



**Liverpool
City Council**

DATED *16 August* 2016

Ref: LS/2051.576/FW

LIVERPOOL CITY COUNCIL

and

STANLEY DOCK PROPERTIES

S.106 Agreement

RE: Planning Application Ref: 15F/2438

Land at Tobacco Warehouse, Stanley Dock, Regent Road, L3 0AN,

197 Great Howard Street and 191 Great Howard Street

J McLoughlin

City Solicitor

Liverpool City Council

THIS DEED is made the 16 day of August 2016

BETWEEN:

Parties

1. Liverpool City Council of Municipal Buildings, Dale Street, Liverpool, L2 2DH (Referred to as "The Council" and "The Mortgagee" interchangeably)
2. Stanley Dock Properties Limited (company number: 07068893 whose registered office is at 6 New Street Square, London, EC4A 3LX ("The Owner"))

INTRODUCTION

1. The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated.
2. The Owner is the freehold owner of the Land registered with the Land Registry under title number MS304139, MS138478 and MS271541
3. The Council is also a Mortgagee of the Land under a legal charge dated 26th August 2015 registered with the Land Registry under MS304139 under entries C4, C5 and C6 and made between the Mortgagee and the Owner.
4. The Owner has submitted the Application to the Council and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
5. The Council resolved on 13th April 2016 to grant the Planning Permission subject to the prior completion of this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1. DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

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|--------------------------------------|--|
| "Act" | the Town and Country Planning Act 1990. |
| "Application" | the application for full planning permission registered by the Council on 8 th October 2015 and allocated reference number 15F/2438. |
| "Commencement of Development" | the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out and "Commence Development" and "Commence" shall be construed accordingly. |

| | |
|------------------------------------|--|
| “Development” | the development of the Land to alter, extend and convert Tobacco Warehouse to create 538 residential apartments (C3) New 13th floor level of single storey penthouse apartments, 1725 sqm public exhibition space (D1) and 4,290 sqm office (B1) 186 space car park to existing basement level; provide external parking areas and carry out ancillary works associated with the above. as set out in the Application. |
| “Index” | all items index figure of the Index of Retail Prices published by the Office for National Statistics or any successor, Ministry or Department. |
| “Land” | the land at Stanley Dock, Liverpool, L3 0AN registered at HM Land Registry under Title Number MS304139, MS138478 and MS271541 against which this Deed may be enforced shown for identification edged in thick black on the attached Plan. |
| “Occupation” and “Occupied” | occupation for the purposes permitted by the Planning Permission but not including occupation by persons engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations. |
| “Plan” | the plan attached to this Deed at the Third Schedule. |

2. CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders,

plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

2.6 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to their respective statutory functions.

2.7 The headings are for reference only and shall not affect construction.

3. LEGAL BASIS

2.1. This Deed is made pursuant to Section 106 of the Act and section 111 of the Local Government Act 1972.

2.2. The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner.

4. CONDITIONALITY

This Deed is conditional upon:

- (i) the grant of the Planning Permission; and
- (ii) the Commencement of Development

save for the provisions of Clauses 7.1, 7.2, 10, 13, 14 and 15 which shall come into effect immediately upon completion of this Deed.

5. THE OWNER'S COVENANTS

5.1. The Owner covenants with the Council as set out in the First Schedule.

6. THE COUNCIL'S COVENANTS

6.1. The Council covenants with the Owner as set out in the Second Schedule.

7. MISCELLANEOUS

7.1. The Owner shall pay to the Council on completion of this Deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed in the sum of £1,000 (ONE THOUSAND POUNDS).

7.2. No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

7.3. This Deed shall be registrable as a local land charge by the Council.

7.4. Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given and any notices

shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.

- 7.5. Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 7.6. Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 7.7. This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 7.8. No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Land but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.9. This Deed shall not be enforceable against owner-occupiers or tenants of dwellings constructed pursuant to the Planning Permission nor against those deriving title from them.
- 7.10. Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 7.11. Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 7.12. The Owner shall give to the Council not less than 14 days prior written notice of the intended Commencement of the Development.
- 7.13. The Owner shall give to the Council not less than 14 days prior written notice of the intended Occupation of the Development.

8. MORTGAGEE'S CONSENT

- 8.1 The Mortgagee acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Land shall be bound by the obligations contained in this Deed and that the security of the mortgage over the Land shall take effect subject to this Deed PROVIDED THAT the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

9. WAIVER

- 9.1. No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

10. CHANGE IN OWNERSHIP

- 10.1. The Owner agrees with the Council to give the Council immediate written notice of any change in ownership of the interests in the Land before all the obligations have been discharged so that the local authority can trace successors in title. The written notice should give details of the transferee's name and address, together with details of the land or unit to which the interest applies.

11. INDEXATION

- 11.1. Any sum referred to in the First Schedule shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable.

12. NOTICES

- 12.1. Any notice, demand or any other communication served under this Deed will be effective only if delivered by hand or sent by pre-paid first class post, or recorded delivery.
- 12.2. Any notice, demand or any other communication served is to be sent to the address of the relevant party set out at the beginning of this Deed or to such other address as one party may notify in writing to the others at any time as its address for service.
- 12.3. Any notice, demand or any other communication to be served on the Council is to be sent for the attention of the Planning Manager at Municipal Buildings, Dale Street, Liverpool L2 2DH quoting the Planning Application reference.
- 12.4. Where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connections with those proceedings.

13. DISPUTE PROVISIONS

- 13.1. In the event of any dispute or difference arising between the parties to this Deed in respect of any matter contained in this Deed, at the agreement of all parties, such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

- 13.2. In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 13.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties in equal shares.
- 13.3. Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received any file or written representation.
- 13.4. The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten working days.
- 13.5. The provisions of this clause shall not affect the ability of the Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages and any other means of enforcing this Deed and consequential and interim orders and relief.
- 13.6. This clause 13 does not apply to disputes in relation to matters of law or the construction or interpretation of this Deed which will be subject to the jurisdiction of the courts.

14. JURISDICTION

- 14.1. This Deed is to be governed by and interpreted in accordance with the law of England and Wales.

15. DELIVERY

- 15.1. The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

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

First Schedule

The Owner's Covenants with the Council

Employment & Training Strategy:

The Owner shall implement the Employment & Training Strategy [ETS] and provide the ETSO Method Statement prior to Commencement of the Development and fulfil the ongoing requirements of the the ETS throughout the Development and Development shall not Commence or shall cease until this obligation has been satisfied.

Project Summary:

The Tobacco Warehouse in Stanley Dock is a Grade II listed building dating from 1901 which forms part of a Unesco World Heritage Site. The building forms part of the larger on-going regeneration of Stanley Dock. The building is to be converted into 538 large loft-style apartments with approx. 63,560 sq. ft of commercial space at ground floor level and basement level car parking, at a cost of approx. £86M. The development is to occur in phases. The initial phases will comprise 192 apartments in the West Bays. Completion of Phase 1 is expected to occur approx. 18 months post commencement and the remaining phases are estimated to be completed within the following 24 months.

Heads of Terms Definitions:

"Local Impact Area" means the Liverpool City Council area.

"New Entrant Trainee" means

- a person that is leaving an educational establishment (e.g. school, college or university) or a training provider
- an adult who has not been employed in the sector during the previous 6 (six) months and who is seeking employment that includes training towards a qualification agreed by the Council.
- a New Entrant Trainee employed by another contractor or supplier to the Council whose contract of employment is being terminated or who is working part-time and who is therefore seeking another position.

"Wider Impact Area" means the Liverpool City and wider Merseyside area.

Construction Employment:

- Every main contractor vacancy in the construction works, shall be notified to the City Council (Liverpool in Work) or agencies named by the City Council for this purpose, and candidates identified by these agencies shall be given an equality of opportunity in the selection process;

- Sub-contractors will have a partnering agreement at tender stage, to commit to local labour and training utilisation. This will include advising sub-contractors to use Liverpool in Work for recruitment to jobs, training and apprenticeships. The agreement will become accountable at pre-contract stage.
- The main contractors will be obliged to work directly with the City Council to ensure that sub-contracting and supply chain opportunities which, where identified can be given an equality of opportunity in the selection and procurement process; and that sub-contracting and supply chain opportunities are advertised through Liverpool in Work to the local supply chain database.
- Work opportunities for New Entrant Trainees from the Local Impact Area should be encouraged.
- A target of 1000 `person-weeks` of employment will be provided for a minimum of 15 New Entrant Trainees whose main residence is in the Local Impact Area; This target equates to 66 weeks of employment to each of the 15 new entrant trainees
- New Entrant Trainees shall be paid at least in accordance with industry norms and shall have terms and conditions of employment that are at least equivalent to those provided to workers that have equivalent skills and experience.
- A target minimum of 20% of the value of sub-contracts, supply and service contracts will be awarded to suppliers that are located in the Local Impact Area and the Wider Impact Area. Where the contract is not awarded to a local company, the successful company will be encouraged to use local suppliers, local labour and to recruit apprentices and/or trainees;
- The developer shall at its own expense erect in a prominent place a sign with minimum dimensions 1.0mt x 0.5mt providing information on the Employment Team or another organisation identified by the Employment Team as the contact point for people seeking employment and training opportunities on the development;
- The developer shall within 4 weeks of the signing of the Section 106 Agreement and after discussions with the City Council's Employment Team, they shall provide an ETSO Method Statement outlining how the above requirements shall be achieved using an agreed pro-forma; and

- Monitoring information will be provided on a bi-monthly basis and regular meetings will take place to assess activities. This will include confirmation of employees in post, including name, address, postcode and other demographic information.
- The developer in conjunction with the Council and Liverpool in Work will devise a scheme for advertising jobs locally for the pre- commencement of the development and thereafter for duration of the development to place adverts in local media, local newspapers, local employment agencies and local job centres.

Second Schedule

Council's Covenants

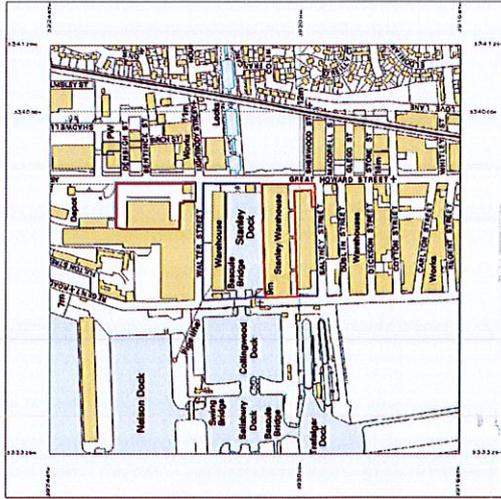
1. The Council covenants with the Owner to acknowledge receipt of any notice given to it by the Owner under the terms of this Deed within 14 days of service of such notice.

Third Schedule

Plan



OS Landplan®



This OS Landplan® grid is extracted from the OS MasterMap data set, which is the most accurate and up-to-date digital representation of the ground surface. It is derived from aerial photography and other sources, and is accurate to within 1:10,000.

The OS Landplan® grid is shown in yellow on this drawing. It is not to be used as a reference for any other purpose.

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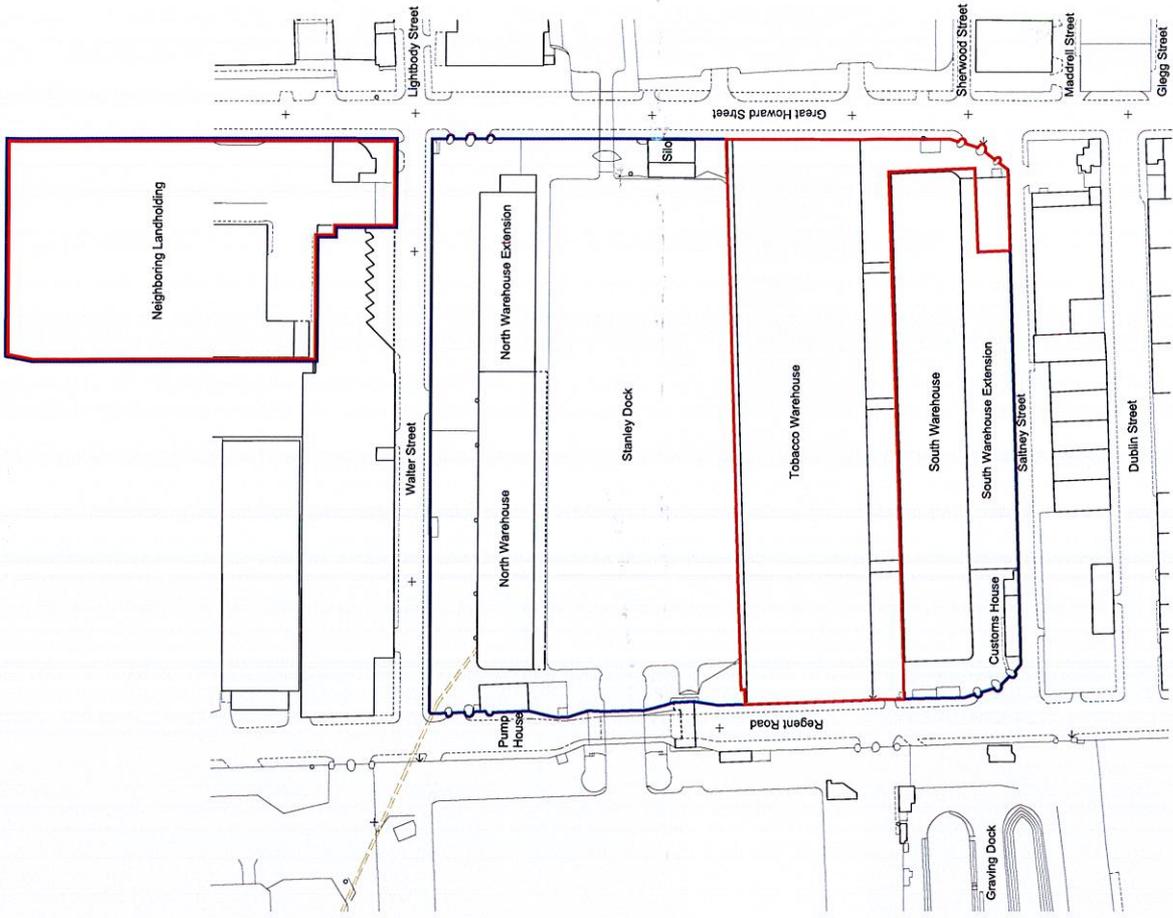
Project Name: Stanley Dock

Project Reference: 111250

Scale: 1:5000

Site Location: PA-000 1:5000

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2
PA-000
Site Plan - Existing
1:1250

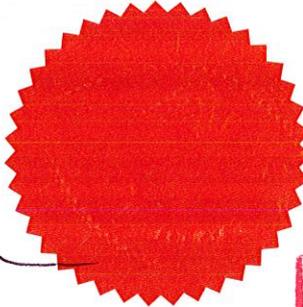
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|---|--|--|--|
| <p>NOTE:</p> <p>Do not scale from this drawing.</p> <p>Any discrepancies found on site shall be the responsibility of the client.</p> <p>Any discrepancies found on drawings shall be the responsibility of the client.</p> <p>Name to be signed: <i>Handwritten name</i></p> <p>All dimensions used to blockwork.</p> | | <p>Rev. No. A</p> <p>Scale: 1:5000 @ A1</p> <p>Date: 11/09/2015</p> <p>Drawn By: J-LPD</p> <p>Checked By: THB</p> <p>Issue: PA-000</p> <p>Planning: PA-000</p> <p>Job No: 1523</p> | |
| <p>Project: Tobacco Warehouse at Stanley Dock, Liverpool</p> <p>Title: SITE LOCATION & SITE PLAN</p> <p>Client: Stanley Dock Properties Ltd.</p> | | <p>clamody ARCHITECTURE</p> <p>91 Townsend Street, Dublin 2 233 1 673 9907 info@clamodyarchitecture.com clamodyarchitecture.com</p> | |
| <p>Rev. No. A</p> <p>Scale: 1:5000 @ A1</p> <p>Date: 11/09/2015</p> <p>Drawn By: J-LPD</p> <p>Checked By: THB</p> <p>Issue: PA-000</p> <p>Planning: PA-000</p> <p>Job No: 1523</p> | | <p>Project: Tobacco Warehouse at Stanley Dock, Liverpool</p> <p>Title: SITE LOCATION & SITE PLAN</p> <p>Client: Stanley Dock Properties Ltd.</p> | |

ISSUED FOR PLANNING ONLY, NOT FOR CONSTRUCTION

Third Schedule

Plan

THE COMMON SEAL of the)
LIVERPOOL CITY COUNCIL)
was hereunto affixed-)




Assistant City Solicitor

Seal No.
90.16

Signed as a deed by)
STANLEY DOCK PROPERTIES LIMITED)
acting by two directors or)
one director and its secretary)

Director

(Signature)

PATRICK Power

(Name)

Patrick Power

Director/Secretary

(Signature)

[Handwritten Signature]

(Name)

GERRY COMASKEY