

Camden

Department of Law & Administration

memo

lee.rossetto@camden.gov.uk

To: Mike Rosen B.S.U.	From: Lee Rossetto
Date: 11 November 2004	Ext: 2463
	Ref: 1431.116

**Re: Town And Country Planning Act 1990
Section 106 Agreement
Property: 93 Fortess Road NW5 1AG**

I refer to the above matter which was completed on 10 November 2004 and now enclose the following documents:-

1. Agreement dated 10 November 2004.
2. Planning consent dated 10 November 2004.

Can you please arrange for a deed packet to be created and advise me of the number at your earliest convenience.

I thank you in advance for your assistance and await hearing from you.

Kind regards


pp Lee Rossetto
Commercial Law - Planning
for the Director of Law & Administration



Development Control
Planning Services
London Borough of Camden
Town Hall
Argyle Street
London WC1H 8ND

Tel 020 7278 4444
Fax 020 7974 1975
Textlink 020 7974 6866

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

Rich Architecture
62-64 Wolseley Road
London
N8 8RP

Application Ref: **2004/3415/P**
Please ask for: **Kiran Chauhan**
Telephone: 020 7974 5117

10 November 2004

Dear Sir/Madam

DECISION

Town and Country Planning Acts 1990 (as amended)
Town and Country Planning (General Development Procedure) Order 1995
Town and Country Planning (Applications) Regulations 1988

Full Planning Permission Granted Subject to a Section 106 Legal Agreement

Address:
93 Fortress Road
London
NW5 1AG

Proposal:

Amendment to planning permission (2003/1573/P) for the demolition of existing building and the erection of a 4-storey building to provide offices (class B1) on the ground floor with 8 residential units above. The amendments involves the change of use of the B1(office) space at ground floor to C3 (residential) use as 2 x 1 bedroom and 1 x 3 bedroom flats.
Drawing Nos: Site location plan; marketing report; schedule of accommodation; 263/P10; P11; P12.

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of five years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and



INVESTOR IN PEOPLE

Country Planning Act 1990 (as amended).

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. The penalty for contractors undertaking noisy works outside permitted hours is a maximum fine of £5000 per offence. You are advised to consult the Council's Environmental Health Division, Camden Town Hall, Argyle Street, WC1H (Tel. No. 020 7974 4444) 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 Reasons for granting permission.

The proposed development is in general accordance with the policy requirements of the adopted London Borough of Camden Unitary Development Plan 2000, with particular regard to policy HG8 (Increasing the amount of residential accommodation). For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officers report.
- 4 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.

Your attention is drawn to the notes attached to this notice which tell you about your Rights of Appeal and other information.

Yours faithfully


Environment Department
(Duly authorised by the Council to sign this document)

DATED 10 NOVEMBER 2004

(1) MARK OLIVER HOMES LIMITED

and

(2) NATIONAL WESTMINSTER BANK PLC

and

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

A G R E E M E N T
relating to land known as
93 FORTRESS ROAD, LONDON NW5 1AG
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

Alison Lowton
Director of Law & Administration
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 2463
Fax: 020 7974 2962

S:\plan\lr\Fortress Road 93 (3) / s106 Agmt (CC, EC)

THIS AGREEMENT is made the 10th day of **NOVEMBER** 2004

B E T W E E N:

1. **MARK OLIVER HOMES LIMITED** (Company Registration No. 2481197) whose registered office is at 6 Torriano Mews, London NW5 1RZ (hereinafter called "the Owner") of the first part
2. **NATIONAL WESTMINSTER BANK PLC** (Company Registration No. 929027) of 2nd Floor, 10 St Peters Street, St Albans, Herts AL13LY (hereinafter called "the 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 Owner is registered at HM Land Registry as the freehold proprietor with Title absolute of the Property under Title Numbers 360497 and NGL628391 each subject to a charge to the Mortgagee.
- 1.2 The Owner is the freehold Owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 A planning application for the development of the Property was validated by the Council on 18 August 2004 and the Council resolved to grant permission conditionally under reference number 2004/3415/P subject to conclusion of this legal Agreement.
- 1.4 The Council 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 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

- 1.6 National Westminster Bank Plc as Mortgagee under a two Legal Charges registered under Title Numbers 360497 and NGL628391 and both dated 12 December 2002 (hereinafter called "the Legal Charges") is willing to enter into this Agreement to give its consent to the same.

2. **DEFINITIONS**

In this Agreement the following expressions (arranged in alphabetical order) shall unless the context otherwise requires have the following meanings:-

- 2.1 "the Act" the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991)
- 2.2 "the Agreement" this Planning Obligation made pursuant to Section 106 of the Act
- 2.3 "the Application" a planning application in respect of the development of the Property validated by the Council on 18 August 2004 for which a resolution to grant permission has been passed conditionally under reference number 2004/3415/P subject to conclusion of this Agreement
- 2.4 "the Development" Amendment to planning permission (2003/1573/P) for the demolition of existing building and the erection of a 4-storey building to provide offices (class B1) on the ground floor with 8 residential units above. The amendment involves the change of use of the B1 (office) space at ground floor to C3 (residential) use as 2 x 1-bedroom and 1 x 2-bedroom flats as shown on drawing numbers: Site location plan; marketing report; schedule of accommodation; 263/P10; P11; P12.

2.5 "Education Contribution"

the sum of £6,953.00 (six thousand nine hundred and fifty three 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 the event of receipt for the provision of education needs arising in the London Borough of Camden

2.6 "the Implementation Date"

the date of implementation of the Development by the carrying out of a material operation as defined in Section 56 of the Act and references to "Implementation" and "Implement" shall be construed accordingly

2.7 "Occupation Date"

the first date when any part of the Development is occupied

2.8 "the Parties"

mean the Mayor and Burgesses of the London Borough of Camden the Owner the Mortgagee

2.9 "Planning Obligations Monitoring Officer"

a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof

2.10 "the Planning Permission"

a planning permission granted for the Development substantially in the draft form annexed hereto

2.11 "the Property"

the land known as 93 Fortess Road and land on the west side of Fortess Road, London NW5 1AG the same as shown edged in red on the plan annexed hereto

- 2.12 "Residents Parking Bay" a parking place designated by the Council by an order under the Road Traffic Regulation Act 1984 or other relevant legislation for use by residents of the locality in which the Development is situated
- 2.13 "Residents Parking Permit" a parking permit issued by the Council under section 45(2) of the Road Traffic Regulation Act 1984 allowing a vehicle to park in Residents Parking Bays

NOW THIS DEED WITNESSETH as follows:-

- 3.1 This Agreement is made in pursuance of Section 106 of the Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.
- 3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies corporations and other artificial persons.
- 3.3 Any reference to a specific statute or statutes includes any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5 and 6 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Implementation Date.
- 3.6 The Council hereby agrees to grant the Planning Permission on the date hereof.



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Scale 1: 1250

National Grid sheet reference at centre of this Superplan: TQ2985NW

The representation of a road, track or path is no evidence of a right of way.

2004/34 15/P

3.7 The Parties save where the context states otherwise shall include their successors in title.

3.8 The Parties acknowledge that the Development shall be treated as being permanently designated as "car capped" housing in accordance with Clause 4.3 for all relevant purposes.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:

Education Contribution

4.1 On or prior to the Implementation Date to pay to the Council the Education Contribution.

4.2 Not to Implement or to permit Implementation until such time as the Council has received the Education Contribution.

Car Capped Housing

4.3 The Owner hereby covenants with the Council to ensure that prior to occupying any residential unit forming part of the Development each new resident of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.

4.4 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.3 above will remain permanently.

5. **NOTICE TO THE COUNCIL/OTHER MATTERS**

5.1 Within 7 days following completion of the Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting planning reference 2004/3514/P the date upon which the residential units forming the Development are ready for occupation.

5.2 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken or is about to take place.

5.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.

5.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall jointly and severally indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.

6. **IT IS HEREBY AGREED AND DECLARED** by the Parties hereto that:-

6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Property and Projects Team, Planning Division Environment Department, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 2004/3514/P and in the case of any notice or approval or agreement from the Council this shall be signed by a representative of the Council's Environment Department.

6.2 This Agreement shall be registered as a Local Land Charge.

6.3 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement on or prior to the date of completion of the Agreement.

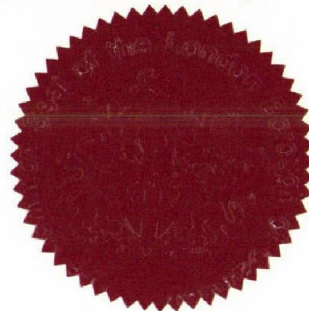
-
- 6.4 The Owner hereby covenants with the Council that it will within 28 days from the date hereof apply to the Chief Land Registrar to register this Agreement in the Charges Register thereof and will furnish the Council forthwith on written demand with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property.
- 6.5 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.
- 6.6 Neither the Owner nor the Mortgagee nor their successors in title nor any person deriving title from the Owner or the Mortgagee shall be bound by the obligations in this Agreement in respect of any period during which it no longer has an interest in the Property but without prejudice to liability for any breach committed prior to the time it disposed of its interest.
- 6.7 For the avoidance of doubt the provisions of this Agreement (other than those contained in this sub-clause) shall not have any effect until this Agreement has been dated.
- 6.8 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of development or is modified (other than by agreement with or at the request of the Owner) this Agreement shall forthwith determine and cease to have effect and the Council will effect cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.
- 6.9 Nothing in this Agreement shall be construed as affecting prohibiting or limiting any rights to develop any part of the land in accordance with any other planning permission granted whether before or after the date of this Agreement by the Council or the Secretary of State for the Department for Transport Local Government and the Regions or any other competent authority.
-

7. The Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at HM Land Registry as provided in Clause 6.4 hereof provided that the Mortgagee shall only be directly liable for a breach of any of the obligations contained in this Agreement during any such periods as it is a mortgagee in possession of the land and then only if it shall have caused such breach to have been occasioned and provided further for the avoidance of doubt that it shall not in any event be liable for any breach of this Agreement arising prior to it becoming mortgagee in possession of the land regardless of whether or not such pre-existing breach shall continue for any period during which it is a mortgagee in possession of the land.
8. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

IN WITNESS whereof the Council has caused its common seal to be hereunto affixed and the Owner and the Mortgagee have executed this instrument as their Deed the day and year first before written

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

[REDACTED]
Authorised Signatory



EXECUTED AS A DEED BY)
MARK OLIVER HOMES LIMITED)
acting by a Director and its Secretary)
or by two Directors)

[REDACTED]
.....
Director

[REDACTED]
.....
Director/Secretary

EXECUTED as a Deed)
By NATIONAL WESTMINSTER BANK PLC)
by)
in the presence of:-)

Signed and Delivered as a deed
For and on behalf of
The National Westminster Bank PLC
By a duly authorised Attorney



In the presence of:

[REDACTED]
Witness' Signature-Bank employee

Rich Architecture
62-64 Wolsley Road
London
N8 8RP

Application Ref: 2004/3415/P

14 October 2004

Dear Sir/Madam

DRAFT
FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION
Town and Country Planning Acts 1990 (as amended)

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:
**93 Fortress Road
London
NW5 1AG**

Proposal:

DECISION
Amendment to planning permission (2003/1573/P) for the demolition of existing building and the erection of a 4-storey building to provide offices (class B1) on the ground floor with 8 residential units above. The amendments involves the change of use of the B1 (office) space at ground floor to C3 (residential) use as 2 x 1 bedroom and 1 x 3 bedroom flats.
Drawing Nos: Site location plan; marketing report; schedule of accommodation; 263/P10 P11; P12.

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 **Aiden Brooks** in the Legal Department on 020 7 314 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 five 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).

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. The penalty for contractors undertaking noisy works outside permitted hours is a maximum fine of £5000 per offence. You are advised to consult the Council's Environmental Health Division, Camden Town Hall, Argyle Street, WC1H (Tel. No. 020 7974 4444) 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 Reasons for granting permission:
The proposed development is in general accordance with the policy requirements of the adopted London Borough of Camden Unitary Development Plan 2000, with particular regard to policy HGB (increasing the amount of residential accommodation). For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officers report.
- 4 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.

Yours faithfully

Environment Department

DATED 10 NOVEMBER 2004

(1) MARK OLIVER HOMES LIMITED

and

(2) NATIONAL WESTMINSTER BANK PLC

and

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

A G R E E M E N T
relating to land known as
93 FORTRESS ROAD, LONDON NW5 1AG
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

Alison Lowton
Director of Law & Administration
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 2463
Fax: 020 7974 2962

S:plan/lr/Fortess Road 93 (3) / s106 Agmt (CC, EC)