

LB Haringey – Hornsey Town Hall

Summary of key provisions of the Development Agreement dated 8th February 2017 made between LB Haringey (“the Council”) (1) Crouch End (FEC) Limited (“the Developer”) (2) and Far East Consortium International Ltd (“the Guarantor”) (3)¹

Key Issue	Relevant Provision(s) in the DA	Details
Community Engagement Strategy	Clause 5	<p>The Parties are required to work together and fully co-operate with each other to agree and thereafter implement the Community Engagement Strategy and to secure liaison with a community working group throughout the building works .</p> <p>The “Community Engagement Strategy” for these purposes is defined as being the fully developed strategy for liaising with stakeholders and the wider community in relation to the agreed development scheme and being based on the principles set out in the Developer’s original tender.</p> <p>Stakeholders in turn means all stakeholders having an interest in the development site including, but without limitation, those stakeholders as notified by the Council to the Developer and to be included in the consultation programme.</p>
Development and Phasing Programme	Schedule 7, Clause 6.2 and paragraphs 16.2 and 21.2 of Schedule 4	<p>The Developer’s detailed development and phasing programme for the whole of the development is appended to the DA at Schedule 7 and can only be varied going forward in very limited circumstances and then only with the Council’s prior written consent as follows:-</p> <ul style="list-style-type: none"> ➤ To take into account any extension of time granted to the Developer attributable to the occurrence of a Delaying Factor (clause 6.2.2) ; or ➤ Any other variations that may be requested by the Developer <p>“Delaying Factors” for these purposes are specifically defined in the DA (clause 1.1) and specifically include any failure/delay by the Council promptly to comply with its obligations under the DA, any extensions of time properly granted to the building contractor under the building contract to the extent not caused/contributed to by the Developer and Force Majeure.</p>

¹ For the purposes of this summary, only the remaining on-going obligations of the respective parties have been reflected and not any of the provisions relating to satisfaction of the conditions precedent or the grant of the Leases on the basis the DA is now unconditional and the relevant long leases have been formally completed

		<ul style="list-style-type: none"> ➤ If PC of the works to the Town Hall hasn't occurred by the relevant date shown in the Development and Phasing Programme (as extended by any Delaying Factor), the Council will be entitled to claim LADs at the rate of £10,000/week ➤ Save as mentioned above specifically in relation to the Town Hall works, the Council will not be entitled to claim damages for any other delays to the building works <p>The Development and Phasing Programme appended to the DA provides as follows:-</p> <p>Mobilisation – a period of 40 WD from the later of the date the Headleases were completed (2nd May 2018) and the date the building contract is entered into</p> <p>Construction – a period of 635 WD from the end of the mobilisation period</p> <p>PC of the Town Hall works – a period of 675 WD from the commencement of the mobilisation period</p> <p>PC of all works other than to the Town Hall – a period of 675 WD from the commencement of the mobilisation period</p>
Commencement of Building Works	Clause 7.1	The Developer is under an obligation to ensure the building works commence within 6 months of the unconditional date
Building Obligations	Clause 7.2 and Schedule 4	<p>Now that the DA has gone unconditional, the Developer is under an obligation to commence, carry out and complete the development in accordance with the plans forming part of the satisfactory planning permission and the Development and Phasing Programme</p> <p>The key building obligations on the Developer set out in Schedule 4 of the DA include the following:-</p> <ul style="list-style-type: none"> ➤ To obtain all Statutory Approvals and third party consents necessary for the works including Historic England. The Council's prior consent (not to be unreasonably withheld) is required for any variation, relaxation or waiver of any such consents ➤ To enter into a Section 61 Agreement with the Council pursuant to the Control of Pollution Act 1974 prior to the commencement of the building works ➤ To take all reasonable measures to avoid and/or limit the impact of anything which might be/become a

		<p>danger/nuisance to any adjoining owners/members of the public</p> <ul style="list-style-type: none"> ➤ To notify the Council of the form of all building documents taking account of any reasonable comments made by the Council ➤ To enter into the building contract with the building contractor and thereafter not replace the building contractor without the Council's approval (not to be unreasonably withheld). The building contract must be on terms that give the Council the right to acquire the benefit of the building contract without charge on the event of any termination of the DA ➤ To permit the Council to make representations and approve the selection and appointment of the building contractor ➤ To appoint the professional team on terms which enable such appointments to be assigned/novated to the Council without charge in the event of any termination of the DA and the grant of an irrevocable royalty free licence for the use of any drawings, plans etc by the Council ➤ To procure insurance for the building works to the full reinstatement cost including third party and public liability indemnity insurance to a minimum level of £20m and to provide copies of the insurance to the Council if requested (Note: the Council currently insures the existing structure of the building of which 26 The Broadway forms part so there is an obligation on the parties to liaise and work together in good faith to ensure a satisfactory insurance solution during the works) ➤ To ensure the development site is secured as far as practicable against unauthorised entry ➤ No advertisements/signage to be displayed save for the names of the Developer/building contractor/professional team and details of the scheme and to agree with the Council (acting reasonably) the design of anything to be affixed/displayed on any hoarding ➤ To notify the Council of the identity of each proposed member of the professional team not less than 20 WD prior to appointment
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Electricity Substation	Clause 8 (introduced by 2 nd Deed of Variation dated 2 nd May 2018)	<p>The Council is to co-operate and use all reasonable endeavours to assist the Developer (at the Developer's cost) to negotiate with EDF Energy Networks for a relocation of the existing electricity substation but such assistance shall not require the Council to use its CPO powers.</p> <p>Once the alternative location has been agreed, if required the Council will enter into an agreement with EDF for the surrender of its existing substation lease and the grant of a new lease in the alternative location provided the new lease is substantially in the same form and approved by the Council, acting reasonably</p>
Affordable Housing	<p>Clause 14</p> <p>The provisions relating to affordable housing in clause 14 of the DA have been varied by the 2nd Deed of Variation dated 2nd May 2018</p>	<p>The Section 106 Agreement for the development dated 12th March 2018 gives the Council the option to elect to acquire the affordable housing being delivered as part of the development itself and sets out the process whereby the price to be paid and all other relevant terms will be agreed.²</p> <p>To align with these provisions therefore, the terms of the DA in turn have been varied so that in the event the Council elects <u>not</u> to acquire the AH, on PC or earlier by agreement the Council will either accept a surrender of the AH Headlease currently granted to the Developer and grant a new replacement Headlease of the AH to a registered provider in a form to be agreed between the parties and the RP, or alternatively, will consent to an assignment of the existing AH Headlease to an RP.</p>
Public Relations and Publicity	Clause 18	It should be noted that the parties are required to consult and agree on any public relations exercise for the promotion of the development and neither party should issue any publicity without the approval of the other (not to be unreasonably withheld)
Non Assignment	Clause 20 and alienation provisions in the Headleases	<ul style="list-style-type: none"> ➤ The DA is personal to the Developer and there is an absolute prohibition on any assignment/novation to a third party save for charging the benefit of the DA by way of security to a financier providing funding for the building works approved by the Council, acting reasonably, or to the Guarantor ➤ The alienation provisions in both the Residential and Town Hall (commercial) Headleases prohibit any assignment of the whole prior to practical completion of the whole development
Termination	Clause 24	On the occurrence of a Termination Event the Council may, on serving 40 WD notice, terminate the DA but there is an obligation

² The terms of the S106 agreement have not been covered in this DA Summary

		<p>on the Council following service of a termination notice to consult and consider any proposals to rectify the position</p> <p>A “Termination Event” for these purposes includes any of the following circumstances:-</p> <ul style="list-style-type: none"> ➤ Developer insolvency ➤ Guarantor insolvency and the Developer failing to provide a satisfactory alternative guarantor ➤ The Developer fails to commence or complete the building works or any phase in accordance with the Development and Phasing Programme ➤ if it becomes apparent, acting reasonably, it will be impossible for the Developer to achieve PC of the works to the Town Hall by the date stated in the Development and Phasing Programme ➤ if the Developer has committed any other substantial and material breach of its obligations under the DA <p>The Council is not however permitted to exercise any right to terminate the DA after practical completion of the works to the Town Hall or (save in case of Developer insolvency) in the event PC of the works to the Town Hall is reasonably anticipated to occur within the following 6 months</p>
Confidentiality and FOIA	Clause 27	<p>The DA prohibits either party without the consent of the other (not to be unreasonably withheld) from knowingly disclosing/publishing any details of the DA save to comply with legal requirements/its obligations under the DA</p> <p>The DA also contains the usual provisions in relation to the Council’s obligations to comply with FOIA</p>