

DATED

3 February

2020 |

(1) DAN FRIIS

and

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

DEED OF VARIATION

Relating to the Agreement dated 24 August 2017
Between the Mayor and the Burgesses of the
London Borough of Camden and
Dan Friis
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
33 Fitzroy Square London W1T 6EU

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/1800.605
DoV v1

THIS DEED is made on the 3rd day of February 2021

BETWEEN

1. **DAN FRIIS** of 33 Fitzroy Square London W1T 6EU (hereinafter called "the Owner") of the first part
2. **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 Dan Friis entered into an Agreement dated 24 August 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 319473.
- 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 8 December 2017 for which the Council resolved to grant permission conditionally under reference 2017/5881/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 Subject to clause 4, the covenants undertakings and obligations contained within this Deed shall come into effect on the date hereof.
- 2.7 References in this Deed to the Owner shall include its 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 24 August 2017 made between the Council and Dan Friis

2.8.3 "the Original Planning Permission"

means the planning permission granted by the Council on 24 August 2017 referenced 2016/4282/P allowing the:- demolition of existing external lift enclosure and Conway Street annex behind retained front façade of existing dwelling house and erection of three storey annex building behind the retained façade with raised parapet, raised mansard roof with 3 dormer windows and raised sills at first floor level; creation of first floor external terrace with 2m high trellis on eastern side elevation. as shown on drawing numbers:- 090 (Site location plan); 120D; 121D; 122G; 123F; 124D; 125C; 130C; 131D; 132C; 133; 140A; 141E; 150; 151A; 220; 221; 222, 223, 224, 230, 231, 240, 241, 900, 901, 902 rev A; 903 rev A; 904; 905; Planning and Heritage Statement produced by Montague Evans dated July 2016; Daylight and sunlight assessment produced by Behan Partnership Ltd dated 25th July 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"

variation to condition 3 of planning permission granted on 24/08/2017 (ref 2016/4282/P) for demolition of existing external lift enclosure and Conway Street annex behind retained front façade of existing dwelling house and erection of

three storey annex building behind the retained façade: CHANGES INCLUDE relocation of staircase at lower ground floor level fronting Conway Street, retention of existing first floor windows to Conway Street elevation, replacement and alterations to first and second floor timber windows on east elevation of Conway Street annexe to metal windows, relocation of third floor external wall to rear of no. 33 to align with wall of stairwell below, 4 new conservation rooflights on pitched roof of main building, and replacement of timber roof terrace with walk-on glass rooflight above a new cupola and replacement of timber and glass belvedere on roof with metal and glass belvedere.

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2017/5881/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 8 December 2017 by the Owner and given reference number 2017/5881/P

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2016/4282/P" shall be replaced with "Planning Permission reference 2017/5881/P".

3.3 In all other respects the Existing Agreement (as varied by this Deed) shall continue in full force and effect.

Application ref: 2017/5881/P
Contact:
Tel: 020 7974
Date:

Thomas Croft Architects
9 Ivebury Court
325 Latimer Road
London
W10 6RA



Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Phone: 020 7974 4444

planning@camden.gov.uk
www.camden.gov.uk/planning

Dear Sir/Madam

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:
33 Fitzroy Square
London
W1T 6EU

Proposal:

Variation to condition 3 of planning permission granted on 24/08/2017 (ref 2016/4282/P) for demolition of existing external lift enclosure and Conway Street annex behind retained front façade of existing dwelling house and erection of three storey annex building behind the retained façade: **CHANGES INCLUDE** relocation of staircase at lower ground floor level fronting Conway Street, retention of existing first floor windows to Conway Street elevation, replacement and alterations to first and second floor timber windows on east elevation of Conway Street annexe to metal windows, relocation of third floor external wall to rear of no. 33 to align with wall of stairwell below, 4 new conservation rooflights on pitched roof of main building, and replacement of timber roof terrace with walk-on glass rooflight above a new cupola and replacement of timber and glass belvedere on roof with metal and glass belvedere.

Drawing Nos: 120 rev E; 121 rev E; 122 rev H; 123 rev G; 124 rev E; 125 rev D; 130 rev D; 130.1; 131 rev E; 133 rev A; 140 rev B; 140.1; 141 rev F; 220 rev A; 221 rev A; 222 rev A; 223 rev A; 224 rev A; 225 rev A; 230 rev A; 231 rev A; 232 rev A; 240 rev 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 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 For the purposes of this decision, condition no. 3 of planning permission 2016/4282/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-

090 (Site location plan); 120 rev E; 121 rev E; 122 rev H; 123 rev G; 124 rev E; 125 rev D; 130 rev D; 130.1; 131 rev E; 132 rev C; 133 rev A; 140B; 140.1; 141F; 150; 151A; 220 rev A; 221 rev A; 222 rev A, 223 rev A, 224 rev A, 225 rev A; 230 rev A, 231 rev A, 232 rev A; 240 rev A, 241, 900, 901, 902 rev A; 903 rev A; 904; 905; Planning and Heritage Statement produced by Montague Evans dated July 2016; Daylight and sunlight assessment produced by Behan Partnership Ltd dated 25th July 2016.

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

- 4 The second floor staircase window on the eastern rear elevation of the annexe building shall be obscure glazed and fixed shut to an internal height of 1.7m and shall be permanently retained and maintained as such thereafter.

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 part of the first floor roof as a terrace hereby approved shall not commence until the 2m high timber trellis, as shown on the approved drawings, has been constructed. The trellis shall be permanently retained and maintained thereafter. The remainder of the roof at that level shall not be used as a roof terrace at any time.

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 Reason for granting permission-

Changes externally, other than those already approved under ref 2016/4282/P are limited to the installation of a new masonry lightwell staircase which replaces a modern steel stair, replacement of modern cellar vault doors at lower ground floor level. At roof level the changes involve the rebuilding of the existing modern timber and lead Belvedere in steel and glass, 4 new conservation-style rooflights to the inner roof pitches at roof level and the installation of a glass floor over new lantern rooflight over the staircase. The lantern over the staircase would be a major intervention which would remove a room at the top floor level and allow light to the main stair. This would also include a glass rooflight over the lantern to retain a terrace from the belvedere at roof level. The applicants have demonstrated the accommodation above the staircase is awkwardly built and detailed and there would be substantial heritage benefit to providing a lantern to light the main staircase. The Bloomsbury CAAC welcomes the removal of the top floor room and the restitution of the roof light over the staircase.

Other minor works including replacement windows at first and second floor level are considered acceptable in terms of materials and design.

The proposed works would not have an adverse impact on the amenity of neighbouring occupiers and would be considered acceptable and the previous conditions to prevent overlooking will continue to be imposed.

The same conditions and informatives as before will be imposed. The original scheme was granted permission subject to a s106 legal agreement. This permission would be granted subject to a deed of variation to the original s106 agreement.

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

Special regard has been attached to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, and of preserving or enhancing the character or appearance of the conservation area, under s.66 and 72 of the Planning (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 A1, D1, and D2 of the Camden Local Plan 2017. 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.

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

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 2017/5881/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 instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY
DAN FRIIS
in the presence of:

.....
Witness Signature

Witness Name *Li YUN*

Address *2901 TIL CENTRAL PARK*
6 CHONGMING ULUWATI ST
Occupation *BEIJING 100020 CHINA*
HOUSEWIFE

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

.....
Authorised Signatory

