

DATED 5 November 2018

(1) LONDON LEGACY DEVELOPMENT CORPORATION

(2) DACE SMEED ROAD LIMITED

(3) REFLEX BRIDGING LIMITED

CERTIFIED TO BE A TRUE AND COMPLETE  
COPY OF THE ORIGINAL  
DATED THIS 6 DAY OF November 2018  
Pinsent Masons LLP *Pinsent Masons LLP*

---

PLANNING OBLIGATION BY AGREEMENT  
made pursuant to section 106 of the Town and Country  
Planning Act 1990  
and all other powers enabling  
relating to land adjacent to 1-7 Dace Road, Fish Island,  
London E3 2NG

---



Pinsent Masons

## CONTENTS

Clause		Page
1	INTERPRETATION	3
2	EFFECT OF THIS AGREEMENT	8
3	CONDITIONALITY	9
4	THE DEVELOPER'S COVENANTS WITH THE LPA	9
5	THE LPA'S COVENANTS WITH THE DEVELOPER	9
6	THIRD PARTY IMPLEMENTATION	10
7	NOTICES	10
8	SATISFACTION OF ANY OF THE PROVISIONS OF THIS AGREEMENT	11
9	VERIFICATION AND ENFORCEMENT	11
10	DISPUTE RESOLUTION	11
11	NO WAIVER	12
12	DUTY TO ACT REASONABLY AND IN GOOD FAITH	12
13	EXCLUSION OF CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999	12
14	THE LPA'S COSTS	12
15	FINANCIAL CONTRIBUTIONS AND INDEXATION	13
16	INTEREST	13
17	JURISDICTION AND LEGAL EFFECT	13
18	EXECUTION	13
	SCHEDULE 1 - AFFORDABLE HOUSING	14
	SCHEDULE 2 - VIABILITY REVIEW	21
	SCHEDULE 3 - SUSTAINABLE TRANSPORT	28
	SCHEDULE 4 - EMPLOYMENT AND TRAINING	29
	SCHEDULE 5 - SUSTAINABILITY	32
	SCHEDULE 6 - DESIGN MONITORING	34
	SCHEDULE 7 - NEW ROAD	36
	SCHEDULE 8 - COURTYARD	37
	SCHEDULE 9 - CONSTRUCTION	38
	APPENDIX 1 - PLAN 1	40

APPENDIX 2 - PLAN 2

41

APPENDIX 3 - DRAFT PLANNING PERMISSION

42

THIS AGREEMENT is made on 5 November

2018

**BETWEEN:-**

- (1) **LONDON LEGACY DEVELOPMENT CORPORATION** of Level 10, 1 Stratford Place, Montfichet Road, London E20 1EJ (the "**LPA**");
- (2) **DACE SMEED ROAD LIMITED** (Company Number 10125138) whose registered office is at First Floor Woodgate Studios, 2-8 Games Road, Barnet EN4 9HN (the "**Developer**"); and
- (3) **REFLEX BRIDGING LIMITED** (Company Number 07981831) of 3<sup>rd</sup> Floor, Sterling House, Langston Road, Loughton, IG10 3TS (the "**Mortgagee**").

**WHEREAS:-**

- (A) The LPA exercises the functions of the local planning authority for the Site pursuant to The London Legacy Development (Planning Functions) Order 2012 and is the local planning authority by whom the obligations contained in this Agreement are enforceable.
- (B) The Developer has a freehold interest in the Site registered at the Land Registry with Title Number EGL212613 relating to the Site.
- (C) The Mortgagee is the owner of a charge over the site dated 18 July 2018 and registered 9 August 2018 as shown in the charges register (C) of Title Number EGL212613 and has agreed to grant the consent contained within clause 2.6.
- (D) The Planning Application was validated by the LPA on 31 January 2017 and subsequently amended by planning application dated 21 June 2018 (which, for the avoidance of doubt, only amended the certificate of ownership to certificate C).
- (E) On 23 May 2017 the LPA resolved that it was minded to grant the Planning Permission subject to (inter alia) the completion of this Agreement.
- (F) The Parties agree that the obligations contained in this Agreement meet the three tests for planning obligations as set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
- (G) Accordingly, the Parties have agreed to enter into this Agreement in order to secure the planning obligations contained in it pursuant to the provisions of section 106 of the 1990 Act and all other powers enabling.

**IT IS AGREED** as follows:-

**1. INTERPRETATION**

1.1 In this Agreement (which shall include the Recitals, Schedules and Appendices hereto) the following words and expressions have the following meanings:-

"1990 Act"	means Town and Country Planning Act 1990
"Agreement"	means this agreement made pursuant to section 106 of the 1990 Act and other enabling powers
"Anticipated Commencement Date"	means the date on which the Developer reasonably considers in all the circumstances that the Development will be Commenced
"Building"	means a building comprised in the Development



<b>"Commencement"</b>	means the carrying out of a material operation as defined in section 56(4) of the 1990 Act other than (for the purposes of this Agreement and for no other purpose) operations consisting of site clearance, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and <b>"Commence"</b> and <b>"Commenced"</b> shall be construed accordingly
<b>"Commencement Date"</b>	means the date upon which the Development is Commenced
<b>"Commercial Unit"</b>	means a commercial unit provided as part of the Development
<b>"Completed"</b>	completed in all material respects such that a certificate of practical completion in relation to building works is issued under industry standard construction contracts for the Development and <b>"Complete"</b> and <b>"Completion"</b> shall be construed accordingly
<b>"Comply"</b>	means to implement, comply, fulfil and/or discharge or procure implementation, compliance, fulfilment and/or discharge and <b>"Compliance"</b> shall be construed accordingly
<b>"Condition"</b>	means a condition of the Planning Permission
<b>"Consent"</b>	means any of the following: approval, agreement, licence, authorisation, confirmation, certification, expression of satisfaction, consent, permission, or any other kind of authorisation howsoever expressed
<b>"Council"</b>	means the London Borough of Tower Hamlets and its successor in function
<b>"Development"</b>	means the development of the Site and all other operations and/or works authorised by the Planning Permission
<b>"Dispute"</b>	means any dispute, issue, difference or claim as between the Parties in respect of any matter contained in or arising from or relating to this Agreement or the Parties' obligations and rights pursuant to it (other than in respect of any matter of law or the meaning or construction of this Agreement)
<b>"Expert"</b>	means an independent expert appointed in accordance with the provisions of Clause 10 to determine a Dispute
<b>"First Occupation"</b>	means first Occupation of the Development or any part thereof
<b>"Highway Authority"</b>	means the Council and/or TfL or their successors in function
<b>"Index"</b>	means the All-in Tender Price Index
<b>"Indexed"</b>	means in relation to an sum that it is to be increased in accordance with Clauses 15.2 and 15.3
<b>"Interest"</b>	means interest at 3% above the base lending rate of Barclays Bank Plc from time to time

<b>"Occupy" and "Occupation"</b>	means beneficial occupation for any purpose for which the Planning Permission has been granted in respect of the relevant unit, building, structure or part of the Site but not including occupation for the purposes of construction, fit out or marketing
<b>"Off Site"</b>	means on land outside the Site
<b>"On Site"</b>	means on land within the Site
<b>"Parties"</b>	means the parties to this Agreement and the word <b>"Party"</b> shall mean either one of them
<b>"Plan 1"</b>	means the plan attached at Appendix 1 of this Agreement showing the Site and the New Road
<b>"Plan 2"</b>	means the plan attached at Appendix 2 of this Agreement showing the Courtyard
<b>"Planning Application"</b>	means the application as amended for planning permission submitted to the LPA and given reference number 17/00007/FUL by the LPA for the demolition of all buildings and the erection of a mixed use, five storey building to provide 2,772sqm of floor space (GIA), comprising: 531sqm of commercial floorspace (use class B1) at ground level and 34 residential units (use class C3) on the upper floors, with associated landscaping, amenity areas, cycle parking, refuse storage and a commercial courtyard
<b>"Planning Permission"</b>	means the planning permission which may be granted subject to conditions for the proposals within the Planning Application and the form of which is attached at Appendix 3
<b>"Private Residential Units"</b>	means Residential Units which are neither Affordable Rented Housing Units or Shared Ownership Units provided pursuant to paragraph 3 of Schedule 1
<b>"Reasonable Endeavours"</b>	means that it is agreed by the Parties that the Developer under such an obligation will not thereby be required to take proceedings (including any appeal) in any court public inquiry or other hearing (unless specified to the contrary) but subject thereto and to other terms of this Agreement the Developer will be bound to attempt to fulfil the relevant obligation by the expenditure of such effort and/or sums of money and the engagement of such professional or other advisers as in all the circumstances may reasonably be expected of a competent commercial developer in the context of the Development (or part of the Development)
<b>"Requisite Consents"</b>	means such grant of planning permission under the 1990 Act, Traffic Regulation Orders, Traffic Management Orders and/or other Consents under the Highways Act 1980 and/or the obtaining of Consents (statutory or otherwise) including the grant or acquisition of necessary land interests as in each case are necessary for the relevant purpose
<b>"Residential Unit"</b>	means a residential unit provided as part of the Development
<b>"Site"</b>	means the land shown edged red on Plan 1
<b>"SPD"</b>	means the LPA's supplementary planning document Planning Obligations dated 10 November 2016

"TfL"	means Transport for London or its successor in function
"Utility Undertaker"	means any provider of gas, electricity, energy water, sewage, heating, cooling or telecommunications services occupying premises within the Site for the purposes of supplying any one or more of those services to any member of the public or any occupier of premises within the Site
"Working Day"	means a day other than a Saturday or Sunday or public holiday in England or the period between 24 December and 1 January inclusive

1.2 In this Agreement:-

1.2.1 unless otherwise indicated reference to any:-

- (a) Clause, Schedule or Appendix is to a Clause of, Schedule to or Appendix to this Agreement;
- (b) paragraph is to a paragraph of a Schedule to this Agreement;
- (c) reference within a Schedule to a paragraph is to a paragraph of that Schedule;
- (d) Part is to a part of an Appendix to this Agreement;
- (e) Table is to a table of an Appendix to this Agreement;
- (f) Recital is to a Recital to this Agreement; and
- (g) Plan, is to a plan annexed to this Agreement as an Appendix;

1.2.2 references to any statute or statutory provision include references to:-

- (a) all Acts of Parliament and all other legislation having legal effect in the United Kingdom as enacted at the date of this Agreement;
- (b) any orders, regulations, instruments or other subordinate legislation made or issued under that statute or statutory provision; and
- (c) in each case shall include any re-enactment thereof for the time being in force and any modifications or amendments thereof for the time being in force;

1.2.3 headings, the table of contents and titles to the plans are for reference purposes only and are not incorporated into this Agreement and shall not be deemed to be an indication of the meaning of the parts of the Agreement to which they relate;

1.2.4 any notice, notification, Consent, request, statement or details to be made, given or submitted under or in connection with this Agreement shall be made or confirmed in writing and neither Party shall not unreasonably withhold or delay the giving or making of the same;

1.2.5 references to the Site include any part of it;

1.2.6 references to the LPA comprise the London Legacy Development Corporation in its capacity as local planning authority and include its successors to the functions of the LPA;



- 1.2.7 subject to Clauses 2.4, 2.5 and 2.6 references to the Developer in this Agreement shall include:-
- (a) persons deriving title from the Developer; and
  - (b) the Developer's successors, assigns, transferees;
- 1.2.8 references to the LPA include its successor bodies in function;
- 1.2.9 "**including**" means "**including without limitation**";
- 1.2.10 unless otherwise indicated references to the singular include the plural and references to the plural include the singular and words importing any gender include every gender;
- 1.2.11 unless otherwise indicated words importing persons include firms, companies, other corporate bodies or legal entities and vice versa;
- 1.2.12 any obligation, covenant, undertaking or agreement by the Developer or LPA not to do any act or thing includes an obligation, covenant, undertaking or agreement not to permit or allow the doing of that act or thing;
- 1.2.13 save where expressly stated to the contrary, where in this Agreement there is reference to using Reasonable Endeavours to achieve an outcome, upon written request by the LPA at reasonable intervals (not to exceed more than once every 3 (three) months), within 10 (ten) Working Days of such request reasonable evidence of the steps taken to achieve such outcome shall be provided in documentary form (where possible) to the LPA.
- 1.3 The Interpretation Act 1978 shall apply to this Agreement.
- 1.4 If any provision of this Agreement is held to be illegal invalid or unenforceable the legality validity and enforceability of the remainder of the Agreement is (if and to the extent that it may properly and lawfully be construed as such) to be unaffected.
- 1.5 Where in this Agreement any matter is referred to dispute resolution under Clause 10 the findings of the Expert shall (save in relation to manifest error) be final and binding on the Parties and such findings shall be deemed to constitute the required Approval or other Consent for the purposes of this Agreement.
- 1.6 Where in this Agreement the fulfilment of an obligation, covenant or undertaking on the part of the Developer is subject to the obtaining or securing of Requisite Consents the Developer shall:-
- 1.6.1 use Reasonable Endeavours to secure or obtain the Requisite Consents where the obligation relates to matters to be carried out or conducted On Site; and
  - 1.6.2 endeavour in good faith (but without being required to pay any material financial consideration in addition to bearing the reasonable and proper cost of the works which are the intended subject of the Requisite Consents or being obliged to take any proceedings (or appeal) in any court public inquiry or other hearing) to secure or obtain the Requisite Consents where the obligation relates to matters to be carried out or conducted Off Site.

**PROVIDED THAT** if the Developer in relation to a Requisite Consent of its own volition and independently of the terms of this Agreement pays or has paid a material financial consideration in order to secure that Requisite Consent it shall not be able to rely upon the fact of having done so to use this Clause 1.6 to avoid or limit the obligation, covenant or undertaking under this Agreement for which that Requisite Consent is required.

## 2. EFFECT OF THIS AGREEMENT

- 2.1 This Agreement is made pursuant to section 106 of the 1990 Act and (insofar as this Agreement does not contain planning obligations), sections 201(1) and (2), 205 and 206 of the Localism Act 2011 and all other powers so enabling.
- 2.2 So far as the obligations, covenants and undertakings in this Agreement are given by or to the LPA then the same are entered into pursuant to the relevant powers referred to in Clause 2.1 and such obligations, covenants and undertakings shall be enforceable by or against the LPA.
- 2.3 Subject to Clauses 2.4, 2.5 and 2.6 the obligations, covenants and undertakings on the part of the Developer in this Agreement are planning obligations pursuant to and for the purposes of section 106 of the 1990 Act and are given so as to bind the Developer's freehold interest in the Site and the said obligations, covenants and undertakings on the part of the Developer are entered into with the intent that they shall be enforceable not only against the Developer but also against any successors in title to or assigns of the Developer and/or any person claiming through or under the Developer an interest or estate in the Site as if that person had been an original covenanting party in respect of such interest for the time being held by it and insofar as any such obligations, covenants and undertakings are not capable of falling within section 106 of the 1990 Act are entered into as obligations, covenants and undertakings in pursuance of sections 201(1) and (2), 205 and 206 of the Localism Act 2011.
- 2.4 The obligations contained within this Agreement shall not be binding upon nor enforceable against:-
- 2.4.1 a Utility Undertaker insofar as and to the extent that the relevant Utility Undertaker is occupying the relevant part of the Site in its capacity as a Utility Undertaker;
  - 2.4.2 individual owners and occupiers of the Affordable Housing Units and their individual mortgagees and chargees;
  - 2.4.3 any mortgagee or chargee of an Affordable Housing Provider unless it takes possession of the Site (in whole or in part) in which case it too will be bound by the obligations as if it were a person deriving title from the Developer and in order for such mortgagee or chargee of an Affordable Housing Provider to sell the Affordable Housing Units free from restrictions of this Agreement then the procedure set out in paragraph 6.2 of Schedule 1 must first have been followed;
  - 2.4.4 individual owners and occupiers of the Private Residential Units and their individual mortgagees and chargees;
  - 2.4.5 individual occupiers or lessees of individual units of Workspace who are in physical Occupation of such units;
- save to the extent that the same would be lawful nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the LPA of any of its statutory powers functions or discretions.
- 2.5 No person shall be liable for any breach of any of the obligations, covenants and undertakings or other provisions of this Agreement after parting with its interest in the Site or its interest in respect of that part of the Site on which the breach occurs but without prejudice to liability for any subsisting breach arising before parting with that interest.
- 2.6 The Mortgagee acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in this Agreement and that the security of the mortgage over the Site shall take effect subject to this Agreement PROVIDED THAT the Mortgagee (and any other mortgagee or chargee for the time being) shall otherwise have no liability under this Agreement unless it takes possession of the Site in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.



- 2.7 The LPA shall request registration of this Agreement as a local land charge by the Council or its respective statutory successor in function.
- 2.8 This Agreement and the obligations, covenants and undertakings which it contains shall lapse and be extinguished automatically if (and from the date that) the Planning Permission lapses without the Development being Commenced or is otherwise quashed, revoked, withdrawn or (without the consent of the Developer) modified.
- 2.9 Subject to Clause 2.10 other than the Planning Permission nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission granted (whether or not on appeal) after the date of this Agreement.
- 2.10 If the LPA agrees pursuant to an application under section 73 of the 1990 Act to any variation or release of any condition contained in the Planning Permission or if any such condition is varied or released following an appeal under section 78 of the 1990 Act the covenants or provisions of this Agreement shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission save where the LPA in their determination of such an application for the new planning permission indicate that consequential amendments are required to this Agreement to reflect the impact of the section 73 application and in such circumstances a separate deed pursuant to section 106 of the 1990 Act will be required to secure relevant planning obligations relating to the new planning permission.

### **3. CONDITIONALITY**

3.1 This Agreement is conditional upon:-

3.1.1 the grant of the Planning Permission; and

3.1.2 the Commencement of Development

save for the provisions of this Clause 3, Clauses 2, 6, 7, 10, 12, 14, 17 and 18 which shall come into effect immediately upon completion of this Deed.

### **4. THE DEVELOPER'S COVENANTS WITH THE LPA**

4.1 The Developer on behalf of themselves and their successors in title to the Site covenant with the LPA that they shall:-

4.1.1 perform and Comply with, and shall procure performance of and Compliance with, each and every of the obligations, covenants and undertakings on the part of the Developer contained in this Agreement;

4.1.2 not encumber or otherwise deal with their interests in the Site or any part or parts thereof in any manner whatsoever whereby the obligations, covenants and undertakings imposed by this Agreement are rendered impossible to carry out; and

4.1.3 notify the LPA of the Anticipated Commencement Date prior to the actual Commencement of Development and such notice shall only be given where there is a genuine prospect of Development being Commenced within 21 days of the notice and the notice shall confirm and provide evidence that this is the case.

### **5. THE LPA'S COVENANTS WITH THE DEVELOPER**

5.1 The LPA covenants with the Developer that it shall procure performance of and Compliance with, each and every of the obligations, covenants and undertakings on the part of the LPA contained in this Agreement.

5.2 Subject to Clause 5.5, the LPA covenants with the Developer that it shall use all sums received from the Developer under the terms of this Agreement for the purposes specified in this Agreement for which they are paid.



- 5.3 The LPA shall provide to the Developer such evidence, as the Developer shall reasonably require in order to confirm the expenditure of the sums paid by the Developer under this Agreement.
- 5.4 The LPA covenants with the Developer that it will pay to the Developer (or the person who made the payment if not the Developer) such amount of any payment made by the Developer to the LPA under this Agreement which has not been expended or committed in accordance with the provisions of this Agreement within ten (10) years of the date of receipt by the LPA of such payment together with interest.
- 5.5 Where any payment is made by the Developer to the LPA pursuant to the terms of this Agreement the LPA may, where it is not the authority with the statutory duty or functions to expend such monies and/or in the interests of administrative efficiency, pay such monies to the competent authority which has the statutory duty to discharge the functions for which the monies were paid ("**Other Statutory Authority**") and upon payment of monies to such Other Statutory Authority the LPA's requirement to comply with Clause 5.2 shall cease to apply in respect of those monies.
- 5.6 Payment of monies to an Other Statutory Authority pursuant to Clause 5.5 shall be on condition that the Other Statutory Authority does not apply the monies otherwise than for the purposes for which they have been paid.

## 6. **THIRD PARTY IMPLEMENTATION**

- 6.1 The Developer covenants that:
- 6.1.1 if any third parties commences or carries out or procures the Commencement of the Development the Developer shall observe and perform the covenants obligations and duties contained in this Agreement; and
- 6.1.2 if any third parties Commence or carry out or procure the Commencement of Development the Developer shall use Reasonable Endeavours to prevent any further works pursuant to the Development being carried out .

## 7. **NOTICES**

- 7.1 Any notice or other written communication to be served upon a Party or given by one Party to any other under the terms of this Agreement shall be deemed to have been validly served or given if delivered by hand or sent by first class post or sent by recorded delivery post to the Party upon whom it is to be served or to whom it is to be given and shall conclusively be deemed to have been received on:-
- 7.1.1 if delivered by hand, the next Working Day after the day of delivery; and
- 7.1.2 if sent by first class post or recorded delivery post, the day two Working Days after the date of posting.
- 7.2 The address for any notice or other written communication shall be within the United Kingdom only and shall be as specified below or such other address as shall be specified by the Party upon whom the notice is to be served to the other Parties by not less than five Working Days' notice:-

### **LPA:**

Address: Director of Planning Policy and Decisions  
London Legacy Development Corporation – Planning  
Policy and Decisions Team  
Level 10  
1 Stratford Place  
Montfichet Road  
London E20 1EJ

For the attention of: Anthony Hollingsworth

**Developer:**

Address: 295 Hoxton Street  
London  
N1 5JX

For the attention of: Glen Charles

7.3 Any notice or other written communication to be given by the LPA shall be deemed valid and effectual if on its face it is signed on behalf of the LPA by an officer or duly authorised signatory.

**8. SATISFACTION OF ANY OF THE PROVISIONS OF THIS AGREEMENT**

8.1 Where in the opinion of the Developer any obligation, covenant, undertaking or other provision on the part of the Developer contained in this Agreement has been satisfied wholly or in part, the Developer shall be entitled to apply to the LPA for a notification to that effect, and where the relevant obligation, covenant, undertaking or other provision has been satisfied (wholly or in part) the LPA shall as soon as reasonably practicable issue a notification to such effect.

8.2 Where in the opinion of the LPA, any obligation, covenant, undertaking or other provision on the part of the LPA contained in this Agreement has been satisfied wholly or in part, the LPA shall be entitled to apply to the Developer for a notification to that effect, and where the relevant obligation, covenant, undertaking or other provision has been satisfied (wholly or in part) the Developer shall as soon as reasonably practicable issue a notification to such effect.

**9. VERIFICATION AND ENFORCEMENT**

The Developer shall permit the LPA and its authorised employees agents surveyors and other representatives to enter upon the Site and any buildings erected thereon pursuant to the Development at reasonable times and upon reasonable prior notice of at least 7 (seven) Working Days (except in the case of emergency) for the purpose of verifying whether or not the obligations contained in this Agreement are being performed and complied with **PROVIDED THAT** the LPA shall make good any damage caused by the LPA and its authorised employees, agents, surveyors and other representatives during the carrying out of such verification.

**10. DISPUTE RESOLUTION**

10.1 One party may by serving notice on all the other parties (the "**Notice**") refer a Dispute to an Expert for determination.

10.2 The Notice must specify:-

10.2.1 the nature, basis and brief description of the Dispute;

10.2.2 the Clause or paragraph of a Schedule or Appendix pursuant to which the Dispute has arisen; and

10.2.3 the proposed Expert.

10.3 In the event that the Parties are unable to agree whom should be appointed as the Expert within 10 (ten) Working Days after the date of the Notice then either Party may request the President of the Law Society (except where Clause 10.7 provides otherwise) to nominate the Expert at their joint expense.

10.4 The Expert shall act as an expert and not as an arbitrator and his decision (the "**Decision**") will (in the absence of manifest error) be final and binding on the Parties hereto and at whose cost shall be at his discretion or in the event that he makes no determination, such costs will be borne by the parties to the Dispute in equal shares.



- 10.5 The Expert will be appointed subject to an express requirement that he reaches his decision and communicates it to the Parties within the minimum practicable timescale allowing for the nature and complexity of the Dispute and in any event not more than 20 (twenty) Working Days from the date of his appointment to act.
- 10.6 The Expert will be required to give notice to each of the said Parties inviting each of them to submit to him within 10 (ten) Working Days written submissions and supporting material and will afford to each of the said Parties an opportunity to make counter submissions within a further 5 (five) Working Days in respect of any such submission and material.
- 10.7 Where the Parties are unable to agree whom should be appointed as the Expert, either Party may request that the following nominate the Expert at their joint expense:-
- 10.7.1 if such dispute shall relate to matters requiring a specialist chartered surveyor, the President of the Royal Institute of Chartered Surveyors to nominate the Expert;
- 10.7.2 if such dispute shall relate to matters requiring a specialist chartered civil engineer or specialist transport adviser, the President of the Institution of Civil Engineers to nominate the Expert;
- 10.7.3 if such dispute shall relate to matters requiring a specialist chartered accountant, the President of the Institute of Chartered Accountants in England and Wales to nominate the Expert; and
- 10.7.4 in all other cases, the President of the Law Society to nominate the Expert.

**11. NO WAIVER**

No waiver (whether expressed or implied) by the LPA of any breach or default by the Developer in performing or Complying with any of the obligations, covenants or undertakings contained in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the LPA from enforcing any of the said obligations, covenants or undertakings or from acting upon any subsequent breach or default in respect thereof by the Developer.

**12. DUTY TO ACT REASONABLY AND IN GOOD FAITH**

The Parties agree with one another to act reasonably and in good faith in the fulfilment of this Agreement.

**13. EXCLUSION OF CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

The Parties to this Agreement do not intend that any term of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

**14. THE LPA'S COSTS**

14.1 The Developer agrees that it will on completion of the Agreement pay:-

- 14.1.1 the LPA's legal costs incurred in the negotiation and completion of this Agreement (inclusive of any such costs incurred by external lawyers appointed by the LPA in relation to the negotiation and completion of this Agreement); and
- 14.1.2 the LPA's reasonable costs incurred in the review of development appraisals and viability assessments in connection with the Development (inclusive of any such costs incurred by external surveyors appointed by the LPA).

**15. FINANCIAL CONTRIBUTIONS AND INDEXATION**

- 15.1 Where, pursuant to this Agreement, a payment or financial contribution is to be made, such payment or financial contribution shall be paid in accordance with the triggers and provisions for payment set out in and in accordance with all relevant provisions of this Agreement.
- 15.2 All payments or financial contributions to be paid pursuant to this Agreement will be increased by reference to the amount of the quarterly increase in the Index from the date of the Agreement until the date such sums are paid (unless otherwise stated in this Agreement).
- 15.3 Where any sum or value is referred to in this Agreement (but is not the subject of a payment) such sum or value shall be increased by the increase of the Index from the date of this Agreement (unless otherwise stated) until the date the sum or value falls to be considered or applied.

**16. INTEREST**

If any payment due under this Agreement is paid late, Interest shall be payable from the date payment is due to the date of payment.

**17. JURISDICTION AND LEGAL EFFECT**

- 17.1 This Agreement shall be governed by and interpreted in accordance with the law of England.
- 17.2 The provisions of this Agreement (other than this Clause 17.2 which shall be effective in any event) shall be of no effect until this Agreement has been dated.

**18. EXECUTION**

The Parties have executed this Agreement as a deed and it is delivered on the date set out at the front of this Agreement.

## SCHEDULE 1

### AFFORDABLE HOUSING

#### 1. DEFINITIONS

<b>"Affordable Housing"</b>	means housing including Social Rented Housing, Affordable Rented Housing and Intermediate Housing, provided to eligible households whose needs are not met by the market, and which housing should (a) meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local housing prices and (b) include provision for the home to remain at an affordable price for future eligible households, or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision
<b>"Affordable Housing Contracts"</b>	means a binding contract between the Developer and the Affordable Housing Provider for the construction and transfer of Affordable Housing Units to the Affordable Housing Provider
<b>"Affordable Housing Provider"</b>	means a provider of Affordable Housing approved in respect of the Development pursuant to paragraph 2.1 of this Schedule
<b>"Affordable Housing Units"</b>	means the Residential Units to be provided as Affordable Housing pursuant to this Schedule
<b>"Affordable Housing Management Scheme"</b>	means a scheme specifying:- <ul style="list-style-type: none"><li>(a) management and servicing arrangements for the Affordable Housing Units and</li><li>(b) details of the rent, service charge and any estate or other charges payable for each Affordable Housing Unit together with an explanation of how the Affordable Housing Units remain affordable notwithstanding such charge</li></ul>
<b>"Affordable Rented Housing"</b>	means rented housing that has the same characteristics as Social Rented Housing except that it is outside the National Rent Regime, but is subject to other rent controls that require it to be offered to eligible households at a rent of up to 80 per cent of local market rents
<b>"Affordable Rented Housing Units"</b>	means Affordable Housing Units to be made available for Affordable Rented Housing pursuant to paragraph 3 of this Schedule



**"Affordable Rents"**

means the rents (inclusive of service charge) not exceeding those set out in the table below:-

Size of Affordable Housing Unit	Maximum rent
1 bedroom	65% of local market rent
2 bedroom	55% of local market rent
3 bedroom	53% of local market rent
4 bedroom	48% of local market rent

**SUBJECT TO** an annual percentage rent increase by reference to the amount of the annual increase in the CPI + 1% (calculated from the date of this Agreement and based on the annual CPI rate published for the preceding September), or such other rate of annual increase as shall be published by the HCA under their Rent Standard Guidance, including any rate published by the HCA in "the Regulatory Framework for Social Housing in England from 1 April 2015 Rent Standard Guidance" or any successor guidance

**"Grant Funding"**

means any capital funding provided by the HCA, GLA or any other public body for the delivery of additional Affordable Housing in the Development

**"Homes and Communities Agency" or "HCA"**

means the organisation empowered to regulate registered providers of Affordable Housing under the Housing and Regeneration Act 2008 or any successor body having functions currently exercised by the Homes and Communities Agency

**"HomeBuy Agent"**

means a body appointed or approved by the HCA to act as agents for the allocation of the Shared Ownership Units

**"Intermediate Housing"**

means submarket housing which is above Target Rents but below open market levels and which housing includes schemes such as Share Ownership Housing or shared equity housing, intermediate rent and rent to buy housing provided always that such schemes meet the affordability criteria as referred to in the supporting text of Policy 3.10 of the London Plan 2015 (consolidated with amendments from 2011)

**"Intermediate Units"**

means Affordable Housing Units to be made available for Intermediate Housing pursuant to paragraph 2 of this Schedule

**"Lifetime Home Standards"**

means the standards contained in Part M Building Regulations

**"Model Form of Lease"**

means the model forms of lease for Shared Ownership Housing published by the HCA from time to time



- "National Rent Regime"** means the regime under which the social rents of tenants of social housing are set, with particular reference to the DCLG's Guidance on Rents for Social Housing on the Rent Standard (May 2014) and the Welfare Reform Act (2016) (as the same may be amended or superseded)
- "Perpetuity"** means a minimum term of One Hundred and Twenty Five years from the date of first Occupation of an Affordable Housing Unit
- "Rental Cap"** means the weekly rents (inclusive of service charge) set out in the table below:-

Size	Weekly Rent (inc Service Charge) on first letting of an Affordable Rented Housing Unit
1 bedroom	£202.85
2 bedroom	£223.14
3 bedroom	£243.42
4 bedroom	£263.71

**SUBJECT TO** an annual percentage rent increase by reference to the amount of the annual increase in the CPI + 1% (calculated from the date of this Agreement and based on the annual CPI rate published for the preceding September), or such other rate of annual increase as shall be published by the HCA under their Rent Standard Guidance, including any rate published by the HCA pursuant to the consultation entitled "**The Regulatory Framework for Social Housing in England from April 2012 Annex A: Rent Standard Guidance**)"

- "Rents and Nominations Agreement"** means the Council's standard rents and nominations agreement
- "Shared Ownership Housing"** means a unit occupied partly for rent and partly by way of owner occupation on shared ownership terms as defined in section 2(6) of the Housing Act 1996 where the lessee for the time being has the right to carry out staircasing and dispose of the unit on the open market in accordance with the provisions of the Model Form of Lease
- "Shared Ownership Units"** means Affordable Housing Units to be made available for Shared Ownership Housing pursuant to paragraph 3 of this Schedule
- "Social Rented Housing"** means rented housing for which guideline target rents are determined through the National Rent Regime
- "Staircasing"** means the purchase by the owners of additional equity in a Shared Ownership Unit or shared equity unit
- "Target Rents"** means rents for Social Housing calculated in accordance with the National Rent Regime

**"Transfer"** means in respect of any Affordable Housing Unit either the transfer to an Affordable Housing Provider or the freehold or a grant of a lease to an Affordable Housing Provider for a term of at least 125 (one hundred and twenty five) years

**2. AFFORDABLE HOUSING PROVIDER**

2.1 Prior to the Commencement of Development the Developer shall submit to the LPA and obtain its approval to a list of companies or organisations involved in the provision of Affordable Housing who if approved shall be capable of being Affordable Housing Providers for the Development.

2.2 The Developer will:-

2.2.1 proceed diligently and with all due expedition to negotiate and enter into an Affordable Housing Contract in respect of the Affordable Rented Housing Units and the Shared Ownership Units to be provided pursuant to paragraph 3 of this Schedule; and

2.2.2 notify the LPA within 10 Working Days of entering into an Affordable Housing Contract.

**3. MINIMUM AFFORDABLE HOUSING PROVISION**

3.1 Not less than 5 Residential Units shall be provided as Intermediate Units.

3.2 Not less than 3 Residential Units shall be provided as Affordable Rented Housing Units.

3.3 The Affordable Housing to be provided pursuant to paragraphs 3.1 and 3.2 above shall comprise the following unit size mix:-

	<b>1 bed/2 person units</b>	<b>2 bed/4 person units</b>	<b>3 bed/5 person units</b>	<b>Total number of units</b>
Intermediate Units	1	2	2	5
Affordable Rented Housing Units	1	0	2	3

3.4 Not more than fifty per cent 50% of the Private Residential Units shall be Occupied until:-

3.4.1 fifty per cent 50% of the Affordable Rented Housing Units and the Intermediate Units are:-

- (a) Completed and made ready for occupation; and
- (b) have been transferred to the Affordable Housing Provider pursuant to the Affordable Housing Contract.

3.5 Not more than seventy per cent 70% of the Private Residential Units shall be Occupied until:-

3.5.1 one hundred per cent 100% of the Affordable Rented Housing Units and the Intermediate Units are:-

- (a) Completed and made ready for occupation; and
- (b) have been transferred to the Affordable Housing Provider pursuant to the Affordable Housing Contract.



#### 4. AFFORDABLE RENTS AND AFFORDABILITY CRITERIA

- 4.1 The rent (inclusive of service charge) charged for the first letting of any Affordable Rented Housing Unit shall not exceed the applicable Affordable Rent **PROVIDED THAT:-**
- 4.1.1 the Owner shall obtain the written agreement of the LPA as to the amounts of the weekly rents and the LPA shall act reasonably when agreeing any proposed revisions to these weekly rents; and
- 4.1.2 the Affordable Rent shall not exceed the relevant Rental Cap.
- 4.2 The rents (inclusive of service charge) on subsequent lettings and tenancy renewals of any Affordable Rented Housing Unit (which for the avoidance of doubt shall not include tenancies which are continuing after a probationary period) shall not exceed the applicable Affordable Rent unless otherwise agreed in writing with the LPA.
- 4.3 The cost of rent and/or mortgage payments and service and estate charges in relation to the Shared Ownership Units shall not exceed the general affordability criteria for Shared Ownership Housing published by the Greater London Authority from time to time.

#### 5. GRANT FUNDING

- 5.1 The Developer shall:-
- 5.1.1 use Reasonable Endeavours to secure Grant Funding;
- 5.1.2 notify the LPA of the outcome of any such application for Grant Funding within 10 (ten) Working Days of receipt of the same;
- 5.1.3 if Grant Funding is secured, notify the LPA as to the quantum, tenure and proposed location of the additional Affordable Housing to be provided in the Development.
- 5.2 The LPA shall provide such non-financial support as may be reasonably requested by the Developer in respect of any applications for Grant Funding pursuant to paragraph 5.1 above.
- 5.3 If Grant Funding is offered or secured subject to conditions that would prevent the Developer from complying with any of the obligations in this Schedule, the Developer and the LPA shall meet to discuss any amendments to the said obligations which would be necessary to deliver additional Affordable Housing in the Development with such Grant Funding **PROVIDED THAT** there shall be no obligation on the LPA to agree to any such amendments even if this results in the Grant Funding not being available.
- 5.4 If Grant Funding is made available for the delivery of any additional Affordable Housing within the Development, the Developer shall within the later of 28 (twenty-eight) days of receipt of such Grant Funding or Commencement of Development notify the LPA which units of Affordable Housing Units are being delivered with the assistance of such funding (a "**Grant Funded Unit**").
- 5.5 In respect of the disposal of any Grant Funded Unit the purchase price shall not exceed eighty five per cent (85%) of the market value of that unit on the assumption that it is a Private Residential Unit and the assessment of market value shall be undertaken as at the date of the contract for sale for that unit.
- 5.6 Subject to the terms of any grant agreement with any body or other binding funding conditions providing Grant Funding, the balance of any payment received by the Developer in respect of the Staircasing of a Grant Funded Unit less the Developer's reasonably and properly incurred costs in relation to such Staircasing (including but not limited to legal and other professional fees) shall be applied by the Developer towards the provision of additional Affordable Housing within the LPA's administrative area.

6. GENERAL

6.1 The Developer hereby covenants with and undertakes to the LPA that the Developer will in respect of Affordable Housing:-

6.1.1 subject to paragraph 6.2 below, not Occupy or cause or permit to become Occupied the Affordable Housing Units for any purpose other than for Affordable Housing in Perpetuity;

6.1.2 provide that 10% of the Affordable Housing Units are accessible or easily adaptable for wheelchair users across all tenures and unit sizes, and provide details including 1:50 floor plans of the proposed wheelchair accessible dwellings to the LPA for approval prior to the Commencement of Development and notify the LPA at least seven (7) months prior to their Completion **PROVIDED THAT** in the event that any such units have not been sold or let to a wheelchair user by the end of the Developer using Reasonable Endeavours to sell or let the units within the seven (7) month marketing period and evidence of the same has been provided and approved by the LPA then the Developer may convert such units to non-wheelchair accessible or adaptable dwellings and market and sell or let the same to non-wheelchair users **AND PROVIDED FURTHER THAT** notwithstanding the Approved Drawings any wheelchair allocated parking bays which are not purchased or let by wheelchair users by the end of the seven (7) month marketing period may be sold or let to any purchaser of a Private Residential Unit for their use;

6.1.3 provide the Affordable Housing Units in accordance with the London Mayor's Housing Supplementary Planning Guidance Housing (March 2016) and such parts of the London Mayor's Draft Interim Housing Supplementary Planning Guidance Housing (May 2015) which remain in place at the date of this Agreement and the Lifetime Home Standards as the same may be superseded or amended from time to time;

6.1.4 ensure that the Affordable Housing Contract imposes a requirement on the Affordable Housing Provider to deliver a duly executed Rents and Nominations Agreement to the Council within 6 (six) months of date of the Affordable Housing Contract.

6.2 The provisions of this Schedule will not bind:-

6.2.1 any mortgagee or chargee of the Affordable Housing Provider nor any mortgagee or chargee of the owner or lessee for the time being of any of the Affordable Housing Units nor any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 or otherwise by such mortgagee or chargee of such Affordable Housing Provider or owner and who exercises any power of sale **PROVIDED THAT:-**

(a) it has given the LPA at least 3 (three) months written notice of its intention to exercise such power of sale so as to provide the LPA with the opportunity to complete an assignment of the Affordable Housing Units in question to ensure that they continue to be used for the purpose of Affordable Housing;

(b) the said mortgagee or receiver has used its Reasonable Endeavours to first dispose of the Affordable Housing Units to an Affordable Housing Provider and provided written evidence of such Reasonable Endeavours to the LPA and for the avoidance of doubt such mortgagee chargee or receiver shall not be under any obligation to dispose of the Affordable Housing Units for a sum less than the monies outstanding pursuant to the legal charge or mortgage; and

(c) if the said mortgagee chargee or receiver shall not have disposed of the said Affordable Housing Units or any part thereof in accordance with paragraph 6.2.1(b) above within the said 3 (three) month period the said mortgagee or the receiver may (but without imposing any obligation on the said mortgagee or receiver) dispose of the Affordable Housing Units which have not by that time been disposed of to such Affordable Housing Provider on the open



market to a willing buyer and such buyer shall take free of the restrictions imposed herein in relation to the Affordable Housing Units;

- 6.2.2 any Shared Ownership Unit where one hundred per cent of the equity in that Shared Ownership Unit has been purchased by the tenant via Staircasing;
  - 6.2.3 any completed Affordable Housing Units where an Affordable Housing Provider shall be required to dispose of the same pursuant to a right to buy under Part V of the Housing Act 1985 as amended by the Housing (Preservation of Right to Buy) Regulations 1993 or pursuant to a right to acquire under Section 180 of the Housing and Regeneration Act 2008 or any similar or substitute right applicable;
  - 6.2.4 any completed Affordable Housing Units where a Affordable Housing Provider sells to a tenant through Social Homebuy funded pursuant to Section 19(3) of the Housing and Regeneration Act 2008 or any amendment or replacement thereof; or
  - 6.2.5 any person or body deriving title through or from any of the parties mentioned in paragraphs 6.2.1 to 6.2.4.
- 6.3 The Developer will procure that the Transfer of any Shared Ownership Units to an Affordable Housing Provider imposes a requirement that when granting a lease of an individual Shared Ownership Unit the Affordable Housing Provider will use the appropriate Model Form of Lease.
- 6.4 Upon the transfer of any Affordable Housing Units to an Affordable Housing Provider the obligations imposed on the Developer in this Schedule in relation to those Affordable Housing Units shall be observed and performed by the Affordable Housing Provider and where any obligation is expressed as an obligation on the Developer to procure any act on the part of the Affordable Housing Provider, such obligation shall be construed as an obligation of the Affordable Housing Provider to itself perform the obligation in question.
- 6.5 No Affordable Housing Unit shall be Occupied before the Affordable Housing Provider has entered into a Rents and Nominations Agreement with the London Borough of Tower Hamlets in respect of the Affordable Housing Units and evidence thereof has been provided to and approved in writing by the LPA.
- 6.6 Unless otherwise agreed in writing by the LPA, no Affordable Housing Unit shall be Occupied before an Affordable Housing Management Scheme for the Affordable Housing Units has been submitted to and approved in writing by the LPA and the Affordable Housing Units shall thereafter be Occupied in accordance with the approved Affordable Housing Management Scheme.

## 7. RESTRICTION ON OCCUPATION OF AFFORDABLE HOUSING UNITS

- 7.1 Subject to the terms of this Schedule and any Rents and Nominations Agreement:-
- 7.1.1 no Affordable Rented Housing Unit provided under the terms of this Schedule shall be Occupied other than as an Affordable Rented Housing Unit and all occupational leases and tenancies of such units shall include a provision preventing sub-letting and underletting save that this shall not prevent an occupational tenant having the right to take in a lodger or share occupation with another person provided that the occupational lease or tenancy contains a provision to the effect that the tenant must obtain the prior written consent of the landlord and is not permitted to grant any assured tenancy of any part of the Affordable Rented Housing Unit; and
  - 7.1.2 no Intermediate Unit provided under the terms of this Schedule shall be Occupied other than as an Intermediate Unit pursuant to a Model Form of Lease save that this shall not prevent an occupational tenant having the right to take in a lodger or share occupation with another person provided that the occupational lease or tenancy contains a provision to the effect that the tenant must obtain the prior written consent of the landlord and is not permitted to grant any assured tenancy of any part of the Intermediate Unit.

## SCHEDULE 2

### VIABILITY REVIEW

#### 1. DEFINITIONS

<b>"Construction Contract"</b>	means a contract for the construction and completion of the Development entered into by the Developer in such form as is custom and practice to use in the industry incorporating the programme for the completion of the Development by a specified completion date documentary evidence of which shall be submitted to the LPA in writing
<b>"Deferred Affordable Housing"</b>	means the Deferred Affordable Housing Units or the Deferred Affordable Housing Payment
<b>"Deferred Affordable Housing Units"</b>	means Affordable Housing to be provided as part of the Development in addition to the Affordable Housing Units to be provided pursuant to Schedule 1 of this Agreement up to a maximum of 17 Residential Units (inclusive of the 8 secured by Schedule 1) in accordance with the Deferred Affordable Housing Scheme
<b>"Deferred Affordable Housing Payment"</b>	means a sum of money representing the cost of providing additional Affordable Housing Off Site so as to increase the Affordable Housing provided by the Development above the figure of 8 Residential Units secured through Schedule 1 of this Agreement up to a cap of fifty per cent (50%) of the Residential Units comprised within the Development in accordance with the requirements of Policy H.2 of the London Legacy Development Corporation Local Plan (adopted on 21 July 2015) to be agreed between the Developer and the LPA or determined by the Specialist
<b>"Deferred Affordable Housing Scheme"</b>	means a scheme specifying the quantum, size and location of the Deferred Affordable Housing Units with reference to plans and drawings approved as part of the Planning Application, which:-  (a) is submitted by the Developer with any Viability Review and  (b) is either:-  (i) agreed by the LPA and the Developer or  (ii) determined by the Specialist
<b>"Force Majeure"</b>	means fire, explosion, aircraft and aerial devices dropped from aircraft, war, riot, civil commotion or terrorist activity
<b>"Memorandum"</b>	means a memorandum made in accordance with paragraph 13 of this Schedule
<b>"Relevant Report"</b>	means a detailed report setting out and evidencing the Developer's reasons and justification (financial and otherwise) as to why any Viability Review submitted would not support any Deferred Affordable Housing



- "Specialist"** means an independent qualified chartered surveyor with not less than 10 (ten) years relevant experience in undertaking viability assessments the identity of which shall be agreed between the parties or nominated in accordance with Clause 10.3 of this Agreement
- "Substantial Commencement"** means the occurrence of all of the following events:-
- (a) a Construction Contract is let by the Developer and certified documentary evidence of the same is provided to the LPA and
  - (b) an Unconditional Obligation Certificate is provided to the LPA in writing (which for the avoidance of doubt can be in the form of a letter) and
  - (c) Commencement of the Development has occurred and works (including but without limitation building or engineering works) pursuant to the Construction Contract have taken place and are ongoing in respect of the Development for at least three (3) calendar months (without interruption to the construction programme under the Construction Contract lasting more than one (1) week in total in any given month)
- "Unconditional Obligation Certificate"** means a certificate provided by solicitors acting for the Developer to the effect that:-
- (a) the Developer has completed the Construction Contract in which a construction contractor agrees to construct the whole Development by a specified date in accordance with an agreed programme subject to the usual extensions and
  - (b) all contractual conditions precedent to the enforcement of the obligation to construct the Development referred to at (a) above have been satisfied
- "Viability Review"** means an upwards only review to be provided by the Developer assessing the ability of the Development to viably deliver some or all of the Deferred Affordable Housing based upon a review of relevant income assumptions undertaken in accordance with the supporting statements prepared by BNP Paribas dated February 2017

## 2. EVIDENCE OF COMMENCEMENT

Upon the occurrence of Substantial Commencement within 18 (eighteen) months of the date of grant of the Planning Permission the Developer shall submit to the LPA written evidence of the events which amount to Substantial Commencement including the Construction Contract and the Unconditional Obligation Certificate and shall allow the LPA (and its agents) access to the Site at all reasonable times for the purposes of inspecting the Site and verifying Substantial Commencement.

## 3. VIABILITY REVIEW

- 3.1 If the Development has not been Substantially Commenced within 18 (eighteen) months of the date of the Planning Permission the Developer shall prior to Substantial Commencement or as the case

may be prior to any undertaking any further development work which would constitute Substantial Commencement submit to the LPA a Viability Review which shall be accompanied by:-

3.2 either:-

3.2.1 the Relevant Report; or

3.2.2 a Deferred Affordable Housing Scheme (if any);

3.2.3 the Construction Contract; and

3.2.4 an Unconditional Obligation Certificate

(together known as the "**Contract Documents**").

#### 4. **INTERRUPTIONS TO THE PROGRAMME**

Subject to Force Majeure if at any time following Commencement no construction works at the Development have taken place for a period exceeding three (3) consecutive calendar months, the Developer shall submit to the LPA a Viability Review prior to re-commencement of works on the Development and the provisions of paragraph 3 above and the remainder of this Schedule shall apply to such Viability Review.

#### 5. **CONTENT OF VIABILITY REVIEW**

5.1 If no Deferred Affordable Housing Scheme is submitted with the Viability Review required to be submitted to the LPA pursuant to the provisions of paragraphs 3 or 4 of this Schedule, the Viability Review shall be accompanied by:-

5.1.1 the Developer's justification (financial and/or otherwise) as to why no On Site Deferred Affordable Housing Units can be provided as part of the Development; and

5.1.2 a Deferred Affordable Housing Payment proposal in the event that the Viability Review demonstrates that a Deferred Affordable Housing Payment can be made.

#### 6. **VALIDATION OF VIABILITY REVIEW AND REQUESTS FOR FURTHER INFORMATION**

6.1 Within 10 (ten) Working Days of receipt of a Viability Review (unless otherwise agreed between the LPA and the Developer), the LPA shall either:-

6.1.1 confirm in writing to the Developer that it has received a valid Viability Review and the Contract Documents ("**Validation Date**"); or

6.1.2 request such further financial, planning, legal or other information as acting reasonably it deems necessary in order to assess viability

and for the avoidance of doubt nothing in this paragraph 6.1 shall amount to agreement of any of the matters contained in the Viability Review nor preclude the LPA from seeking further relevant information during the course of negotiations pursuant to paragraph 7 provided that seeking further relevant information shall not be a reason for delaying the Viability Review if it can be progressed or for completing any other process required by this paragraph if it can be completed without the information requested in paragraph 6.1.2 above.

6.2 On receipt of any request for further information, the Developer shall as soon as reasonably practicable and in any case within 10 (ten) Working Days (or such longer period as may be agreed between the LPA and the Developer) of such request provide to the LPA the information requested whereupon the LPA shall confirm receipt of a valid Viability Review in writing (and such date shall be deemed the Validation Date).



6.3 The Developer acknowledges that during the course of negotiations pursuant to paragraph 7 below, the LPA or its surveyor shall be entitled (acting reasonably) to seek such further information to settling the Viability Review and/or Deferred Affordable Housing Scheme and/or Deferred Affordable Housing Payment with which the Developer shall comply as outlined in paragraph 6.2 above using all reasonable endeavours.

6.4 If either paragraph 3 or paragraph 4 of this Schedule applies, the Developer shall not Commence or continue to Commence (as applicable) the Development or otherwise cause or permit Commencement or continued Commencement (as applicable) of the Development until the LPA has received a valid Viability Review and Contract Documents.

## 7. REVIEW OF VIABILITY REVIEW AND DEFERRED AFFORDABLE HOUSING SCHEME

7.1 The LPA shall be entitled to:-

7.1.1 recover from the Developer its reasonable and properly incurred internal costs (including officer time) incurred pursuant to this Schedule 2; and

7.1.2 instruct external surveyors to act on its behalf to review and assess the Viability Review and recover from Developer the LPA's reasonable and properly incurred costs of that review and subsequent advice to the LPA; and

7.1.3 the Developer shall pay such costs within 10 (ten) Working Days of written demand from the LPA.

7.2 For a period not exceeding 2 (two) calendar months commencing on the Validation Date (unless otherwise agreed between the LPA and the Developer in writing), the Developer and the LPA (or its surveyor) both acting reasonably and in good faith may review and seek to agree:-

7.2.1 the Viability Review, and

7.2.2 if relevant, the Deferred Affordable Housing Scheme or Deferred Affordable Housing Payment; and

7.2.3 shall give effect to any such agreement in a Memorandum.

7.3 Within 3 (three) calendar months of the Validation Date, the LPA shall confirm in writing that either:-

7.3.1 it rejects (with reasons) the conclusions of the Viability Review (as submitted) ("**Non-Acceptance Notice**"); or

7.3.2 it accepts the conclusions of the Viability Review as submitted or as negotiated between the Developer and the LPA and confirms that no Deferred Affordable Housing is triggered; or

7.3.3 it accepts the conclusions of the Viability Review as submitted or as revised following a review between the Developer and the LPA, and the Deferred Affordable Housing Scheme or Deferred Affordable Housing Payment (if relevant) is agreed by way of a completed Memorandum ("**Acceptance Notice**").

## 8. REFERRAL TO THE SPECIALIST

8.1 In the event that pursuant to paragraph 7 above, the Developer and the LPA have not agreed the Viability Review and/or the Deferred Affordable Housing either Party shall be entitled to refer the matter to the Specialist for determination and each shall use its reasonable endeavours to do so within 1 (one) calendar month of the date of the Non-Acceptance Notice (unless otherwise agreed between the LPA and the Developer) and the date the matter is referred shall be referred hereafter as the "**Referral Date**".

8.2 Unless otherwise agreed between the LPA and the Developer or required by the Specialist each shall within a further period of 10 (ten) Working Days from the Referral Date submit its evidence and representations to the Specialist in respect of the Viability Review and the Deferred Affordable Housing which for the avoidance of doubt shall include representations explaining whether Deferred Affordable Housing could be provided on Site as Deferred Affordable Housing Units ("**Representations Period**").

8.3 In addition to the matters specified in paragraph 8.2, in making his determination the Specialist shall have regard to:-

8.3.1 all relevant material submitted to him by the LPA and the Developer;

8.3.2 such relevant financial, legal, planning or other matters he considers relevant using reasonable care and skill and his professional expertise;

8.3.3 the provisions of this Agreement and this Schedule, in particular but without prejudice to the generality of the provisions relating to On Site Deferred Affordable Housing at paragraph 9

PROVIDED THAT the Specialist's determination will be final and binding on the Parties save in the case of manifest and material error and PROVIDED FURTHER THAT the Specialist shall make his determination within six (6) weeks of his appointment.

8.4 Unless otherwise agreed by the LPA and the Developer or notified to them by the Specialist the Specialist shall be appointed on the basis that, if the Specialist determines that the Deferred Affordable Housing requirement is triggered that his or her decision shall include a Deferred Affordable Housing Scheme or calculation of the Deferred Affordable Housing Payment (the "**Decision**") which the LPA and the Developer shall thereafter incorporate in a completed Memorandum in accordance with paragraph 13 below.

## 9. **ON SITE DEFERRED AFFORDABLE HOUSING UNITS**

9.1 The Developer covenants to provide any Deferred Affordable Housing Units as may be required and agreed between the Parties (or determined by the Specialist) on the Site as part of the Development in accordance with:-

9.1.1 the Deferred Affordable Housing Scheme; and

9.1.2 the programme comprised in the Construction Contract; and

9.1.3 the obligations and covenants on the part of the Developer in relation to Affordable Housing Units in Schedule 1 which shall apply mutatis mutandis to the Deferred Affordable Housing Units.

## 10. **DEFERRED AFFORDABLE HOUSING PAYMENT**

10.1 If the Specialist determines or the Developer and LPA agree that the Development can viably support Deferred Affordable Housing but the Deferred Affordable Housing cannot be provided within the Development and the Developer has previously submitted to the LPA or the Specialist (as the case may be) a detailed report evidencing the reasons why it would not be practicable to provide the Deferred Affordable Housing Units within the Development:-

10.1.1 the Developer shall pay to the LPA the Deferred Affordable Housing Payment prior to First Occupation; and

10.1.2 no part of the Development shall be Occupied until the Deferred Affordable Housing Payment has been paid to the LPA.



**11. RESTRICTION ON IMPLEMENTATION**

- 11.1 If either paragraph 3 or 4 of this Schedule applies, the Developer shall not Substantially Commence or re-commence (as applicable) the Development until:-
- 11.1.1 the LPA or the Specialist has confirmed in writing that the Viability Review is accepted and no Deferred Affordable Housing is required; or
  - 11.1.2 the LPA has confirmed its approval of the Deferred Affordable Housing Scheme or Deferred Affordable Housing Payment and the same has been documented by way of Memorandum; or
  - 11.1.3 if the matter has been referred to the Specialist by either Party the Specialist has issued his Decision including the Deferred Affordable Housing Scheme or Deferred Affordable Housing Payment (as relevant) and the same has been documented by way of Memorandum.

**12. EXPIRY OF VIABILITY REVIEW AND DEFERRED AFFORDABLE SCHEME**

- 12.1 Any Viability Review shall expire ("Expiry Date") after a period of 12 (twelve) months:-
- 12.1.1 from the date of its preparation; or
  - 12.1.2 if the LPA requested further information resulting in its revision from the Validation Date; or
  - 12.1.3 where the Developer has not Substantially Commenced or re-commenced (as applicable) the Development.
- 12.2 If a Viability Review expires without the LPA and the Developer having agreed or the Specialist having determined the issue of the Deferred Affordable Housing, then the Developer shall within 1 (one) calendar month of the Expiry Date submit to the LPA (or the Specialist as the case may be) an up-to-date Viability Review whereupon the provisions and covenants on behalf of the Developer in this Schedule shall apply to any subsequent Viability Review(s) and Deferred Affordable Housing.
- 12.3 Notwithstanding the agreement of the LPA and Developer (or the Specialist's determination) of the Deferred Affordable Housing Scheme, if following such agreement or determination Commencement construction works have not taken place for a period exceeding 12 (twelve) calendar months, then the Developer shall:-
- 12.3.1 submit to the LPA an updated Viability Review prior to re-commencement of works, and
  - 12.3.2 immediately cease to dispose off-plan of any Residential Units; and
  - 12.3.3 the provisions and covenants on behalf of the Developer in this Schedule shall apply to any subsequent Viability Review(s) and Deferred Affordable Housing such that any further or revised Deferred Affordable Housing Scheme shall be agreed by way of a fresh Memorandum.

**13. MEMORANDUM**

- 13.1 Within 15 (fifteen) Working Days of the LPA and the Developer agreeing a Deferred Affordable Housing Scheme or Deferred Affordable Housing Payment (or the Specialist determining by issuing his decision), the Developer and the LPA shall record the Deferred Affordable Housing Scheme or Deferred Affordable Housing Payment by completing a Memorandum by each of the LPA and the Developer signing the same (acting by authorised signatories).

13.2 The LPA and the Developer agree that upon completion of a Memorandum, to endorse each engrossed copy of this Agreement with the insertion of the following:-

*"The Parties have agreed the details of the [Deferred Affordable Housing Scheme/Deferred Affordable Housing Payment] by way of a signed Memorandum between the LPA and the Developer dated 20 "*

13.3 Upon completion of a Memorandum, this Deed shall be construed such that:-

13.3.1 in the case of Deferred Affordable Housing Units being provided:-

- (a) the number of Deferred Affordable Housing Units shall be included within the definition of Affordable Housing Units; and
- (b) the number of Private Residential Units shall be reduced by the corresponding number of Deferred Affordable Housing Units;
- (c) the obligations in Schedule 1 shall apply to the Deferred Affordable Housing to be provided within the Development and shall be construed such that any reference to "**Affordable Housing Units**" shall include the corresponding number of "Deferred Affordable Housing" Units to be provided within the Development; or

13.3.2 in the case of a Deferred Affordable Housing Payment becoming payable the payment will be due in accordance with the terms of the Memorandum.



## SCHEDULE 3

### SUSTAINABLE TRANSPORT

#### 1. DEFINITIONS

<b>"Controlled Parking Zone"</b>	means controlled parking zone B4
<b>"Controlled Parking Zone Contribution"</b>	means the sum of £10,000 (Indexed) to be used by the Council for the extension of the Controlled Parking Zone
<b>"Section 278 Agreement"</b>	means an agreement under the Section 278 of the Highways Act 1980 for the Section 278 Agreement Works
<b>"Section 278 Agreement Works"</b>	means works to reinstate and improve the footway adjacent to the boundary of the Site

#### 2. CONTROLLED PARKING ZONE

- 2.1 Prior to the Commencement of Development the Developer shall pay to the LPA the Controlled Parking Zone Contribution.
- 2.2 Prior to the Commencement of Development the Developer shall provide evidence to the LPA that they have notified the Council that the Controlled Parking Zone Contribution has been paid to the LPA.

#### 3. SECTION 278 AGREEMENT

- 3.1 Prior to the Commencement of Development the Developer shall enter into a Section 278 Agreement with the Council.

## SCHEDULE 4

### EMPLOYMENT AND TRAINING

#### 1. DEFINITIONS

- "Council's Area" means the administrative area of the Council
- "Legacy Communities Scheme Careers Programme Group" means the group known as the Legacy Communities Scheme Careers Programme Group which is established and operated pursuant to the provisions of a section 106 agreement dated 28 September 2012 and made between (1) the Olympic Delivery Authority (2) the London Legacy Development Corporation and (3) Transport for London
- "Local Labour and Business Schemes" means the following schemes:-
- (a) in the LPA's administrative area - the Legacy Communities Scheme Careers Programme Group and
  - (b) in the London Borough of Tower Hamlets – the scheme known as Skillsmatch
- "London Living Wage" means the minimum amount (currently £9.75) of pay per hour that all workers in London should receive, as published from time to time by the GLA
- "Frontage Strategy" means a written strategy identifying how the frontages of the Workspace will be treated in order to ensure the appearance of active frontages in the event that they are vacant for that period of time specified by paragraph 4.1 of this Schedule 5
- "Shell and Core" means accommodation constructed to shell and core finish as that expression is understood in the commercial development industry
- "Workspace" means no more than 100% floorspace within the Development to be used as commercial floorspace as authorised by the Planning Permission
- "Workspace Strategy" means a written strategy identifying how the Workspace has been and will be designed and marketed to meet the needs of small local companies and businesses

#### 2. DELIVERY OF WORKSPACE

- 2.1 No Residential Units shall be Occupied until all of the Workspace has been completed to Shell and Core.

#### 3. WORKSPACE STRATEGY

- 3.1 Prior to the Commencement of Development the Developer shall submit and obtain the LPA's approval to the Workspace Strategy.
- 3.2 The Developer shall not less than once a year from the date of the first Occupation of the first part of the Workspace until the date on which all Workspace is Occupied:-
- 3.2.1 review the effectiveness of the Workspace Strategy; and

- 3.2.2 submit to the LPA for approval a report detailing the effectiveness of the Workspace Strategy and any proposed amendments thereto.
- 3.3 The Developer shall implement the approved Workspace Strategy (as may be amended in accordance with paragraph 3.2 of this Schedule) and shall use Reasonable Endeavours to enter into agreements for lease or to grant leases in respect of the Workspace.
- 4. FRONTAGE STRATEGY**
- 4.1 In the event that the some of all of the Workspace is not Occupied within 2 (two) months of the first Occupation of the Development then within 3 (three) months of first Occupation of the Development the Developer shall submit and obtain the LPA's approval to the Frontage Strategy in respect of such un-Occupied Workspace.
- 4.2 The Developer shall not less than 3 (three) months from the date of the approval of the Frontage Strategy until all the Workspace is Occupied :-
- 4.2.1 review the effectiveness of the Frontage Strategy to create active frontages; and
- 4.2.2 submit to the LPA for approval a report detailing the effectiveness of the Frontage Strategy and any proposed amendments thereto.
- 4.3 The Developer shall implement the approved Frontage Strategy (as may be amended in accordance with paragraph 4.2 of this Schedule).
- 5. LOCAL LABOUR AND LOCAL BUSINESS**
- 5.1 The Developer shall use Reasonable Endeavours to, and shall procure that its contractors (in respect of construction vacancies and jobs) and its tenant(s) and any sub-tenants (in respect of end-use vacancies and jobs), use reasonable endeavours to ensure that:-
- 5.1.1 all job vacancies arising from the Development are advertised in Local Labour and Business Schemes and job centres in the Council's Area;
- 5.1.2 Local Labour and Business Schemes are notified of all job vacancies arising from the Development;
- 5.1.3 the recruitment of persons living in the Council's Area accounts for 28% of the construction jobs arising from the Development;
- 5.1.4 the recruitment of persons living in the Council's Area accounts for a total of between 25% and 85% of the end-use jobs at the Development;
- 5.1.5 all employees employed at the Development in construction jobs are paid the London Living Wage;
- 5.1.6 the London Living Wage is promoted for all end use jobs at the Development; and
- 5.1.7 work-based learning opportunities are provided at the Development, including not less than 5% of the construction jobs arising from the Development as apprenticeship opportunity.
- 5.1.8 to the extent that the Developer is not prevented from doing so by any rule of law whether domestic or international.
- 5.2 To the extent that it is reasonably practicable to do so and the Developer is not prevented from doing so by any rule of law whether domestic or international, the Developer shall:-
- 5.2.1 use Reasonable Endeavours to ensure that businesses located in the Council's Area benefit directly from the commercial opportunities arising from the Development;



- 5.2.2 use Reasonable Endeavours to ensure that 20 per cent (20%) of the value of goods and services procured during the construction of the Development are supplied by businesses located within the Council's Area; and
- 5.2.3 provide local agencies with early information relating to availability of vacant space within the Development.

**SCHEDULE 5**  
**SUSTAINABILITY**

**1. DEFINITIONS**

- "District Energy Network"** means the Olympic Park district energy network
- "District Energy Network Extension"** means the extension of the District Energy Network into Fish Island
- "Local CHP Plant"** means any gas boilers and combined heat and power plants located within the Development or adjacent developments
- "Price Per Carbon Tonne"** means £60 (Indexed from the date of the SPD) per carbon tonne or such other amount as may be set in local or national policy relating to offset solutions
- "Temporary Connection"** means the provision of temporary gas boilers on the Site until the pipes from the District Energy Network have been extended to Fish Island

**2. DISTRICT HEATING NETWORK**

2.1 Prior to the Commencement of Development the Developer shall:-

- 2.1.1 use Reasonable Endeavours to extend or procure the extension of the District Energy Network to the Site and thereafter connect all Buildings to the District Energy Network; and
- 2.1.2 provide a written report to the LPA prior to the Commencement of Development outlining the steps the Developer has taken to satisfy the obligation in paragraph 2.1.1 above and the progress made towards securing the extension and connection.

2.2 If the report submitted pursuant to paragraph 2.1.2 concludes that it will not be possible (including but not limited to technical and/or financial factors) to connect all Buildings to the District Energy Network the Developer shall:-

- 2.2.1 use Reasonable Endeavours to connect to a Local CHP Plant; and
- 2.2.2 submit a further written report to the LPA prior to the Commencement of Development outlining the steps the Developer has taken to satisfy the obligation in paragraph 2.2.1 above, the progress made towards securing the connection and the carbon emission reductions associated with such connection.

2.3 If the report submitted pursuant to paragraph 2.2.2 concludes that it will not be possible (including but not limited to technical and/or financial factors) to connect all Buildings to a Local CHP Plant and the District Energy Network Extension has been completed prior to the Commencement of Development the Developer shall:-

- 2.3.1 use Reasonable Endeavours to provide a Temporary Connection until the District Energy Network is completed and thereafter connect all building to the District Energy Network; and
- 2.3.2 submit a further written report to the LPA prior to the Commencement of Development outlining the steps the Developer has taken to satisfy the obligation in paragraph 2.3.1 above, the progress made towards securing the connection and the carbon emission reductions associated with such connection.

2.4 No Development shall Commence until:-

- 2.4.1 the report submitted pursuant to paragraph 2.1.2 confirms to the LPA's satisfaction that it will be possible to connect all Buildings to the District Energy Network;
  - 2.4.2 the report submitted pursuant to paragraph 2.2.2 confirms to the LPA's satisfaction that it will be possible to connect all Buildings to a Local CHP Plant and such connection would have equivalent carbon emission reductions as if the Buildings has been connected to the District Energy Network;
  - 2.4.3 if paragraph 2.3 applies the report submitted pursuant to paragraph 2.3.2 confirms to the LPA's satisfaction that it will be possible to connect all Buildings to a Temporary Connection and thereafter the District Energy Network and such connection would have equivalent carbon emission reductions as if the Buildings has been connected to the District Energy Network; or
  - 2.4.4 the Developer has agreed the terms of and entered into a binding obligation with the LPA pursuant to which it agrees to pay a financial contribution to the LPA towards identified offset solutions, such contribution having been calculated by reference the Price Per Carbon Tonne and the tonnage of residual CO2 emissions to be off set as a result of the Buildings not being connected to the District Energy Network.
- 2.5 No Building shall be Occupied unless and until:-
- 2.5.1 it is connected to the District Heating Network;
  - 2.5.2 where paragraph 2.2 applies, it is connected to a Local CHP Plant;
  - 2.5.3 where paragraph 2.3 applies, it is connected to a Temporary Connection; or
  - 2.5.4 the obligation referred to in paragraph 2.4.4 has been satisfied by the Developer.

### 3. REDUCTION OF ENERGY DEMAND

- 3.1 The Developer shall use Reasonable Endeavours to encourage Occupiers of the Development to reduce their energy usage which shall include (without limitation):-
- 3.1.1 dissemination of marketing materials and the provision of education and training (including tips and advice) on energy saving methods;
  - 3.1.2 the promotion of the use of energy efficient appliances; and
  - 3.1.3 the installation of energy efficient appliances where these are installed as part of the original construction and fit out of the Development (or any part thereof).



## SCHEDULE 6

### DESIGN MONITORING

#### 1. DEFINITIONS

- "Approved Drawings" means the drawings prepared by the Architect to be approved by the Planning Permission or a S73 Permission as each may be varied by a S96A Amendment
- "Architect" means pH+ Architects or such other architect as may be approved in writing by the LPA in accordance with clause 3.1.2 below
- "Design Monitoring Costs" means the monies paid in accordance with 2.1.2 of this Schedule to meet the LPA's reasonable costs incurred in monitoring the design quality of the Development as detailed drawings are prepared and construction works are carried out on the Site and to ensure that all such drawings and works are completed to a satisfactory quality and are consistent with the Approved Drawings
- "Development" means for the purposes of this Schedule only the development of the Site and all other operations and/or works authorised by the Planning Permission as may be amended and/or replaced by a S96A Amendment and/or a S73 Permission
- "S96A Amendment" means a non-material amendment to the Planning Permission approved pursuant to section 96A of the 1990 Act
- "S73 Permission" means a permission granted pursuant to an application for a minor material amendment pursuant to section 73 of the 1990 Act

#### 2. DESIGN TEAM STATEMENT

- 2.1 None of the following applications shall be submitted unless accompanied by a statement prepared by the Developer specifying the design team involved in the preparation of these details (the "Design Team Statement"):-
- 2.1.1 an application pursuant to Conditions 36 (material samples) and 37 (detailed drawings) of the Planning Permission;
- 2.1.2 an application for a S96A Amendment;
- 2.1.3 an application for a S73 Permission.
- 2.2 The Developer shall also submit a statement to the LPA specifying the design team retained in connection with the Development upon Commencement of the Development and every 6 (six) months during the construction of the Development until its Completion.

#### 3. DESIGN MONITORING COSTS

- 3.1 If at any point the Architect is not retained to oversee the delivery of the design quality of the Development (including but not limited to the making of the applications referred to in paragraph 2.1 above and overseeing the construction of the Development) the Developer shall forthwith:-
- 3.1.1 notify the LPA of such non-retention; and

3.1.2 pay to the LPA within 10 (ten) Working Days of demand the Design Monitoring Costs and it is agreed that:-

- (a) such costs may relate either to staff employed directly by the LPA or third party consultants retained by the LPA;
- (b) the LPA may make more than one demand for payment of Design Monitoring Costs; and
- (c) when the LPA notifies the Developer of the amount of the Design Monitoring Costs to be paid it shall also provide a detailed break-down setting out how the amount has been calculated and how such monies will be spent

PROVIDED THAT the amount payable to the LPA in Design Monitoring Costs shall not exceed £40,000 (Indexed) AND PROVIDED FURTHER THAT in the event that changes to the Architect become necessary due to circumstances beyond the control of the Developer including where the Architect's fees exceed those charged by other architectural firms that are similarly ranked in terms of reputation, expertise and experience, the Developer shall notify the LPA of this fact and provide any evidence deemed necessary by the LPA to demonstrate the circumstances beyond the control of the Developer in accordance with paragraph 3.1.1 above and shall consult the LPA regarding the appointment of another similarly ranked architect of a similar calibre for the purposes of completion of the Development and SUBJECT ALWAYS to the LPA's written approval of a replacement Architect, the Design Monitoring Costs shall not be payable.

#### 4. RESTRICTION ON DEVELOPMENT

4.1 The Development shall not Commence until the Developer has either:-

4.1.1 provided satisfactory evidence to the LPA that the Architect will be retained to oversee the delivery of the design quality of the Development in accordance with the Approved Drawings; or

4.1.2 paid the first instalment of the LPA's Design Monitoring Costs if the Architect has not been retained to oversee the design quality of the Development.

4.2 Subject to paragraph 4.1.2 above, no Development shall be carried out if the LPA's Design Monitoring Costs have not been paid in accordance with paragraph 3.1.2.

4.3 No Development shall be carried out in accordance with any changes to the detailed designs for the Development as prepared by the Architect unless agreed in writing by the LPA and the LPA may require the Architect to approve any subsequent changes in writing before the LPA gives its own written approval under this paragraph.

## SCHEDULE 7

### NEW ROAD

#### 1. DEFINITIONS

"New Road" means the area shaded in blue as shown on Plan 1

#### 2. NEW ROAD

- 2.1 Prior to the Occupation of the Development the Developer shall construct the New Road to an adoptable standard.



**SCHEDULE 8**

**COURTYARD**

**1. DEFINITIONS**

**"Courtyard"** means the courtyard at ground level as shown on Plan 2

**"Service Charge"** means any service charge charged for the maintenance of the Courtyard

**2. DELIVERY OF PUBLICLY ACCESSIBLE OPEN SPACE AND PLAY AREAS**

2.1 The Developer shall maintain the Courtyard to a standard which is acceptable to the LPA (acting reasonably) until such time as all of the Workspace is first Occupied.

**3. SERVICE CHARGE**

3.1 The Developer shall pay the Service Charge until such time as the Workspace is first Occupied.

3.2 Following the Occupation of the Workspace the Service Charge shall be paid solely by the tenant(s) of the Workspace.

## SCHEDULE 9

### CONSTRUCTION

#### 1. DEFINITIONS

**"National Considerate Constructors Scheme"** means the national construction industry created scheme which promotes work practices on sites to minimise disturbance caused by noise, dust, additional traffic and pavement congestion and encourages firms to be sensitive to the environment in which they operate and places public health and safety as its top priority and gives prominence to the respect of people

#### 2. NATIONAL CONSIDERATE CONSTRUCTORS SCHEME

2.1 The Developer shall carry out the Development in accordance with the National Considerate Constructors Scheme.

IN WITNESS whereof the parties have executed this Agreement the day and year first above written

EXECUTED as a Deed (but not delivered until dated) by affixing the Common Seal of **LONDON LEGACY DEVELOPMENT CORPORATION** in the presence of:-

)  
)  
)  
)  
)  
)  
Director (LYN GARNER)  
Director/Secretary



EXECUTED as a Deed (but not delivered until dated) by **DACE SMEED ROAD LIMITED** acting by two Directors or a Director and the Secretary:-

)  
)  
)  
)  
)  
)  
Director  
Director/Secretary  
VINCENT CHAND  
VINCENT GOLDSTEIN

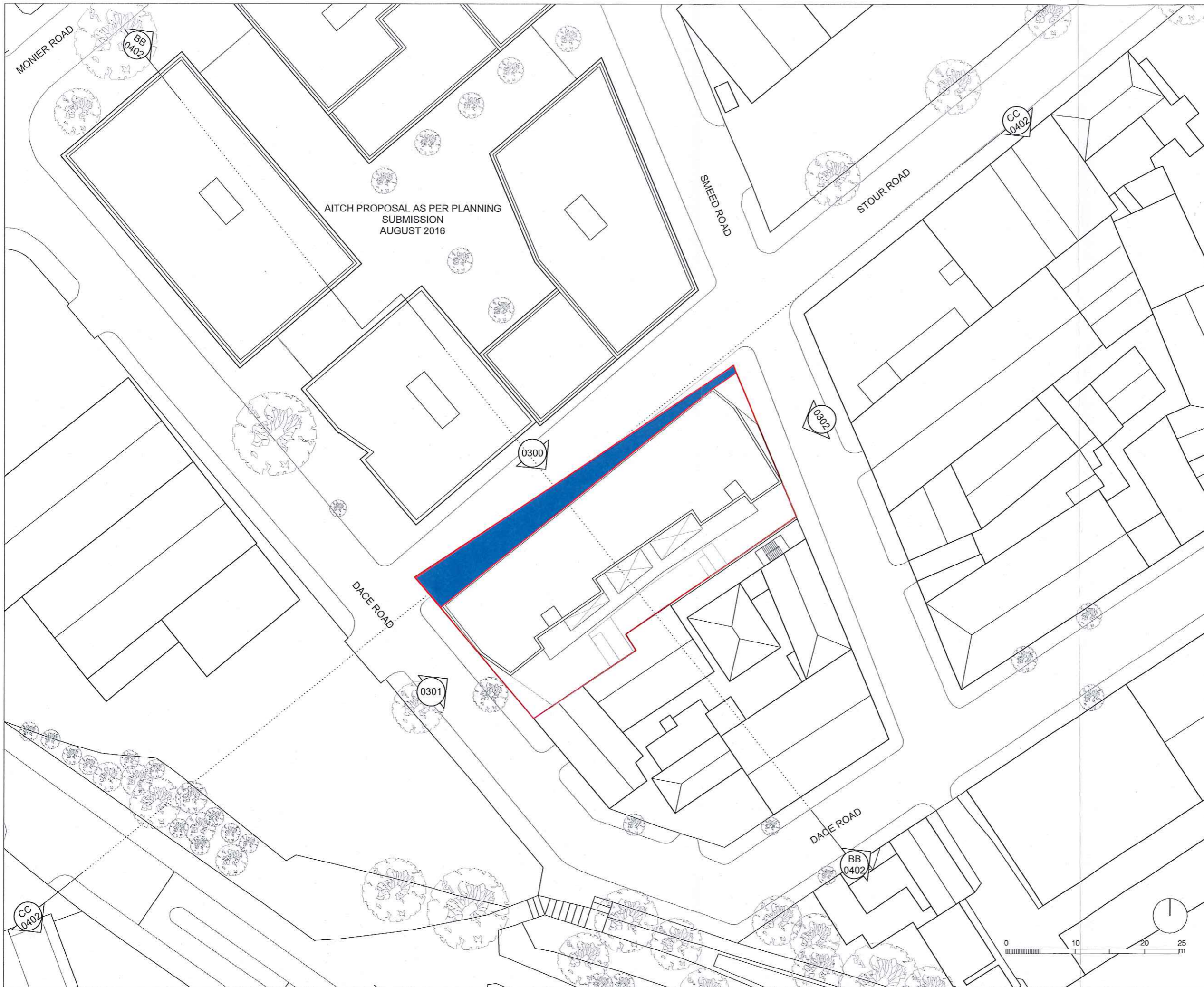
Executed as a Deed by **Reflex Bridging Limited** acting by two Directors or a Director and the Secretary:-

)  
)  
)  
)  
)  
Director  
Director/Secretary  
DONAGH O'SULLIVAN  
STEPHEN CONWAY



**APPENDIX 1**

**PLAN 1**



Copyright pH+. No implied licence exists. This drawing should not be used to calculate areas for the purposes of valuation. Do not scale this drawing. All dimensions to be checked on site by the contractor and such dimensions to be their responsibility. All work must comply with relevant British Standards and Building Regulations requirements. Drawing errors and omissions to be reported to the architect.

Revisions  
/ - 23/12/16 - Planning Issue

*Handwritten notes and signatures in blue ink.*

Albion Mills  
3rd Floor  
18 East Tenter Street  
London  
E1 8DN

t: 020 7613 1965  
e: mail@phplusarchitects.com  
w: www.phplusarchitects.com

**pH+**

Project  
Land Adjacent to  
1-7 Dace Road London  
E3

Drawing  
Proposed  
Site Plan (Roof Top)

Scale at A3 1:500	Date December 2016
----------------------	-----------------------

Job Number pH+617	Drawing No. 0102	Rev /
----------------------	---------------------	----------

Drawn by LLG	Checked by GH
-----------------	------------------

Status  
**PLANNING**

**APPENDIX 2**

**PLAN 2**



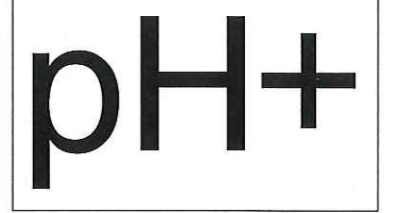
Copyright pH+. No implied licence exists. This drawing should not be used to calculate areas for the purposes of valuation. Do not scale this drawing. All dimensions to be checked on site by the contractor and such dimensions to be their responsibility. All work must comply with relevant British Standards and Building Regulations requirements. Drawing errors and omissions to be reported to the architect.

Revisions  
1 - 23/12/16 - Planning Issue

*Handwritten initials and signature in blue ink.*

Albion Mills  
3rd Floor  
18 East Tenter Street  
London  
E1 8DN

t: 020 7613 1965  
e: mail@phplusarchitects.com  
w: www.phplusarchitects.com



Project  
Land Adjacent to  
1-7 Dace Road London  
E3

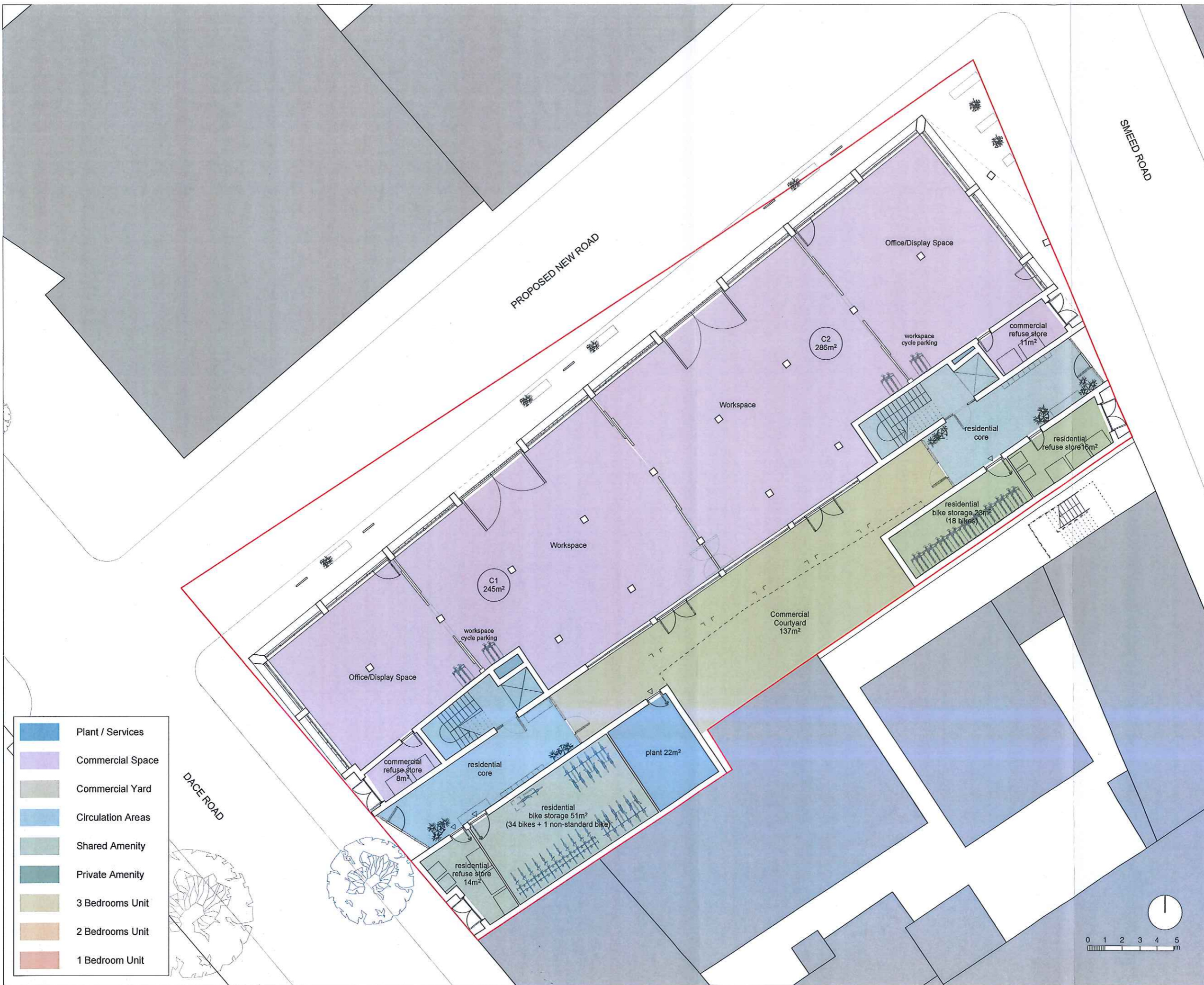
Drawing  
Proposed  
Ground Floor Plan

Scale at A3 1:200	Date December 2016
----------------------	-----------------------

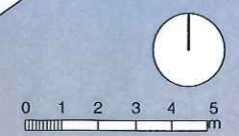
Job Number pH+617	Drawing No. 0200	Rev /
----------------------	---------------------	----------

Drawn by LLG	Checked by GH
-----------------	------------------

Status  
**PLANNING**



- Plant / Services
- Commercial Space
- Commercial Yard
- Circulation Areas
- Shared Amenity
- Private Amenity
- 3 Bedrooms Unit
- 2 Bedrooms Unit
- 1 Bedroom Unit





**APPENDIX 3**  
**DRAFT PLANNING PERMISSION**

**FULL PLANNING PERMISSION APPROVAL**

**Town and Country Planning Act 1990 (as amended)  
Town and Country Planning (Development Management Procedure) (England) Order 2015**

Please see notes at the end of this notice

Applicant

Agent

City and Suburban Homes Ltd c/o Agent

Adam Williams,  
CMA Planning  
113 The Timberyard  
Drysdale Street  
London  
N1 6ND

**Part I - Particulars of Application**

Date of Application: 31-Jan-2017

Application No: 17/00007/FUL

Proposal: Full planning application for the demolition of the existing building and the erection of a mixed-use, five (5) storey building to provide 2,772sqm of floorspace (GIA), comprising: 531sqm of commercial floorspace (Use Class B1) at ground level, and 34 residential units (Use Class C3) on the upper floors, with associated landscaping, amenity areas, cycle parking, refuse storage and a commercial courtyard.

Location: Land adjacent (south) to 1-7 Dace Road

**Part II - Particulars of Decision**

In pursuance of the powers under the above Act and Order the London Legacy Development Corporation hereby gives notice that **PLANNING PERMISSION HAS BEEN APPROVED** for the carrying out of the development referred to in Part I hereof and as described and shown on the application and plan(s) submitted, subject to the following conditions and notes:

**1. Time limit**

The development shall be commenced before the expiration of three years from the date of the permission.



Reason: In accordance with Section 91 of the Town and Country Planning Act 1991.

## 2. Works in accordance with approved details

Unless minor variations have been agreed by the Local Planning Authority and to the extent that it does not deviate from this permission, the development shall be carried out in accordance with the following details and plan numbers:

### Drawings

- 617-A-GA-0000 (Site location plan)
- 617-A-GA-0100 (Proposed site location plan)
- 617-A-GA-0101 (Proposed site plan – Ground floor)
- 617-A-GA-0102 (Proposed site plan – Roof top)
- 617-A-GA-0200 Rev 1 (Proposed ground floor plan)
- 617-A-GA-0201 Rev 1 (Proposed first floor plan)
- 617-A-GA-0202 (Proposed second floor plan)
- 617-A-GA-0203 (Proposed third floor plan)
- 617-A-GA-9204 (Proposed fourth floor plan)
- 617-A-GA-9205 (Proposed roof plan)
- 617-A-GA-9230 (Proposed north west elevation)
- 617-A-GA-9231 (Proposed south west elevation)
- 617-A-GA-9232 (Proposed north east elevation)
- 617-A-GA-9240 (Proposed section AA)
- 617-A-GA-0401 (Proposed section BB)
- 617-A-GA-0402 (Proposed section BB and Section CC)
- 617-A-GA-L-1300 (First floor unit R1 M4(3) layout)
- 617-A-GA-L-1301 (First floor unit R3 M4(3) layout)
- 617-A-GA-L-1302 (Second floor unit R11 M4(3) layout)
- 617-A-GA-L-1303 (Second floor unit R11 M4(3) layout)
- 617-A-GA-0891 (Proposed ground floor site plan partial warehouse demolition of 1-7 Dace Road)

### Documents

- Air Quality Assessment ref 8.828 version 03
- Flood Risk Assessment and SUDS Strategy 04 ref 8.828
- Archaeological Desk Based Assessment ref EH/22687
- Built heritage statement ref CJH00029
- Commercial space strategy
- Design and Access Statement dated December 2016
- Daylight, sunlight and overshadowing report ref 8.828
- Proposed scheme daylight, sunlight and overshadowing report ref 8.828
- Daylight and sunlight report addendum ref 8.828 dated 16 March 2017
- Energy statement ref 8.828
- Environmental noise assessment ref 8.828
- FRA & SUDS strategy ref 8.828 version 04
- Land contamination report ref P9714J974
- Overheating assessment ref 8828
- Preliminary ecological appraisal ref 65716 rev 001
- Preliminary ecological appraisal addendum ref 65716
- Preliminary Unexploded Ordnance Risk Assessment ref P9714J974/TME
- Planning statement dated January 2017
- Sustainability statement 8.828
- Transport statement ref 02452 version A
- Transport statement addendum ref 02452

and the description of development contained in the application and any other plans, drawings, documents, details, schemes or strategies which have been approved by the Local Planning Authority pursuant to these conditions.

Reason: To ensure that all works are properly implemented and retained.

### **3. Relationship with 1-7 Dace Road**

No part of the Development shall be occupied until the adjacent consented development at 1-7 Dace (ref:16/00462/FUL) has commenced and the warehouses as shown hatched in drawing 0891 Rev/ have been demolished. The Applicant shall notify the Local Planning Authority that the relevant part of the site at 1-7 Dace Road has been cleared (in accordance with 0891 Rev /) and that the scheme 16/00462/FUL has commenced.

The Development shall be carried out in accordance with the approved details.

Reason: To protect the amenity of future residents and commercial tenants.

### **CONSTRUCTION**

### **4. Code of Construction Practice**

The Development shall not be commenced until a Code of Construction Practice has been submitted to and approved in writing by the Local Planning Authority. An updated version of the Site Wide Code of Construction Practice to reflect any changes in policy or best practice guidance shall be submitted to the Local Planning Authority for approval no less frequently than once every three years. The Code of Construction Practice shall be in accordance with all relevant legislation in force and substantially in accordance with all policy adopted and best practice guidance published at the time of submission. The Code of Construction Practice shall include proposals for the following:

- Safeguarding of buried services
- Location and height of any proposed spoil stockpiles

The Development shall be carried out in accordance with the approved details.

Reason: To ensure that the construction of the Development uses best practicable means to minimise adverse environmental impact.

Pre-commencement justification:

Submission required prior to commencement to ensure that the Local Planning Authority to ensure that the impact of the construction is appropriately mitigated.

### **5. Construction Noise Monitoring and Mitigation**

Prior to commencement of development a scheme for noise monitoring, assessment and mitigation for all construction plant and processes shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:



- The identification of noise sensitive premises to be used as the location for noise monitoring, including any arrangements proposed for amending the selected locations if new noise sensitive premises are introduced during the construction period;
- The noise parameters to be measured and the circumstances when continuous monitoring will be undertaken;
- The arrangements for reporting the results of noise monitoring to the Local Planning Authority;
- The arrangements for implementing mitigation measures for sensitive premises during construction.
- The scheme shall be implemented in accordance with the approved details

Reason: to protect nearby sensitive receptors from unacceptable levels of noise.

Pre-commencement justification:

Submission required prior to commencement to ensure that the Local Planning Authority to ensure that the impact of the construction is appropriately mitigated.

## 6. **Construction Dust Monitoring and Mitigation**

Prior to commencement of development a scheme for dust monitoring, assessment and mitigation for all construction activities shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be substantially in accordance with the best practice guidance entitled 'The control of dust and emissions from construction and demolition' published by the GLA in November 2006 (as may be updated from time to time) and shall include:

- The identification of dust sensitive premises to be used as the location for dust monitoring, including any arrangements proposed for amending the selected locations if new dust sensitive premises are introduced;
- The frequency and other arrangements for dust monitoring; and
- The arrangements for reporting the results of dust monitoring and the implementation of mitigation measures to the Local Planning Authority.
- The scheme shall be implemented in accordance with the approved details

Reason: to protect nearby sensitive receptors from unacceptable levels of dust.

Pre-commencement justification:

Submission required prior to commencement to ensure that the Local Planning Authority to ensure that the impact of the construction is appropriately mitigated.

## 7. **Construction Transport Management Plan**

The Development shall not commence until a Site Wide Construction Transport Management Plan (CTMP) has been prepared in consultation with the Local Planning Authority, local highway authorities, Transport for London and the emergency services and such CTMP has been submitted to and approved in writing by the Local Planning Authority. An updated version of the CTMP reflecting any changes and details of the development known at the time and any updated policy or best practice guidance shall be submitted to the Local Planning Authority for approval in consultation with the agencies referred to above no less frequently than once every three years. The objectives of the CTMP shall be to:



- minimise the level of road based construction traffic through the promotion of sustainable transport options, where feasible
- minimise the impact of road based construction traffic by identifying clear controls on routes for large goods vehicles, vehicle types, vehicle quality and hours of site operation;
- identify highway works required to accommodate construction traffic;
- minimise the number of private car trips to and from the site (both workforce and visitors) by encouraging alternative modes of transport and identifying control mechanisms for car use and parking; and
- assess the need for improvements to the public transport network to accommodate the additional number of trips associated with construction site activity.

The CTMP shall include as a minimum the following information:

- the arrangements for liaison with the relevant highway authorities, emergency services, which shall include attendance at the LLDC Construction Transport Management Group;
- the method for applying for approvals for Off Site highway works;
- road closures implementation and management
- consideration of the feasibility of water based transport and construction and waste materials from the site including temporary wharf facilities
- designated routes for large goods vehicles and dealing with abnormal loads;
- highway enabling schemes for access to and from the construction sites;
- position and operation of cranes / Mobile Elevating Work Platforms
- off Site parking issues;
- control of and limits on parking spaces for construction workers' motor cars and vans used to travel to the Site, but to which access is not otherwise required when the vehicle is on the Site;
- provision for walking and cycling;
- lorry holding areas;
- driver standards and enforcement within the construction sites and on the highway;
- monitoring;
- dealing with complaints and community liaison; and
- guidance on membership of the Fleet Operator Recognition Scheme and implementation of vehicle safety measures and driver training including cycle awareness and an on road cycle module.
- The arrangements for liaison with the relevant highway authorities;
- The parking of vehicles of site operatives and visitors;
- Demonstrate compliance with GLA's Low Emissions Zone for non-road mobile machinery
- The loading and unloading of plant and materials including a construction logistics plan;
- The storage of plant and materials use in constructing the development;
- The erection and maintenance of security hoardings;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling and disposing of waste resulting from demolition and construction work;
- Dealing with complaints and community liaison;
- Details of routes and access for construction traffic. Including lorry holding areas; and
- Guidance on membership of the Fleet Operator Recognition Scheme and implementation of vehicle safety measures and driver training including cycle awareness and an on road cycle module.

The development shall be carried out in accordance with the approved details.



The following monitoring information in relation to the construction of the Development shall be provided to the Local Planning Authority on not less than an annual basis:

- Sustainable transport of materials and waste (including percentages transported by road, rail and water)
- waste generation and materials reuse and recycling
- air quality from construction activity within the Site
- noise from construction activity within the Site
- The first such monitoring information shall be provided on the first anniversary of Commencement of the Development and on each anniversary thereafter until the Completion of the Development. The Development shall be carried out in accordance with the approved details.

Reason: To ensure that the construction of the Development minimises its environmental impacts.

Pre-commencement justification:

To ensure that the Local Planning Authority can assess whether the development would generate any unacceptable environmental impacts through construction that would require appropriate mitigation.

## 8. **Construction Waste Management Plan**

The Development shall not be commenced until a Construction Waste Management Plan (CWMP) has been submitted to and approved in writing by the Local Planning Authority. The objectives of the CWMP shall be to ensure all waste arising from the construction works are managed in a sustainable manner, maximising the opportunities to reduce, reuse and recycle waste materials. The CWMP shall also detail the compliance and assurance requirements to be maintained on the Site during all phases of construction. The CWMP shall include as a minimum the following information:

- classification of all waste including hazardous waste according to current legislative provisions;
- performance measurement and target setting against estimated waste forecasts;
- reporting of project performance on quantities and options utilised;
- measures to minimise waste generation;
- opportunities for re-use or recycling;
- provision for the segregation of waste streams on the Site that are clearly labelled;
- licensing requirements for disposal sites;
- an appropriate audit trail encompassing waste disposal activities and waste consignment notes;
- measures to avoid fly tipping by others on lands being used for construction. Returns policies for unwanted materials;
- measures to provide adequate training and awareness through toolbox talks; and
- returns policies for unwanted materials.
- The Development shall be carried out in accordance with the approved details.

Reason: To ensure that the construction of the Development minimises its environmental impacts.

Pre commencement justification:



To Submission required prior to commencement to ensure that the Local Planning Authority to ensure that the impact of the construction is appropriately mitigated.

## 9. Archaeology –Written Scheme of Investigation

No development shall take place (except demolition above slab) until a stage 1 written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.

If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:

- A. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works;
- B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. this part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

Reason: In order that the archaeological operations are undertaken to an acceptable standard and that legitimate archaeological interest in the site is satisfied.

## 10. Foundations Works Risk Assessment

No foundations (including piling) shall commence until a foundation works risk assessment including piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for impact on groundwater, damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority. Any foundations shall be undertaken in accordance with the terms of the approved foundation works risk assessment. The assessment shall be undertaken in accordance with EA (2002) Piling into contaminated sites. The Development shall be carried out in accordance with the approved details

Reason: To ensure the protection of human health and avoidance of pollution of controlled waters.

## 11. Contamination

No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall be commenced (except demolition above slab) until a scheme that includes the following components to deal with



the risks associated with contamination of the site has been submitted to and approved in writing by the Local Planning Authority:

- 1) A site investigation scheme, based on the approved preliminary risk assessment (prepared by Jomas, dated 23/11/16) to all receptors that may be affected, including those off site. The preliminary risk assessment and scheme of investigation should be agreed in advance with LLDC PPDT before the investigation commences.
- 2) The results of the site investigation and detailed risk assessment referred to in (2) and quantitative risk assessment of the results, and based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 3) A remediation implementation and verification method statement providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the LLDC PPDT. The scheme shall be implemented in full as approved.

Reason: To protect the water environment, including groundwater. The desk study indicates the potential presence of contamination from the previous uses.

Pre-commencement Justification: Remediation methods should be agreed and completed prior to the use commencing on occupation of the site to ensure a safe environment for employees and residents/ occupants.

## 12. **Validation Report**

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation has been submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved validation plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, a maintenance timetable and arrangements for contingency action arising from the monitoring, as identified in the verification report. The long-term monitoring and maintenance plan shall be implemented in full as approved.

Reason: To protect the water environment, including groundwater from pollution and/or further deterioration.

## 13. **Contamination –Monitoring and Maintenance Plan**

If considered necessary following the site investigations, no development shall take place (except demolition above slab) until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority, has been submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming



that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect groundwater from pollution and/or further deterioration.

**14. Unexpected contamination**

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy has been submitted to and approved by the Local Planning Authority in writing detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: To protect the water environment, including groundwater.

**15. Boreholes**

A scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the local planning authority. The scheme shall provide details of how redundant boreholes would be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes would be secured, protected and inspected. The scheme as approved shall be implemented prior to the occupation of each phase of development.

Reason: To ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies.

**16. Drainage**

Prior to the installation of any drainage, a drainage strategy, detailing any on and/or off site drainage works, shall be submitted to and approved in writing by the Local Planning Authority in consultation with the sewerage undertaker. The drainage works referred to in the approved strategy shall be implemented in full and no discharge of foul or surface water from the site shall be accepted into the public system until the said drainage works have been completed.

Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

**17. Sewerage**

The development hereby permitted shall not be commenced (except demolition) until such time as a scheme to agree sewage pipe work specifications (in SPZ1s) has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: To protect groundwater. Leakages from foul water sewage pipes can pose a risk to groundwater quality, particularly in sensitive areas such as SPZ1. In such locations we expect these works to be completed to the highest standard.

**18. Surface water drainage**



No infiltration of surface water drainage into the ground at this site is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect the water environment, including groundwater.

## 19. Water Supply

Development shall not be commenced above ground (except demolition) until impact studies of the existing water supply infrastructure have been submitted to, and approved in writing by, the Local Planning Authority (in consultation with Thames Water). The studies shall determine the magnitude of any new additional capacity required in the system and a suitable connection point. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the/this additional demand.

Pre commencement justification:

To ensure that the development is supported by appropriate and adequate facilities.

## RESIDENTIAL STANDARDS

### 20. Residential standard – internal noise levels

The residential units shall not be occupied unless they have been constructed in accordance with BS8233:2014 'Sound insulation and noise reduction for buildings- Code of Practice' to attain the following internal noise levels:

- Bedrooms- 30dB LAeq,T\*
- Living rooms- 35dB LAeq, D\*

\*T- Night-time 8 hours between 23:00-07:00

\*D- Daytime 16 hours between 07:00-23:00.

Reason: To ensure that the occupiers and users of the development do not suffer a loss of amenity by reason of excess noise from environmental and transportation sources.

### 21. Sound insulation and noise mitigation details – Residential

Prior to the installation of acoustic insulation measures for the development hereby approved details shall have been submitted to and approved in writing by the Local Planning Authority for a scheme of acoustic insulation and any other necessary means of ventilation provided. The scheme shall include a glazing specification for all windows to ensure a good standard of internal noise can be achieved during day time and night time in accordance with the guideline levels of BS8233 2014: 'Sound insulation and noise reduction for buildings – code of practice ' or an equivalent standard. The residential units hereby permitted shall not be occupied until the noise attenuation scheme, including glazing specification, has been implemented in accordance with the approved scheme and thereafter permanently retained.



Reason: To ensure an adequate standard of residential amenity.

**22. Sound insulation and noise mitigation details – Residential and Non-Residential**

The Development shall not be occupied until details of the proposed sound insulation scheme to be implemented between the residential accommodation and any non-residential uses have been submitted to and approved in writing by the Local Planning Authority. Details shall include airborne and impact sound insulation. The Development shall not be occupied until the noise mitigation measures approved as part of the sound insulation scheme have been installed. The approved scheme shall be completed prior to occupation of the Development and thereafter permanently retained.

Reason: To protect the amenity of future occupants and/or neighbours.

**23. Ventilation Details**

The Development shall not be occupied until details of the proposed ventilation strategy and detailed drawings are submitted to and approved in writing by the Local Planning Authority. The ventilation strategy and detailed drawings shall demonstrate how nitrogen dioxide would be mitigated to residential units. The development shall be carried out in accordance with the approved details and thereafter permanently retained.

Reason: To protect the amenity of future occupants.

**24. Accessible housing**

- 30 (88%) of the residential units hereby permitted shall not be occupied until they have been constructed in accordance with Optional Requirement M4 (2) Category 2 of Part M of the Building Regulations
- 4 (12%) of the residential units hereby permitted shall not be occupied until they have been constructed in accordance with Optional Requirement M4 (3) Category 3 of Part M of the Building Regulations.

Reason: To ensure adequate accessible housing is provided

**25. Refuse storage**

Before the first occupation of the Development hereby permitted, the refuse and recycling storage arrangements shown on the approved drawing/s shall be provided and made available for use by the occupiers of the Development and the facilities provided shall thereafter be retained for the life of the Development and neither they nor the space they occupy shall be used for any other purpose.

Reason: To ensure that that the refuse will be appropriately stored within the site in the interest of protecting the amenity of the site and the area in general from litter, odour and potential vermin/pest nuisance.

**26. Restriction on Parking Permits**

No occupiers of the residential units hereby permitted, with the exception of disabled persons who are blue badge holders, shall apply to the Local Highways Authority for a parking permit or retain such permit, and if such permit is issued it shall be surrendered to the Council within seven days of written demand.

Reason: To reduce parking stress on the local street network, and to promote sustainable transport to and from the site.

**27. Approval of road works necessary**

The development shall not be commenced until details of the following works to the highway have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

- New south cross link, running along the north side of the site

The development hereby permitted shall not be occupied until these works have been completed in accordance with the approved details.

Reason: To ensure that all road works associated with the proposed development are to a standard approved by the Local Planning Authority and are completed before occupation.

**28. Deliveries and servicing management plan**

The development shall not be occupied until a delivery and servicing management plan (DSMP) detailing how all elements of the site are to be serviced has been submitted to and approved in writing by the Local Planning Authority. The DSMP shall be prepared in accordance with TfL's online guidance on delivery and servicing plans found at <http://www.tfl.gov.uk/info-for/freight/planning/delivery-and-servicing-plans#on-this-page-1> or such replacement best practice guidance as shall apply at the date of submission of the DSMP. The approved DSMP shall be implemented from first occupation and thereafter for the operation of the development.

Reason: In the interests of highway and pedestrian safety.

**29. Blue Badge Parking**

Prior to occupation of the development hereby approved, details of how the demand for the blue badge spaces would be managed, and how the spaces would be allocated, shall be submitted to and approved in writing by the Local Planning Authority.

The Blue Badge spaces shown on the drawings and details approved, shall be made available and retained for the purposes of car parking for holders of blue badges only.

Reason: To ensure the permanent retention of the parking areas for Blue Badge holders.

**30. Cycle Storage and facilities- details to be submitted**

Prior to occupation of the development details (1:50 scale drawings) of the facilities to be provided for the secure storage of cycles (for both residential and commercial elements) shall



have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved works have been completed and shall be retained for the life of the development and the space used for no other purpose.

Reason: In order to ensure that satisfactory secure cycle parking and facilities for cyclists are provided and retained.

## SUSTAINABILITY

### 31. Renewable energy

The development shall be constructed and operated in accordance with the submitted Energy Statement by XCO2 dated January 2017 and achieve reductions in regulated CO2 emissions through the use of on-site renewable energy generation sources approved as part of this development.

Reason: To ensure a high standard of sustainable design and construction.

### 32. BREEAM

Before any fit out works to the commercial premises hereby authorised begins, an independently verified BREEAM report (detailing performance in each category, overall score, BREEAM rating and a BREEAM certificate of building performance) which demonstrates that a minimum 'Very Good' rating has been achieved shall be submitted to and approved in writing by the Local Planning Authority and the development shall not be carried out otherwise than in accordance with any such approval given. Before the first occupation of any commercial premises hereby permitted, a certified Post Construction Review (or other verification process agreed with the Local Planning Authority) shall be submitted to and approved in writing by the Local Planning Authority, confirming that the agreed standards above have been met.

Reason: To ensure that high standards of sustainability are achieved.

### 33. Smart metering and reduction of energy demand

All residential units and non-residential units constructed as part of the Development shall have installed at the time of construction smart meters (meaning a meter and any associated or ancillary devices which enables information to be communicated to or from it, using an external electronic communications network) for measuring the supply of electricity, gas and water consumption which shall as a minimum be designed to inform the occupants and owners of each residential unit and non-residential units (as appropriate) of the level of their usage by way of a digital display showing total power consumption and figures for cost and CO2 emissions and comparison of energy use on a daily, weekly or monthly basis. The smart meters shall be retained for the lifetime of the development.

Reason: To optimise the standards of sustainable design and construction.

### 34. Development Energy demand reduction

Prior to first Occupation of the Development a scheme setting out measures to encourage reduced energy demand by the occupiers and owners of the Development shall be submitted to



and approved in writing by the Local Planning Authority. The scheme shall consider and include the use of marketing materials, education, distribution of information on energy saving methods, tips and advice, promotion of energy efficient appliances and installation of the same where appliances would be installed as part of the original construction and fit out of buildings. The scheme shall be implemented during the marketing of the Development.

Reason: To optimise the standards of sustainable design and construction.

### **35. Utility Services Proximity to Trees**

Prior to commencement of development (except demolition), details of the routing of services for the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The details shall be submitted alongside a report by an arboriculturalist, who will confirm if works would be carried out within root protection areas, and if so, provide details of the methodology required to ensure the works are carried out in accordance with NJUG10 'Guidelines for the planning, installation and maintenance of utilities in proximity to trees' and BS5837: 2012. The approved details shall thereafter be implemented.

Reason: To ensure trees are protected from the development

Pre-commencement justification:

To ensure the correct measures are in place to protect vulnerable trees prior to the commencement of construction works.

### **MATERIALS**

### **36. Material samples**

No above ground works (except demolition) shall take place until material samples and sample-panels of all internal and external facing materials (including any hard landscaping materials, gates, mortar and bond) to be used in the construction of the external surfaces of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the development

### **37. Detailed Drawings**

Detailed drawings including sections (at a scale to be agreed in advance with the Local Planning Authority) shall be submitted to and approved in writing by the Local Planning Authority, prior to the works on the relevant part:

- Elevations and sections through commercial fronts, including details of doors, windows, louvres, signage and junctions with new pedestrian space;
- Principle features on the facades, including balconies;
- Parapets, roof edges and retractable glass roof system;
- Deck and planting troughs/irrigation mechanism;
- Gates;
- Plinth;
- Balustrades; and
- External bin stores, cycle stores and plant.



The development shall not be carried out otherwise than in accordance with the approved drawings.

Reason: In order to ensure a high quality of design and detailing is achieved.

### **38. External Lighting**

Details of any external lighting, including design, power and position of luminaries, and security surveillance equipment of external areas surrounding the building shall be submitted to and approved in writing by the Local Planning Authority in writing before any such lighting or security equipment is installed. The lighting strategy shall demonstrate how negative impacts on bats would be mitigated. The development shall not be carried out otherwise in accordance with any such approval given.

Reason: In order that the Local Planning Authority may ensure that the design and details are of high quality.

### **39. Landscaping Plan**

Prior to the construction of the relevant part of the development, the following information shall be submitted to and approved in writing by the Local Planning Authority:

- Detailed drawings 1:50 and 1:10 of a hard and soft landscaping scheme showing the treatment of all parts of the site not covered by buildings and roof terrace areas (including boundary treatments, surfacing materials of any parking, access, or pathways layouts, materials and edge details and material samples of hard landscaping);
- Planting schedules;
- Biodiverse roof strategy
- Species mix;
- Hard landscape details including gates, bollards, means of enclosures
- Details including plans, elevations and specifications of the play equipment to be provided.

The planting, seeding and/or turfing shall be carried out as approved in the first planting season following completion of building works comprised in the development and any tree or shrub that is found to be dead, dying, severely damaged or diseased within two years of the completion of the building works OR two years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season. Planting shall comply to BS:4428 Code of practice for general landscaping operations, BS:3996 Nursery stock specification, BS:5837 Trees in relation to construction and BS:7370 Recommendations for establishing and managing grounds maintenance organisations and for design considerations related to maintenance. All other works including hard surface materials and play equipment shall be carried out and completed prior to the occupation of any part of the development.

Reason: In order that the Local Planning Authority may ensure that the design and details are of high quality.

### **40. Overheating**

Before the construction of the façades of the development an assessment of the internal temperature in summer of the development, to demonstrate compliance with the requirements of Building Regulations Part L using the method of calculation set out in SAP appendix P, shall be submitted to the Local Planning Authority. The assessment shall include details of any mitigation measures that are proposed to be used to reduce overheating, which shall include without limitation and where appropriate design of the façades; provision of ventilation; and internal layout. The mitigation measures shall be approved in writing by the Local Planning Authority. Following approval of the mitigation measures the building shall be constructed in accordance with the approved details and maintained in this condition thereafter, unless other minor variations are agreed in writing by the Local Planning Authority.

Reason: To ensure a comfortable level of amenity for residents of the development and in the interests of visual amenity.

#### **41. Photovoltaics**

Prior to the installation of the photovoltaic (PV) panels full details of the PV panels and a strategy for their installation on site shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details. The approved details shall be implemented prior to the first use of the building and shall thereafter be permanently maintained to the satisfaction of the Local Planning Authority.

Reason: To ensure that the development meets a high standard of sustainable design and construction and incorporates renewable technologies.

#### **42. Maintenance Strategy**

The development shall not be occupied until a Maintenance Strategy has been submitted to an approved in writing by the Local Planning Authority. The Maintenance Strategy shall confirm the roles and responsibilities for maintenance within the development and who will carry out maintenance duties. The Maintenance Strategy shall detail how the following areas will be maintained:

- Ground floor courtyard;
- Third floor communal outdoor terraces;
- Roof terrace, including access to the terrace;
- Planted deck

The development shall be carried out in accordance with the approved Maintenance Strategy.

Reason: To ensure that the development maintains a high quality environment for the enjoyment of residents and commercial tenants.

### **PERMITTED DEVELOPMENT**

#### **43. Land Use**

Notwithstanding the provisions of the Town and Country Planning Use Classes Order (or any order revoking and re-enacting that Order with or without modification), the Light Industrial Employment Floorspace within Use Class B1(c) hereby approved shall only be used for that purpose.



Reason: To ensure the protection of light industrial floorspace

## INFORMATIVES

1. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

## Proactive and Positive Statement

In accordance with the National Planning Policy Framework and with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the following statement explains how the LLDC as Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with this planning application:

Following submission of the planning application to LLDC, the local planning authority continued to work with the applicant in a positive and proactive manner. The planning application complies with planning policy as stated above and was determined in a timely manner.

The applicant has been kept informed of the progress of the application and has been given the opportunity to respond to and address any problems arising.

Dated this: **XX-XXX-2018**

**Anthony Hollingsworth**

Director of Planning Policy and Decisions  
London Legacy Development Corporation

## London Legacy Development Corporation

### Town and Country Planning Act 1990 (as amended)

#### Appeals to the Secretary of State

- \* If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State for Communities and Local Government under Section 78 of the Town and Country Planning Act 1990 (as amended).
- \* If you want to appeal then you must do so within **SIX months** of the date of this notice (unless your proposal relates to a householder appeal or minor commercial appeal as defined in Article 37 of the DMPO 2015 in which case you must do so within **TWELVE weeks** of the date of this notice), using a form, which is available from the Planning Inspectorate, (a copy of which must be sent to London Legacy Development Corporation Planning Policy and Decisions Team) or complete an application online. The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (e-mail: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk) ) or (Tel: 0117 372 8000).

To make an appeal online, please use [www.gov.uk/appeal-planning-inspectorate](http://www.gov.uk/appeal-planning-inspectorate). The Inspectorate will publish details of your appeal on the internet. This may include copies of documentation from the original planning application and relevant supporting documents supplied to the local authority, and or information, including personal information belonging to you that you are happy will be made available in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.

- \* The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of appeal.
- \* The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.
- \* In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

#### Purchase Notice

- \* If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by carrying out any development which has been or would be permitted.
- \* In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with Part VI of the Town and Country Planning Act 1990.