

DATED 21 July 20212

(1) LONDON LEGACY DEVELOPMENT CORPORATION

(2) SOUTHERN HOME OWNERSHIP LIMITED

**SECTION 106A AGREEMENT
DEED OF VARIATION**
relating to the development of land at 1-7 Dace Road, Fish
Island, London E3 2NG
Supplemental to Agreement dated 25 January 2018



Pinsent Masons

THIS DEED is made on

21 July

2021 2

BY:-

Level 9, 5 Endeavour Square, Stratford, London

(1) **LONDON LEGACY DEVELOPMENT CORPORATION** of ~~Level 10, 1 Stratford Place, Montfichet Road, London E20 1EJ~~ (the "LPA"); and *E20 1JN*

*Pinebank
Mansions
LLP*

(2) **SOUTHERN HOME OWNERSHIP LIMITED** (Registered Society Number 18521R) whose registered office is at Fleet House, 59-61 Clerkenwell Road, London EC1M 5LA (the "**Applicant**").

WHEREAS:-

- (A) By virtue of the London Legacy Development Corporation (Planning Functions) Order 2012 (effective from 1 October 2012 and made pursuant to powers, inter alia, in the 2011 Act) the Local Planning Authority is the local planning authority for the Site for the purposes of Part 3 of the 1990 Act and is the local planning authority by whom the obligations contained in this Deed are enforceable.
- (B) The Applicant has a freehold interest in the Site registered at the Land Registry with Title Numbers AGL462322 and AGL462323.
- (C) Planning permission was granted by the LPA on 25 January 2018 in respect of the Site under reference number 16/00462/FUL ("**Existing Permission**").
- (D) The Applicant submitted an application to the LPA seeking amendments to schedule 1 (affordable housing) and schedule 6 (sustainability) of the Principal Agreement and allocated reference number 19/00308/DOV ("**Variation Application**").
- (E) The Applicant submitted an application to the LPA seeking a non-material amendment to the Existing Permission pursuant to section 96A of the 1990 Act to vary the wording of Condition 32 (Renewable Energy) and allocated reference number 19/00294/NMA ("**NMA Application**").
- (F) The LPA, Dace Road LLP, Alami International Limited and National Westminster Bank PLC have previously entered into the Principal Agreement in order to secure the planning obligations contained within the Principal Agreement.
- (G) The LPA and the Applicant have agreed to vary the Principal Agreement in the manner set out in clause 4 and Schedule 1 of this Deed.
- (H) This Deed is supplemental to and varies the Principal Agreement.
- (I) The LPA and the Applicant have agreed to enter into this Deed in order to secure the planning obligations contained in it pursuant to the provisions of Section 106 and Section 106A of the 1990 Act, Section 111 of the Local Government Act 1972, Section 2 of the Local Government Act 2000, Section 1 of the 2011 Act and all other enabling powers.
- (J) The LPA and the Applicant agree that the obligations contained in this Deed meet the three tests for planning obligations as set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

1. INTERPRETATION

In this Deed:-

- 1.1 "**the Principal Agreement**" means the s106 agreement dated 25 January 2018 between the LPA, Dace Road LLP (Company Number OC400614), Alami International Limited (Company Number 01149214) and National Westminster Bank PLC (Company Number 00929027);
- 1.2 terms and expressions defined in the Principal Agreement shall have the same meaning in this Deed unless otherwise provided;

- 1.3 any reference to an enactment includes any amendment to or modification of it and the version of it for the time being in force shall apply;
- 1.4 headings in this Deed are for convenience only and shall not be taken into account in its construction and interpretation;
- 1.5 references to clauses sub-clauses and schedules are references to clauses sub-clauses and schedules in this Deed save where the context provides otherwise;
- 1.6 where the context so requires:-
 - 1.6.1 the singular includes the plural and vice versa;
 - 1.6.2 the masculine includes the feminine and vice versa; and
 - 1.6.3 persons includes bodies corporate associations and partnerships and vice versa;
- 1.7 where a party comprises more than one person the obligations and liabilities of that party shall be joint and several obligations and liabilities of those persons;
- 1.8 where more than one party enters into any obligation or liability those parties are jointly and severally liable;
- 1.9 words denoting an obligation on a party to do any act, matter or thing include an obligation to procure that it is done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of this restriction;
- 1.10 references to any party shall include their respective successors in title and assigns.

2. LEGAL EFFECT

This Deed is made pursuant to the provisions of Section 106 and Section 106A of the 1990 Act, Section 111 of the Local Government Act 1972, Section 2 of the Local Government Act 2000, Section 1 of the 2011 Act and all other enabling powers.

3. PLANNING OBLIGATION INCORPORATING THE PRINCIPAL AGREEMENT

- 3.1 This Deed shall take effect on the date hereof.
- 3.2 The Applicant agrees to observe and perform all of the covenants agreements restrictions and obligations on the part of the Applicant and the Owner contained in the Principal Agreement subject to this Deed.
- 3.3 The Applicant agrees that the covenants and obligations contained in the Principal Agreement are to continue in full force and effect except as expressly varied by this Deed.

4. MODIFICATION

- 4.1 The Applicant agrees that from the date of this Deed the Principal Agreement shall be varied as set out at Schedule 1 of this Deed.
- 4.2 Except as expressly varied by this Deed the Principal Agreement shall remain in full force and effect.

5. LEGAL FEES

The Applicant agrees that they will on completion of this Deed pay the LPA's legal costs reasonably and properly incurred in the negotiation and completion of this Deed (inclusive of any such reasonable costs properly incurred by external lawyers appointed by the LPA in relation to the negotiation and completion of this Deed).

6. **THIRD PARTY RIGHTS**

This Deed gives no rights under the Contract (Rights of Third Parties) Act 1999 but this does not affect any rights which are available apart from that Act and it may be enforced by the successors in title of the parties and by any successor to the Council's statutory functions.

7. **NO WAIVER**

No alteration in the terms of this Deed nor any forbearance or forgiveness on the part of the LPA in or in the extent or nature of any matter or thing concerning this Deed shall in any way release the Applicant from any liability under this Deed.

8. **NO FETTER**

Nothing in this Deed shall prejudice or affect the rights powers duties and obligations of the LPA in the exercise of its functions in any capacity.

9. **JURISDICTION**

This Deed is governed by and interpreted in accordance with the law of England.

10. **DELIVERY**

The provisions of this Deed shall be of no effect until this Deed has been dated.

SCHEDULE 1

VARIATIONS TO THE PRINCIPAL AGREEMENT

1. SCHEDULE 1 – AFFORDABLE HOUSING

1.1 The definition of 'Model Form of Lease' in Schedule 1 shall be amended by adding the words 'or any successor body' after the words 'published by the HCA'.

1.2 Paragraph 3.1 of Schedule 1 shall be deleted and replaced as follows:

3.1 Not less than 50 (fifty) Residential Units shall be provided as Affordable Housing Units to be situated in Block B of the Development.

1.3 Paragraph 3.2 of Schedule 1 shall be deleted and replaced as follows:

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

	1 bed/2 person units	2 bed/4 person units	3 bed/5 person units	Total number of units
Intermediate Units Shared Ownership	15	10	5	30
Affordable Rented Housing Units	10	5	5	20

2. SCHEDULE 2 – VIABILITY REVIEW

2.1 The definition of "Deferred Affordable Housing Units" shall be deleted and replaced as follows:

"Deferred Affordable Housing Units" means Affordable Housing to be provided as part of the Development in addition to the 50 Affordable Housing Units to be provided pursuant to Schedule 1 of this Agreement up to a maximum of 5 Residential Units (in addition to the 50 secured by Schedule 1) in accordance with the Deferred Affordable Housing Scheme

2.2 The definition of "Deferred Affordable Housing Payment" shall be deleted and replaced as follows:

"Deferred Affordable Housing Payment" 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 50 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 July 2020) to be agreed between the Developer and the LPA or determined by the Specialist

3. SCHEDULE 6 – SUSTAINABILITY

3.1 The following definition shall be added to Schedule 6:

Carbon Offset Contribution means a financial contribution of £203,740.80 (two hundred and three thousand and seven hundred and forty pounds and eighty pence) which shall be paid in accordance with paragraph 2 of this Schedule 6

3.2 A new paragraph 5 shall be added to Schedule 6 and will read as follows:

5. CARBON OFFSET CONTRIBUTION

*CAPSTICKS
Ancient Masons LLP* 5.1 Further to the satisfaction of the obligation at paragraph 2.5 of Schedule ~~5~~⁶, the Developer shall pay the Carbon Offset Contribution prior to Occupation of the Development.

*CAPSTICKS
LLP
Ancient Masons LLP* ~~4.2~~ 5.2 The Development shall not be Occupied until the Carbon Offset Contribution has been paid to the LPA.

IN WITNESS whereof the parties hereto have executed this Deed as a deed the day and year first before written.

EXECUTED as a Deed by affixing the)
common seal of **LONDON LEGACY**)
DEVELOPMENT CORPORATION)
in the presence of:-)



.....
Authorised signatory



#4639

EXECUTED as a Deed by **SOUTHERN**)
HOME OWNERSHIP LIMITED acting by:-)



SORS



.....
Director

NO Adams

.....
Director/Secretary