

DATED

11th November

2021

(1) DELPHINUS DEVELOPMENTS LIMITED

-and-

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

DEED OF VARIATION

Relating to the Agreement dated 9th November 2016
Between the Mayor and the Burgesses of the
London Borough of Camden,
Julian Beir and Eli Nathenson
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
**8A BELMONT STREET
LONDON
NW1 8HH**

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

G:\case files\culture & env\planning\hm\s106 Agreements\8A Belmont Road (DoV)
CLS/COM/JO/1800.
FINAL

THIS DEED is made on the 11th day of November 2021

BETWEEN

1. **DELPHINUS DEVELOPMENTS LIMITED** (Co. Regn. No. 10635324) whose registered office is at Suite 416, Linen Hall, 162-168 Regent Street, London W1B 5TE (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 Julian Bier and Eli Nathenson entered into an Agreement dated 9th November 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 NGL952368 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 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 1st June 2021 for which the Council resolved to grant permission conditionally under reference 2021/2677/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 References in this Deed to the Owner and Mortgagee shall include their successors in title.
- 2.7 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

9th November 2016 made between the Council and Julian Beir and Eli Nathenson.

2.8.3 "the Original Planning Permission"

means the planning permission granted by the Council on 9th November 2016 referenced 2016/0896/P allowing the partial demolition of the existing building and change of use of vacant storage unit (Class B1) and its re-development with a 3-storey building including basement excavation to provide 2x 2-bed self-contained residential units (Class C3) on the lower ground floor, ground and first floor levels as shown on Drawing Nos: [Prefix: BEL-PL-] GA-01A, (as existing:) EX-03, EX-03A, EX-04, EX-04A, EX-05A, DEM-01, DEM-02, EX-01A, EX-02A, EX-06A, EX-07A, (as proposed:) GA-02B, GA-03C, GA-04C, GA-06B, GA-07B, GA-08A, GA-09A, GA-10B, GA-11C, GA-12A, GA-13 A, GA-14, GA-15A, SK-01A, SK-02A, SK-03A, SK-04A, SK-05; and the following supporting documents: BIA Independent review by Campbell Reith ref. 12336-42 Rev F1 dated August 2016, Groundwater Investigation report by Ground & Water ref. GWPR1534/GIR/August 2016, Desk Study Report by Ground & Water ref GWPR1534/GIR/May 2016, Basement Impact Assessment by Ground and Project Consultants dated February 2016, Basement Impact Assessment: Groundwater Report by H Fraser Consulting ref 30110R1D1 dated Executive Director Supporting Communities Page 2 of 9 2016/0896/P

14.3.2016, Basement Impact Assessment: Land Stability Report by Ground and Project Consultants dated February 2016, Structural Scheme report by croft Structural Engineers ref

160215 dated 3.3.2016, letter by Stones Residential dated 6th May 2016, Letter by Dutch & Dutch dated 28th May 2015, letter by Charlie Properties Ltd dated 17th June 2015, Statement of use and advertising as commercial premises by Martin Evans dated 19th May 2016, Daylight and Sunlight Assessment by Dixon Payne ref. rs/ROL.15/3 dated 21th February 2015, Energy Statement by DDP ref. E565-ES-00 dated 1st February 2016, Design & Access Statement by Martin Evans dated February 2016, 'Lumisty' glazing manufacturer specifications.

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 planning permission dated 9th November 2016 to vary conditions 2 (approved plans), 3 (Sample of materials), 4 (privacy screens) and 10 (buildings regs part m4 (2)) and removal of 6 (cycle parking) to be replaced with a s106 obligation (financial contribution towards a bike hangar) of planning permission ref. 2016/0896/P dated 09/11/16 for Partial demolition of the existing building and change of use of vacant storage unit (Class B1) and its redevelopment with a 3-storey building including basement excavation to provide 2x 2-bed self-contained residential units (Class C3) on the lower ground floor, ground and first floor levels as shown on Drawing Nos: BEL-PL-GA-02C, BEL-PL-GA-03D, BEL-PL-GA-04D, BEL-PL-

GA-06C, BEL-PL-GA-100, BEL-PL-GA-102,
BEL-PL-GA-101.

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2021/2677/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 1st June 2021 by the Owner and given reference number 2021/2677/P.

3.2 The following definition shall be added to the Existing Agreement:-

3.2.1 "2.20 "Cycle Parking Contribution"" the sum the sum of £2,334 (two thousand three hundred and thirty-four pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in event of receipt for the installation of cycle parking provisions on the Public Highway in the vicinity of the Property to provide covered, secure and fully enclosed cycle storage facilities

3.3 The following clause shall be added to the Existing Agreement:-

" 4.4 CYCLE PARKING CONTRIBUTION

4.4.1 On or prior to the Implementation Date to pay to the Council the Cycle Parking Contribution in full.

4.1.2 Not to Implement nor to allow Implementation until such time as the Council has received the Cycle Parking Contribution in full."

3.4 All references in the Existing Agreement to "Planning Permission reference 2016/0896/P" shall be replaced with "Planning Permission reference 2021/2677/P".

- 3.5 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 2021/2677/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.

CONTINUATION OF DEED OF VARIATION OF S106 AGREEMENT RELATING TO 8A
BELMONT STREET LONDON

EXECUTED AS A DEED BY
DELPHINUS DEVELOPMENTS LIMITED
in the presence of:-

CHRIS ROBSON
2 FREAME HOUSE
6 CUNARD CRESSANT
LONDON, N21 2TS.

M. FAKHIMI
.....
Director

Z. FAKHIMI
.....
Director/Secretary

**CONTINUATION OF DEED OF VARIATION OF S106 AGREEMENT RELATING TO 8A
BELMONT STREET LONDON**

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

)
)
)
)



.....
Duly Authorised Officer



Application ref: 2021/2677/P
Contact:
Tel: 020 7974
Date: 21 October 2021

Martin Evans Architects
18 Charlotte Road
London
EC2A 3PB

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:
8a Belmont Street
r/o 8 Belmont Street
London
NW1 8HH

Proposal:

Variation of conditions 2 (approved plans), 3 (Sample of materials), 4 (privacy screens) and 10 (buildings regs part m4 (2)) and removal of 6 (cycle parking) to be replaced with a s106 obligation (financial contribution towards a bike hangar) of planning permission ref. 2016/0896/P dated 09/11/16 for Partial demolition of the existing building and change of use of vacant storage unit (Class B1) and its re-development with a 3-storey building including basement excavation to provide 2x 2-bed self-contained residential units (Class C3) on the lower ground floor, ground and first floor levels.

Drawing Nos: BEL-PL-GA-02C, BEL-PL-GA-03D, BEL-PL-GA-04D, BEL-PL-GA-06C, BEL-PL-GA-100, BEL-PL-GA-102, BEL-PL-GA-101.

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 This condition has intentionally been left blank.
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Substantive Permission: [Prefix: BEL-PL-] GA-01A, (as existing:) EX-03, EX-03A, EX-04, EX-04A, EX-05A, DEM-01, DEM-02, EX-01A, EX-02A, EX-06A, EX-07A, (as proposed:) GA-02B, GA-03C, GA-04C, GA-06B, GA-07B, GA-08A, GA-09A, GA-10B, GA-11C, GA-12A, GA-13 A, GA-14, GA-15A, SK-01A, SK-02A, SK-03A, SK-04A, SK-05.

Variation: BEL-PL-GA-02C, BEL-PL-GA-03D, BEL-PL-GA-04D, BEL-PL-GA-06C, BEL-PL-GA-100, BEL-PL-GA-102, BEL-PL-GA-101.

Reason: For the avoidance of doubt and in the interest of proper planning.
- 3 The external facing materials shall be retained as built in accordance with the details annotated on the drawings hereby permitted and those specified in Approval of Details consent reference 2017/6418/P, dated 04/02/2019 as relevant.

Reason: To safeguard the appearance of the building and the character of the immediate area in accordance with the requirements of policy Policy D1 of the Camden Local Plan 2017.
- 4 The window on the south elevation shall be fixed shut and be retained as vision control glass as built as shown on the drawings hereby permitted.

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 details of contaminated land investigation and remediation shall be in accordance with those specified in Approval of Details consent reference 2017/6418/P, dated 04/02/2019.

Reason: To protect future occupiers of the development from the possible presence of ground contamination arising in connection with the previous industrial/storage use of the site in accordance with policy A1 of the Camden Local Plan 2017.

- 6 This condition has intentionally been left blank - cycle parking condition removed to be replaced by S106 obligation for a financial obligation towards a bike hangar.

- 7 The sustainable urban draining system shall be retained as built in accordance with the drawings hereby permitted and those specified in Approval of Details consent reference 2017/6418/P, dated 04/02/2019.

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 policy CC3 of the Camden Local Plan 2017.

- 8 The development hereby approved shall achieve a maximum internal water use of 110 litres/person/day. The dwelling/s shall not be occupied until the Building Regulation optional requirement has been complied with.

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 Camden Local Plan 2017.

- 9 Intentionally blank - original basement condition complied with and no longer relevant. See Approval of Detail ref 2017/6418/P.

- 10 The two residential units hereby approved shall be retained as built in accordance with Building Regulations Part M4(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 C6 of the Camden Local Plan 2017.

- 11 The details of a green biodiverse roof shall be retained as built in accordance with those specified in Approval of Details consent reference 2017/6418/P, dated 04/02/2019.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies A2 and A3 of the Camden Local Plan 2017.

- 12 Prior to occupation of any relevant part of the development, the applicant will have constructed and implemented all the measures contained in the Energy Statement by DDP ref. E565-ES-00 dated 1st February 2016 and such measures shall be permanently retained and maintained thereafter. The measures shall include the installation of a meter to monitor the energy output from the approved renewable energy systems.

Reason: In order to secure the appropriate energy and resource efficiency measures and on-site renewable energy generation in accordance with policy CC2 of the Camden Local Plan 2017.

- 13 The hereby approved obscure directional glazing (Vision Control Film 00/55) (to prevent views towards 10a Belmont Street) shall be applied to the annotated rear windows on drawing BEL-PL-GA-04C (1st floor level), prior to occupation, in accordance with the approved drawings. The hereby approved frosted glazing ('Reglit' glazing) (to avoid light pollution) shall be installed prior to occupation. The relevant windows shall be permanently 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.

- 14 No lights, meter boxes, flues, vents or pipes, and no telecommunications equipment, alarm boxes, television aerials, satellite dishes or rooftop 'mansafe' rails shall be fixed or installed on the external face of the buildings, without the prior approval in writing of the local planning authority.

Reason: To safeguard the appearance of the building and the character of the immediate area in accordance with the requirements of policy D1 of the Camden Local Plan 2017.

Informative(s):

1 Reasons for granting planning permission:

The scheme the subject of permission reference 2016/0896/P is now substantially complete and this application seeks to address design variations and outstanding conditional matters that have yet to be resolved as follows:

- A 424mm increase in the height of the building, required to accommodate a blue roof to satisfy Condition 7 (SUDS) of 2016/0896/P. This proposal also includes the details to satisfy the terms of the condition and accordingly the condition is revised in this decision. Details application reference 2017/6418/P also addresses the same condition;
- A revision to the south and east elevation to accommodate fire resistant material to protect an escape stair. This changes glazing to brick construction which represents and improvement to the design;
- A change of external material finish from zinc to copper (details required by condition 3 of 2016/0896/P). The new material type is acceptable for the context. All other external materials have been discharged as ref 2017/6418/P. The condition is accordingly revised.
- The bicycle store is now to be provided in the highway. This is acceptable to transport officers; however, a S106 planning obligation is required to secure the appropriate financial contribution to carry out the works. Condition 6 of 2016/0896/P is therefore no longer required and will be secured by S106;
- The louveres proposed on the 'Reglet' glazing wall are now removed. They were originally included to prevent light glare to neighbouring occupiers (commercial use). The glazing itself has been designed to prevent glare and is acceptable;
- Condition 4 of 2016/0896/P required the installation of privacy screens on the south elevation. These have been replaced with a fixed window (unopenable) with 'vision control

film' which serves the same purpose and ensures overlooking will not occur. A revised condition is proposed to require the retention of the design in perpetuity;
- The building design now satisfies Part M4 (2) of the Building Regulations and Condition 10 of 2016/0896/P is no longer required, which required evidence demonstrating compliance.

The site is not within a conservation area; however, there are buildings of local heritage significance surrounding. The design changes and additional details of external facing materials ensure a high quality of development appropriate to its context.

The replacement measures for privacy/light glare remediation ensure that the occupation of the development will not cause a material loss of amenity to surrounding occupiers.

Transport officers have confirmed that the provision of 'bike hanger' spaces in the highway is an acceptable alternative to on site provision of cycle parking, subject to the financial contribution in the associated S106 Planning Obligation.

The development is therefore considered to be in general compliance with policies C6, A1, A3, A3, D1, CC2 and CC3 of the Camden Local Plan 2017 and guidance in the National Planning Policy Framework 2021.

Appropriate consultation was undertaken in accordance with statutory requirements and the Council's approved Statement of Community Involvement. The relevant planning history was taken into account in determining the application.

- 2 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).
- 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 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.
- 4 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. The estimated charge for this development will be £3,800. 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

- 5 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.
- 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 The London Borough of Camden introduced the Community Infrastructure Levy (CIL) on the 1st of April 2015 to help pay for local infrastructure. This is in addition to the Mayoral CIL which helps fund the Crossrail introduced 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 the CIL charge.

The proposed charge in CIL will be calculated in accordance with the regulations set out in Part 5 of the Community Infrastructure Levy Regulations 2010 (as amended) and is estimated at £138,000. For further information on the Camden CIL or Mayoral CIL charge please follow the link provided: http://www.camden.gov.uk/ccm/cms-service/stream/asset/?asset_id=3298006

You are required to assume liability and notify the CIL team on commencement using the forms that can be downloaded from planning portal; <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

We will issue an assumption of liability setting out the calculation and CIL demand notice setting out the method of payment accordingly. 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 queries to CIL@Camden.gov.uk

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

DRAFT