

DATED 29 December 2015

(1) LONDON LEGACY DEVELOPMENT CORPORATION

(2) PEABODY ENTERPRISES LIMITED

MODIFICATION AGREEMENT

pursuant to section 106 and section 106A of
the Town and Country Planning Act 1990 and other powers
relating to Monier Road, Fish Island



Pinsent Masons

BETWEEN:

- (1) **LONDON LEGACY DEVELOPMENT CORPORATION** of Level 10, 1 Stratford Place, Montfichet Road, London, E20 1EJ (the "**LLDC**");
- (2) **PEABODY ENTERPRISES LIMITED** (Company Number 04190129) of 45 Westminster Bridge Road, London SE1 7JB (the "**Developer**");

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 is the owner of the freehold interest in the Site registered at the Land Registry with Title Number EGL481675.
- (C) This Deed is supplemental to an agreement dated 25 March 2014 made pursuant to section 106 of the 1990 Act and other relevant powers between (1) the LLDC (2) Budala Limited (3) Cheryl Roberts (4) Guilio Piacquadio and Giovanna Piacquadio and (5) Ziffmell Limited (the "**Original Agreement**").
- (D) On 25 March 2014 the LLDC granted Planning Permission for the Development and Budala Limited, Cheryl Roberts, Guilio Piacquadio and Giovanna Piacquadio and Ziffmell Limited entered into the Original Agreement with the LLDC.
- (E) The Developer acquired the freehold interest in the Site under a transfer dated 8 May 2014.
- (F) The Developer submitted an application under S96A of the 1990 Act for non-material amendments to the Planning Permission on 31 March 2015 (the "**S96A Application**"). The LLDC granted permission for the S96A Application on 23 October 2015.
- (G) LLDC and the Developer have agreed to enter into this Deed to vary the terms of the Original Agreement.

1. LEGAL EFFECT

- 1.1 This Deed is made pursuant to sections 106, 106A(1)(a) and 106A(2) of the 1990 Act, section 16 of the 1974 Act and all other relevant powers with the effect that the planning obligations and covenants contained in the Original Agreement are modified by this Deed to the extent expressly stated herein and shall be enforceable by the LLDC as local planning authority and the Council as if such provisions were provisions of the Original Agreement subject to the terms of this Deed.
- 1.2 The obligations undertakings and covenants on the part of the Developer in this Deed are planning obligations made pursuant to and for the purposes of section 106 of the 1990 Act and other relevant powers and the said obligations undertakings and covenants are entered into with the intent that they shall be enforceable by the LLDC and/or the Council (as appropriate) 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 it an interest or estate in the Site as if that person had been an original covenanting party in respect of the Site.

1.3 Subject to the modifications in this Deed the Original Agreement will remain in full force and effect and shall be enforceable by the LLDC as local planning authority and by the Council by virtue of their powers referred to in the Original Agreement.

2. DEFINITIONS

2.1 Save where expressly stated otherwise, words and expressions used in this Deed including the Recitals shall have the same meaning as defined in the Zone 1 Agreement.

2.2 Unless the context otherwise requires, references in this Deed to "the parties" shall mean the parties to this Deed.

2.3 Where in this Deed the following defined terms are used they shall have the following meanings:

"Deed" means this deed of variation;

"Original Agreement" means the agreement made under Section 106 of the Act by (1) the LLDC (2) Budala Limited (3) Cheryl Roberts (4) Guilio Piacquadio and Giovanna Piacquadio and (5) Ziffmell Limited on 25 March 2014;

3. MODIFICATION OF THE ORIGINAL AGREEMENT

3.1 The parties agree that with effect from the date of this Deed the Original Agreement shall be modified so that:

3.1.1 The annexed site plan marked "Plan 1" is replaced by the New Plan 1, attached hereto at Annex 1.

3.1.2 Reference to '4 bed/7 person units' within the table heading at paragraph 2.3 of Schedule 1 shall be replaced with reference to '4 bed/6 person units'

3.1.3 Schedule 3 is replaced by the New Schedule 3, attached hereto at Annex 2.

3.1.4 Schedule 4 is replaced by the New Schedule 4, attached hereto at Annex 3.

3.1.5 Schedule 6 is replaced by the New Schedule 6, attached hereto at Annex 4.

4. THIRD PARTIES

No term of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Deed.

5. EXECUTION

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

6. LEGAL COSTS

6.1 The Developer agrees that it will pay the LLDC's reasonable legal costs properly incurred in the negotiation and completion of this Deed (inclusive of any such reasonable costs properly incurred by external lawyers appointed by the LLDC in relation to the negotiation and completion of this Deed) up to a maximum of £2,500 exclusive of VAT within 14 days of receiving an invoice in relation to the same.

7. **JURISDICTION**

7.1 This Deed is governed by and shall be implemented in accordance with the law of England.

7.2 Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to hear and decide any suit, action or proceedings, and/or settle any disputes, which may arise out of or in any way relate to this Deed or its formation and, for these purposes, each party irrevocably submits to the jurisdiction of the courts of England.

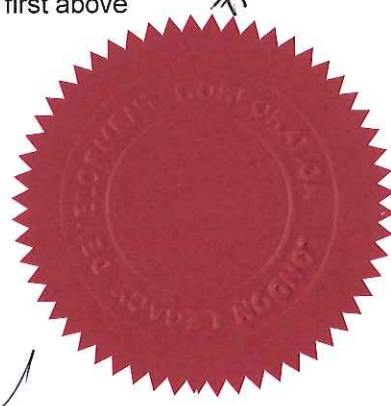
IN WITNESS whereof the parties have executed this Agreement the day and year first above written

#1681

EXECUTED as a deed by affixing the
Common Seal of **LONDON LEGACY**
DEVELOPMENT CORPORATION

in the presence of: -

)
)
)
)
)



[Handwritten signature]

.....

Authorised Signatory

EXECUTED as a deed by **PEABODY**
ENTERPRISES LIMITED acting by

[Handwritten signature]

.....

Director



[Handwritten signature]

.....

Director/Secretary

ANNEX 1

NEW PLAN 1



NEPTUNE WHARF
(Emerging context)

WYKE ROAD

AOD +20.20

MONIER ROAD

ROACH ROAD

AOD +20.80

1 SMEED ROAD DEVELOPMENT
(Emerging context)

(A) Proposed Site Layout



PITMAN TOZER ARCHITECTS

117 Great Western Studios
65 Alfred Road
London W2 5EU

tel: 020 3214 3255
mail@pitmantozer.com
www.pitmantozer.com

General Notes

1. This drawing and/or copyright of Pitman Tozer Architects Limited and may not be reproduced or copied without consent in writing.
2. Do not scale drawings for fixed dimensions only.
3. Any discrepancies between the text and drawings shall be reported to the architect in writing.
4. Field of view shown with all relevant structural and mechanical & electrical engineering drawings.
5. Dimensions are given in meters unless otherwise stated on the drawing.
6. Building levels shown are approximate and should not be used for the purpose of accessibility and provisions in the building.

Revisions
A 31.03.15
B 3.04.15

Revised for Statutory Consent
To be shown on the B and C sections of the plot book

Other notes:
Existing context based on previous planning and construction drawings by other architects dated 11.03.15, 12.03.15, 16.03.15, 17.03.15, 18.03.15, 19.03.15, 20.03.15, 21.03.15, 22.03.15, 23.03.15, 24.03.15, 25.03.15, 26.03.15, 27.03.15, 28.03.15, 29.03.15, 30.03.15, 31.03.15, 01.04.15, 02.04.15, 03.04.15, 04.04.15, 05.04.15, 06.04.15, 07.04.15, 08.04.15, 09.04.15, 10.04.15, 11.04.15, 12.04.15, 13.04.15, 14.04.15, 15.04.15, 16.04.15, 17.04.15, 18.04.15, 19.04.15, 20.04.15, 21.04.15, 22.04.15, 23.04.15, 24.04.15, 25.04.15, 26.04.15, 27.04.15, 28.04.15, 29.04.15, 30.04.15, 01.05.15, 02.05.15, 03.05.15, 04.05.15, 05.05.15, 06.05.15, 07.05.15, 08.05.15, 09.05.15, 10.05.15, 11.05.15, 12.05.15, 13.05.15, 14.05.15, 15.05.15, 16.05.15, 17.05.15, 18.05.15, 19.05.15, 20.05.15, 21.05.15, 22.05.15, 23.05.15, 24.05.15, 25.05.15, 26.05.15, 27.05.15, 28.05.15, 29.05.15, 30.05.15, 31.05.15, 01.06.15, 02.06.15, 03.06.15, 04.06.15, 05.06.15, 06.06.15, 07.06.15, 08.06.15, 09.06.15, 10.06.15, 11.06.15, 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ANNEX 2

NEW SCHEDULE 3

SCHEDULE 3

TRAVEL PLAN

DEFINITIONS

"Initial Monitoring Period"	means six months after first Occupation until 36 months after first Occupation of the final Building to be Completed;
"Modal Split Targets"	means the modal split targets identified in the Approved Travel Plan;
"Sustainable Transport Measures"	means measures to promote sustainable transport and encourage behavioural change (which may include the provision of physical infrastructure in order to encourage greater travel by walking and cycling) PROVIDED THAT such measures are in accordance with the requirements of regulation 122(2) of the Community Infrastructure Levy Regulations 2010;
"Travel Plan"	means the travel plan to be submitted to the LPA for Approval pursuant to paragraph 1 of this Schedule;
"Travel Plan Monitoring"	means monitoring of the Travel Plan by carrying out the following monitoring of travel to and from the Development which shall as a minimum include the following: <ol style="list-style-type: none">1. carrying out representative surveys of the modal split of visitors to the Development (including staff) together with details of where those who have travelled by vehicle (for all or part of their journey) have parked;2. monitoring of the usage of the car parking which is available for use in the Development;3. monitoring of the usage of cycle parking facilities by visitors to, and employees of, the Development;
"Travel Plan Monitoring Officer"	means a person appointed by the Developer to monitor and promote the success in meeting the targets set out in the Travel Plan;
"Travel Plan Monitoring Report"	a report setting out the data and information gathered during the Travel Plan Monitoring undertaken during the Travel Plan Review Period and such report shall include: <ol style="list-style-type: none">1. details of trip generation rates;2. details of mode share and change in mode share over time;3. details of how effectively the Travel Plan has operated within the previous period;

4. any data and information necessary for the purposes of determining whether or not the Modal Split Targets have been achieved; and
5. (where the objectives and/or targets specified in the Travel Plan have not been met) a proposed revision to the Travel Plan for Approval by the LPA setting out additional and/or enhanced measures to bridge any shortfall in achieving the objectives and targets of the Travel Plan together with a timetable for implementing such measures;

"Travel Plan Review Period"

means initially the period of 6 months commencing on first Occupation of a Residential Unit and thereafter annually on a rolling basis.

1. TRAVEL PLAN

1.1 The Development shall not Commence, save for demolition works, until:

1.1.1 a Travel Plan has been submitted to and Approved by the LPA;

1.1.2 the Developer has appointed a Travel Plan Monitoring Officer and notified the LPA of the name and contact details of such officer.

1.2 The Travel Plan shall contain separate measures, commitments, targets and plans for the residential and commercial uses authorised by the Planning Permission.

1.3 The Travel Plan to be submitted pursuant to paragraph 1.1 shall:

1.3.1 comply with TfL 'Travel Planning for new development in London' or such other best practice guidance as shall apply at the date of submission of the Travel Plan;

1.3.2 contain clear commitments to measures, including investigation of potential additional measures;

1.3.3 set out a clear process for review, consultation and approval of changes (and specifically targets) with the LPA;

1.3.4 have obtained a 'Passed' score in the online Travel Plan assessment tool 'ATTRBUTE';

1.3.5 contain measures aimed at:

(a) positively influencing the travel behaviour of residents, employees and other users of the Development by promoting alternative travel modes to the car including initiatives to reduce reliance on the car and over time reduce car parking On Site;

(b) encouraging travel by cycle, on foot and by public transport by highlighting their accessibility, availability and reviewing cycle parking space demand and use and set out measures for providing additional cycle parking spaces should further demand arise;

- (c) setting out how monitoring travel surveys will be undertaken which cover all employees within the Development.
- 1.3.6 include a parking review plan which sets out:
 - (a) a strategy for periodic review of the parking spaces;
 - (b) a strategy for periodic review of blue badge parking spaces to ensure that 1 x space is provided for each employee who is a disabled motorist in line with London Plan policy.
- 1.3.7 include a car parking management plan which sets out:
 - (a) principles for allocating car parking spaces for staff and enforcement of allocated spaces;
 - (b) principles for the prevention of unauthorised parking Off Site which could affect performance of the local highway network.
- 1.4 The Developer shall implement the Approved Travel Plan during the life of the Development and shall include provisions in any lease or licence of any non-residential unit requiring any Occupier of such unit to comply with the Travel Plan and any amendments thereto.
- 1.5 No Development shall be Occupied other than in accordance with the Approved Travel Plan and any amendments thereto.
- 2. **TRAVEL PLAN MONITORING**
- 2.1 In order to monitor the effectiveness of the Travel Plan the Developer shall during the relevant Initial Monitoring Period carry out the Travel Plan Monitoring.
- 2.2 During the Initial Monitoring Period the Developer shall prepare and submit to the LPA for Approval a Travel Plan Monitoring Report by not later than 42 days after the end of each Travel Plan Review Period.
- 2.3 Prior to the submission of a report referred to in paragraph 2.2 the Developer shall agree the structure of that report with the LPA.
- 2.4 Following the expiry of the Initial Monitoring Period the Developer shall continue the Travel Plan Monitoring and either paragraph 2.5 or paragraph 2.6 of this Schedule shall apply.
- 2.5 If the Travel Plan Monitoring Report that is submitted to the LPA during the final year of the Initial Monitoring Period shows that the Modal Split Targets in the Travel Plan have been achieved then the Developer shall prepare a Travel Plan Monitoring Report on the third anniversary of the expiry of the relevant Initial Monitoring Period and subsequently every three years thereafter.
- 2.6 If the Travel Plan Monitoring Report that is submitted to the LPA during the final year of the Initial Monitoring Period Plan shows that any of the Modal Split Targets in the Travel Plan have not been achieved then the Developer shall prepare a Travel Plan Monitoring Report in accordance with a timetable specified by the LPA **PROVIDED THAT** the LPA shall not require the Developer to prepare a Travel Plan Monitoring Report more than once a year.
- 2.7 The Travel Plan Monitoring Reports that the Developer is required to prepare pursuant to either paragraphs 2.5 or 2.6 of this Schedule shall be submitted to the LPA for Approval within 42 days of the date by which they are required to be prepared.

2.8 If any Travel Plan Monitoring Report includes a revised Travel Plan for Approval by the LPA the Developer shall implement the revised Travel Plan as Approved so that it is in place and operational as soon as reasonably practicable after the LPA's Approval of the same.

3. **MODAL SPLIT TARGETS**

3.1 If any Travel Plan Monitoring Report ("**First Monitoring Report**") shows that any of the Modal Split Targets in the Travel Plan have not been achieved the Developer shall in the First Monitoring Report identify Sustainable Transport Measures that it can implement with the aim of seeking to achieve the Modal Split Targets in the Travel Plan which shall include a timetable for the implementation of such Sustainable Transport Measures.

3.2 The Developer shall implement the Sustainable Transport Measures that are set out in any First Monitoring Report in accordance with the timetable set out therein as Approved by the LPA.

3.3 If the Travel Plan Monitoring Report for the year immediately following the First Monitoring Report shows that any of the relevant Modal Split Targets are not being achieved the Developer shall repeat the process set out in paragraphs 3.1 and 3.2 of this Schedule for that year and each subsequent year until the Modal Split Targets are achieved.

ANNEX 3

NEW SCHEDULE 4

SCHEDULE 4

ESTATE MANAGEMENT

DEFINITIONS

- "Common Areas"** means:
1. all private roads, shared surfaces, car parks and pedestrian and/or cycle routes within the Development which have not been adopted by the local highways authority pursuant to its powers under the 1980 Act at the date that the Estate Management Strategy is submitted;
 2. all areas within any Building which are used in common by Occupiers and users of such Buildings
- "Estate Management Strategy"** means the site wide estate management strategy secured by Condition;
- "Fish Island"** means the areas known as Fish Island North and Fish Island Mid shown edged orange and brown respectively on Plan 3;
- "Fish Island Consultees"** means the owners and occupiers of Fish Island;
- "SUDS Infrastructure"** means any sustainable urban drainage system comprised within the Development

1. SITE WIDE ESTATE MANAGEMENT STRATEGY

- 1.1 No Building shall be Occupied until an Estate Management Strategy has been submitted to the LPA for Approval. The Estate Management Strategy shall set out detailed proposals for the following:
- 1.1.1 the management and maintenance (including funding thereof) of:
 - (a) Common Areas; and
 - (b) any SUDS Infrastructure (unless and until such infrastructure is adopted by the relevant authority);
 - 1.1.2 the establishment of an estate management body, its composition (including On Site residential occupier and On Site commercial occupier representatives) and responsibilities;
 - 1.1.3 management and co-ordination of waste collection and recycling on a site wide basis;
 - 1.1.4 liaison, consultation and co-ordination with other strategies, frameworks, plans and statements required by this Agreement and the Planning Permission; and
 - 1.1.5 the appointment, scope and responsibilities of an estate management body appointed to engage with the Off Site communities, including the Fish Island Consultees.

1.2 No Building shall be Occupied before the Estate Management Strategy has been Approved by the LPA and the estate management body specified in the Estate Management Strategy has been established.

ANNEX 4

NEW SCHEDULE 6

SCHEDULE 6

SUSTAINABILITY

DEFINITIONS

- "District Energy Network" means the Olympic Park district energy network;
- "On Site CHP Plant" means gas boilers and a combined heat and power plant to be located On Site within a central plant room.

1. DISTRICT HEATING NETWORK

- 1.1 The Developer shall:
- 1.1.1 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
 - 1.1.2 provide a written report to the LPA prior to the Commencement of Development, save for demolition works, outlining the steps the Developer has taken to satisfy the obligation in paragraph 1.1.1 above and the progress made towards securing the extension and connection.
- 1.2 If the report submitted pursuant to paragraph 1.1.2 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 submit to the LPA for Approval details of an On Site CHP Plant.
- 1.3 No Development shall be Commenced, save for demolition works, until either:
- 1.3.1 the report submitted pursuant to paragraph 1.1.2 confirms to the LPA's satisfaction that it will be possible to connect all Buildings to the District Energy Network; or
 - 1.3.2 the LPA has approved the details of an On Site CHP Plant pursuant to paragraph 1.2.
- 1.4 No Building shall be Occupied unless and until it is connected to either the District Heating Network or the Approved On Site CHP Plant.

2. REDUCTION OF ENERGY DEMAND

- 2.1 The Developer shall use Reasonable Endeavours to encourage Occupiers of the Development to reduce their energy usage which shall include (without limitation):
- 2.1.1 dissemination of marketing materials and the provision of education and training (including tips and advice) on energy saving methods;
 - 2.1.2 the promotion of the use of energy efficient appliances; and
 - 2.1.3 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).