by Creat consulting Engineers Ltd dated 16 January 2014, Arboricultural Impact Assessment by Arbol EuroConsulting dated 19 November 2013, Daylight/Sunlight Analysis Report by Create Consulting Engineers Ltd dated November 2013 and Sustainable Design and Construction Statement by Create Consulting Engineers Ltd dated November 2013.

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

- 3 For the purposes of this decision, condition no.3 of planning permission 2013/7688/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- 5267/05, 5267/06, 5267/07, 304 Revision N, 300 Revision B, 305 Revision K, 302 Revision K, 303 Revision H, 301 Revision G, Basement Impact Assessment by Creat consulting Engineers Ltd dated 16 January 2014, Arboricultural Impact Assessment by Arbol EuroConsulting dated 19 November 2013, Daylight/Sunlight Analysis Report by Create Consulting Engineers Ltd dated November 2013 and Sustainable Design and Construction Statement by Create Consulting Engineers Ltd dated November 2013.

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

- 4 The first floor bathroom and staircase windows on the side elevation of No. 12A, the first floor athroom and secondfloor bedroom windows on the rear elevation of No. 12 and the ground floor reception window on the side elevation of No. 12 shall be obscure glazed and be of a design that is not capable of being opened below a height of 1.8m above the finished floor level, and therefore permanently maintained and retained as such.

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

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

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies A1 and D1 of the London Borough of Camden Local Plan 2017.

- 6 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A-H) of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the Council.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies G1, D1 and A1 of London Borough of Camden Local Plan 2017.

- 7 Details (and samples as appropriate) of facing materials and architectural features, including render, roof tiles, fenestration, cladding, privacy screens and solar panels to be used on the building, shall not be otherwise than as those submitted to or provided on site and approved by the Council. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

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.

- 8 All hard and soft landscaping works shall be carried out to a reasonable standard in accordance with the approved landscape details prior to the occupation for the permitted use of the development or any phase of the development, whichever is the sooner. Any trees or areas of planting 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 landscaping is carried out within a reasonable period and to maintain a high quality of visual amenity in the scheme in accordance with the requirements of policies A2, A3, A5, D1 of the London Borough of Camden Local Plan 2017.

- 9 Prior to occupation of the hereby approved dwellings, the cycle storage area as shown on the hereby approved plans shall be provided in its entirety 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.

- 10 Prior to the occupation of the hereby approved dwellings, the waste storage units shall be erected in their entirety 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.

- 11 Building foundations and the layout of service trenches and other excavations on site shall not be carried out otherwise than in accordance with the details submitted to and approved in writing by the local planning authority.

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

- 12 Prior to the first occupation of No. 12, the pitched roof structure over the raised platform within the garden as shown on drawing 304 revision N shall be constructed in accordance with the plan hereby approved, and shall be permanently maintained and retained as such.

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

Informative(s):

1 Reasons for granting permission

The proposed changes to the development granted on 09/05/2014 under reference number 2013/7688/P would have no adverse impact on amenity or the appearance of the area. The addition of a glazed balustrade to the east side of the approved roof terrace to prevent overlooking is acceptable in terms of design and would not appear prominent. The omission of louvred privacy screens to the first floor front windows would not result in a loss of privacy to any private amenity space and is acceptable.

The raised platform to the rear of no. 12 would be covered by a pitched roof structure to prevent its use as a terrace, which would allow views into the neighbouring garden. The addition and retention of this structure will be secured by condition.

The proposed revisions to the lightwells and associated fenestration, roof lights and internal layouts were granted permission under non-material amendment application dated 01/09/2015 (ref. 2015/4515/P) and have been implemented. As such, these revisions are considered to be acceptable.

The full impact of the proposed development has already been assessed by virtue of the previous approval granted on 09/05/2014 under reference number 2013/7688/P. In the context of the permitted scheme, it is not considered that the amendment would have any material effect on the approved development.

The planning and appeal history of the site has been taken into account when coming to this decision. No objections were received prior to making this decision.

The proposed development is in general accordance with the Camden Local Plan 2017, with particular regard to policies A1 and D1. The proposed development also accords with the London Plan 2016, and the National Planning Policy Framework 2012.

- 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 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.
- 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 £????(???sqm x £50) for the Mayor's CIL and £????(???sqm x £500/£450/£250/£175/£150/£45/£40/£30/£25 using the relevant rate for uplift in that type of floorspace) for the Camden CIL.

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

DECISION



DATED

30 May

2018

(1) SOUTH QUAY DECO LIMITED

-and-

(2) MI LIMITED AND NEW LIFE INVESTMENTS LIMITED

-and-

(3) THE MAYOR AND THE BURGESSES OF
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