

DEVELOPMENT PARTNERSHIP AGREEMENT DATED 28 APRIL 2014 MADE BETWEEN THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF SOUTHWARK (1) AND NOTTING HILL HOUSING TRUST (2) RELATING TO THE SALE AND DEVELOPMENT OF THE AYLESBURY ESTATE, SOUTHWARK

The Development Partnership Agreement (DPA), between the council and Notting Hill Housing Trust (NHHT), was executed on 28th April 2014. Since that date, a number of changes to the DPA have been made through a series of deeds of variation. The first deed of variation to amend the DPA was executed on 10th August 2015. It effected a number of minor amendments to the DPA as follows:

1. The amendments provided for NHHT to commence above ground demolition on behalf of the council under the DPA and infrastructure works under licence as opposed to under a building lease and for the demolition to commence on blocks as they become vacant rather than at vacant possession of a full phase;
2. The amendments also clarified the development management provisions around the council works through which NHHT will deliver the new community facilities at plot 18;
3. Finally, the amendments allowed for the council to grant building leases to a group company of Notting Hill, subject to a parent company guarantee.

A second deed of variation to amend the DPA was executed on 28th November 2016. The second deed of variation made the following amendments:

1. A number of changes were introduced to facilitate the commencement of above ground demolition, with the option to also include enabling service diversions and below ground demolition, at both the First Development Site (FDS) and Plot 18, including:
 - Amendments to enable FDS demolition to be undertaken on a phased basis, allowing commencement of existing vacant buildings, with provisions within the demolition contract for further blocks to be instructed at pre-agreed prices as and when they become available.
 - Provision for the council to fund the cost of demolition works and associated fees, including NHHT management fee, rather than such costs simply being deducted from future land payments, as originally envisaged. Any costs met associated with below ground demolition works are to be reimbursed to the council by NHHT upon the future grant of building leases for the FDS, under which the development works would take place.
 - Given that demolition works trigger the liability for payment of any Community Infrastructure Levy (CIL) associated with the development, under the amendments, the council indemnifies NHHT against the costs of CIL resulting from commencement of demolition works, with NHHT under obligation to reimburse the council at the grant of building lease.
 - Changes to the triggers for payment of the Plot 18 infrastructure fee such that payments milestones are linked to the grant of building leases, under which FDS development works will take place, and not triggered by commencement of demolition works.
2. A number of changes to clarify delivery arrangements specifically in relation to the delivery of the new Approved Premises Facility (APF), replacement facility for Ellison House, including:

- Specific provisions to allow for NHHT to undertake the delivery of the APF, including both procuring a design team and procuring build contractors, on behalf of the council; and
 - Confirming obligations on the council to fund the costs of design development and construction works associated with the delivery of the APF, including any CIL liable, plus a development management fee.
3. A number of financial arrangements regarding the development and submission of the reserved matters Planning application for Plot 18, including:
 - that the council funds its share of the cost of design development of the plot 18 planning application; and
 - that the council underwrites NHHT's share of the cost of the design development of the plot 18 planning application.
 4. A number of amendments through which the council underwrites costs incurred by NHHT in relation to design development for Phase 2. The underwriting is up to a cap of £2m and can be called upon in certain specified circumstances. Where payment is requested, NHHT would be obliged to transfer all designs, surveys and reports relating to Phase 2 to the council and Phase 2 would be removed from the DPA.

A third deed of variation to amend the DPA was executed on 9th June 2017. The third deed of variation makes a number of changes to the original DPA, under the provisions of the existing agreement (clause 22.11), to accommodate the protracted programme for securing vacant possession; resulting from the extended CPO process. The third deed of variation introduced the following changes:

1. Amendment to the definition of public sector funding, to exclude GLA affordable housing grant subsidy received in relation to FDS or Plot 18, to ensure that grant applied is retained within the scheme to directly support the delivery of affordable housing.
2. Changes to the milestone and longstop dates within the DPA to reflect the revised delivery programme for the FDS resulting from the protracted programme for securing vacant possession, resulting from the judicial review process and additional public inquiry. The amended delivery dates reflect the revised strategy for bringing forward the FDS in a phased demolition and delivery basis, and the wider impact on the overall programme. Due to the strategic importance of delivering community facilities on the estate, delivery dates are also added for delivery of Plot 18 on a standalone basis.
3. Amendments to the timing of the Plot 18 infrastructure payment resulting from the revised programme for delivery of full vacant possession of the FDS and the relative acceleration of Plot 18.
4. Amendments to the arrangements for reimbursement by NHHT of costs associated with below ground demolition works to exclude any additional costs relating from further slippage on the FDS vacant possession programme.
5. Simplification of the sales overage period and amendments to the related financial provisions to address additional costs associated the revised development programme, such as costs associated rephasing, delivery in stages and associated build cost inflation.

June 2017