Dated 3rd March 2022

THE COUNCIL OF THE CITY OF MANCHESTER

- and -

BLACKLEY DEVELOPMENTS LIMITED

-and -

BRIDGING FINANCE LIMITED

- and -

TOGETHER COMMERCIAL FINANCE LIMITED

-and-

LAGAN AVIATION & INFRASTRUCTURE LIMITED and CLONROSE DEVELOPMENTS LIMITED

AGREEMENT

pursuant to Section 106 Town and Country Planning Act 1990 (as amended)
relating to land to the south of Blackley New Road
in the City of Manchester

City Solicitor
Manchester City Council
P O Box 532
Town Hall
Albert Square
Manchester M60 2LA
L/BH/EVD3001/3562

THIS AGREEMENT is made the Third day of March 2022

BETWEEN: -

(1) **THE COUNCIL OF THE CITY OF MANCHESTER** of Town Hall, Albert Square, Manchester (**"the Council"** which expression shall include any successor authority of the Council) of the first part, and

(2) **BLACKLEY DEVELOPMENTS LIMITED** (company registration number 09811581) whose registered office is at 83 Ducie Street, Manchester, M1 2JQ (**"the Owner"** which expression shall include the successors in title and assigns of the Owner) of the second part,

(3) **BRIDGING FINANCE LIMITED** (company registration number 03166982) whose registered office is at Lake View, Lakeside, Cheadle, Cheshire, SK8 3GW (**"the First Mortgagee"** which expression shall include the successors in title and assigns of the First Mortgagee) of the third part,

(4) **TOGETHER COMMERCIAL FINANCE LIMITED** (company registration number 02058813) whose registered office is at Lake View, Lakeside, Cheadle, Cheshire, SK8 3GW (the **"Second Mortgagee"** which expression shall include the successors in title and assigns of the Second Mortgagee) of the fourth part

(5) **LAGAN AVIATION & INFRASTRUCTURE LIMITED** (company registration number NI627818) and **CLONROSE DEVELOPMENTS LIMITED** (company registration number NI630947) whose registered offices are both situated at Rosemount House, 21-23 Sydenham Road, Belfast, BT3 9HA (together the "Third Mortgagee" which expression shall include the successors in title and assigns of the Third Mortgagee) of the fifth part

together **"the Parties"** and reference to **"Party"** shall be construed accordingly

WHEREAS

A 1 The terms "Planning Permission E", "Planning Permission F", "Planning Permission G", "Planning Permission A2", "Planning Permission A1", "Development A", "Development B", "Development C", "Development D", "Application A", "Application B", "Application C", "Application D" and "Development" referred to in these recitals are defined in clause 1 of this Agreement,

A 2 The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 (as amended) (the "**Act**") for the area in which the Land is situated and by whom the obligations in this Agreement are enforceable The Council is minded to grant Planning Permission E, Planning Permission F, Planning Permission G and Planning Permission A2 subject to the completion of this Agreement

B The Owner is the registered proprietor with title absolute of the freehold interest in the Land registered under title number GM529902 at the land registry

C The First Mortgagee is interested in the Land by virtue of a registered charge (the **"Bridging Finance Limited Registered Charge"**) dated 23 October 2015 registered against title number GM529902 at the land registry

D The Second Mortgagee is interested in the Land by virtue of two legal charges both dated 22 December 2017 one of which has been registered at the land registry against title number GM529902 (the **"Together Commercial Finance Limited Charges"**)

E The Third Mortgagee is interested in the Land by virtue of a registered charge dated 9 July 2021 registered against title number GM529902 at the land registry (the **"LAIL and CDL Charge"**)

F The Council has

F 1 granted outline planning permission on 23 November 2012 for Development A under planning reference 100039/OO/2012/N1 and has issued the Reserved Matters Approval on 1 July 2016 and granted Planning Permission A1 on 10 April 2017 which both relate to Development A,

F 2 granted outline planning permission on 7 July 2014 for Development B under planning reference 104435/OO/2013/N1,

F 3 granted outline planning permission on 10 April 2017 for Development C under planning reference 114849/JO/2016, and

F 4 granted outline planning permission on 10 April 2017 for Development D under planning reference 114850/JO/2016

G The following applications have been received by the Council

G 1 Application A an application for planning permission for Development E allocated planning reference 120489/JO/2018 received on 9 March 2018,

G 2 Application B an application for planning permission for Development F allocated planning reference 119341/JO/2018 received on 28 June 2018,

G 3 Application C an application for planning permission for Development G allocated planning reference 120492/JO/2018 received on 28 June 2018, and

G 4 Application D an application for planning permission to amend Development A by varying Planning Permission A1 allocated planning reference 123961/JO/2019 received on 17 June 2019

H The Parties have agreed to enter into this Agreement in order to secure planning obligations and agree that they will bind the Land whichever of the Developments are Commenced

I The planning purpose of this Agreement is to improve the amenity of land in the locality of the Land with benefit for occupiers of whichever of the Developments are Commenced and to mitigate the adverse impacts of any such Development in accordance with the development plan for the area and other material considerations The Council is satisfied that the obligations in this Agreement are;

(a) necessary to make any Development acceptable in planning terms (including where appropriate, obligations necessary to mitigate the adverse impacts of any such Development in accordance with the development plan for the area and other material considerations),

(b) directly related to the Developments, and

(c) fairly and reasonably related in scale and kind to the Developments, and in any event will secure other planning benefits

NOW THIS DEED WITNESSETH as follows·

1 In this Agreement unless the context otherwise requires the following words and expressions and phrases shall have the meanings hereby ascribed to them

"Act" shall mean the Town and Country Planning Act 1990 (as amended),

"Account" shall mean an interest bearing bank account to be arranged by the Owner in the joint names of the Council the Owner and / or the Community Land Trust,

"Application A" shall mean the application for planning permission for Development E received by the Council and allocated reference number 120489/JO/2018,

"Application B" shall mean the application for planning permission for Development F received by the Council and allocated reference number 119341/JO/2018,

"Application C" shall mean the application for planning permission for Development G received by the Council and allocated reference number 120492/JO/2018,

"Application D" shall mean the application for planning permission to amend Development A received by the Council and allocated reference number 123961/JO/2019

"Approved" shall mean in respect of any of the Footpath Upgrade and Maintenance Scheme, Ecological Mitigation Scheme, Management Strategy or Delivery Mechanism approved in writing by the Council or where applicable approved in writing by the expert referred to in accordance with the provisions contained in clauses 21 and 22 as the same may have been amended as part of the approval process and "Approval" shall be construed accordingly,

"Charges" shall mean the Bridging Finance Limited Registered Charge, the Together Commercial Finance Limited Charges and the LAIL and CDL Charge together,

"Commencement Date" shall mean for the purposes of this Agreement the date upon which any Development is commenced by the carrying out of a material operation as defined in section 56 of the Act **Save That** the term "material operation" shall not include

operations in connection with any work of or associated with demolition archaeological investigation site clearance remediation works environmental investigation site and soil surveys erection of contractors work compound erection of site office erection of fencing to site boundary and "**Commence a Development**", "**Commencement**", "**Commencement of a Development**", and "Commenced" shall be construed accordingly,

"**Commencement Notice**" means written notice given by the Owner to the Council stating that Commencement has taken place and specifying the date of Commencement and "**Commencement Notices**" shall be construed accordingly,

"**Community Land Trust**" shall mean a not for profit corporate body as defined in the Housing & Regeneration Act 2008, Part 2, Chapter 1, Clause 79 or any amendment or replacement of the same) or any similar not for profit corporate body whose members must be agreed in writing by the Council and whose primary objective in relation to the Land will be to implement or procure the implementation and carrying out of the works set out in the Management Strategy and "CLT" shall be construed accordingly;

"**Completion of Construction**" the date upon which a valid certificate of completion shall have been issued in respect of completion of all 76 of the Dwellings in accordance with the Building Act 1984 and the Building Regulations 2010 or any amendment or replacement of the same or, if the Council, acting reasonably, considers that the completion of construction of all of the Dwellings has occurred but it has not received the notice confirming completion in accordance with the provisions of this Agreement shall mean the date that the Council notifies in writing to the Owner that the said completion of construction is to be deemed to have taken place for the purposes of this Agreement and "**Completed**" and "**Completion**" shall be construed accordingly,

"**Delivery Mechanism**" shall mean an Approved structurally robust, fully costed and adequately funded structure to ensure the delivery of the Footpath Upgrade and Maintenance Scheme and Ecological Mitigation Strategy by way of the creation of a Community Land Trust or by way of such other body or organisation that may be

approved as part of this structure which body or organisation must meet Condition 1 and Condition 2 set out in subparagraphs (4) and (5) of the aforementioned Clause 79 of Part 2, Chapter 1 of the Housing & Regeneration Act 2008 and by transfer of the Ecological Mitigation Site to the said Community Land Trust or such other body or organisation that may be approved as the case may be,

Development" shall mean any of Development A, Development B, Development C, Development D, Development E, Development F and Development G and "Developments" and "Developed" shall be construed accordingly,

"Development A" shall mean the development of part of the Land pursuant to Planning Permission A, the Reserved Matters Approval, Planning Permission A1 and Planning Permission A2 and substantially comprising residential development of a maximum of 48 (forty eight) Dwellings with means of access from Bowker Bank Avenue,

"Development B" shall mean the development of part of the Land pursuant to Planning Permission B and substantially comprising residential development for up to 28 (twenty eight) Dwellings with means of access from Bowker Bank Avenue following infill of existing drained reservoir,

"**Development C**" shall mean the variation of the conditions numbered 6 and 21 of Planning Permission A to allow changes to the environmental standards and bat survey requirements,

"**Development D**" shall mean the variation of the conditions numbered 7 and 30 of Planning Permission B to allow changes to the environmental standards and bat survey requirements,

"**Development E**" shall mean the variation of conditions 19 (road and open space management), 20 (buffer zone), 22 (alignments and cross sections) and 24 (soft landscaping) of Planning Permission C,

"**Development F**" shall mean the variation of the conditions 5 (landscaping) and 27 (buffer zone) and removal of condition 29 (tree mitigation) of Planning Permission D,

"**Development G**" shall mean the variation of condition 22 (alignment and cross section drawings) of Planning Permission D,

"Dwelling" shall mean a unit of residential accommodation (whether house or flat or maisonette or otherwise) constructed as part of a Development and "**Dwellings**" shall be construed accordingly,

"Ecological Mitigation Site" shall mean the area within the Land which forms part of the Bowker Bank Site of Biological Importance ("the SBI") including its reservoir and banks, the adjacent Irk River corridor and woodlands situated within the SBI and any other land contained within the area shown edged blue on Plan B and which for the avoidance of doubt excludes any of the land shown shaded yellow on the said Plan B,

"Ecological Mitigation Strategy" shall mean a structurally robust, fully costed and adequately funded ecological mitigation strategy that has been Approved for the management, maintenance and improvement of the Ecological Mitigation Site forever hereafter and which must be prepared by the Owners and submitted to the Council in writing for possible Approval and shall be substantially based upon and implementing the proposals, strategy and recommendations for management, maintenance and improvement set out at Appendix 5 of the Ecological Assessment (the "Ecological Assessment") produced by Andrew Virtue submitted in support of the Application a copy of which Ecological Assessment is appended in the Appendix 1,

"Footpath" shall mean the existing footpath situated within the Ecological Mitigation Site and shown for the purposes of identification only drawn in green on the attached Plan C,

"Footpath Upgrade and Maintenance Scheme" shall mean a structurally robust, fully costed and adequately funded scheme that has been Approved for upgrading the Footpath to the equivalent of adoption standard and then forever thereafter maintaining the Footpath to the equivalent of adoption standard to be prepared by the Owner and submitted to the Council in writing for possible Approval,

"Formula" shall mean the formula A = B x (C / D) provided that (C / D) shall always be greater than or equal to 1 with the following definitions

A is the Inflation Increase actually payable on the date upon which the amount due under the Management Strategy Mitigation Sum is paid **("the Specified Date")**
B is £60,000 (sixty thousand pounds)
C is Inflation for the month closest to the Specified Date and which has been published by the Specified Date
D is Inflation for the month in which this Agreement is dated,

"Inflation" shall mean the number of the General Index of Retail Prices (All Items) for the specified month produced by the Office for National Statistics,

"Inflation Increase" shall mean the amount calculated by way of the Formula and which will be applied to the Management Strategy Mitigation Sum,

"Land" shall mean the land against which this Agreement by Deed may be enforced and being all that land at Blackley New Road, Manchester as shown edged red on the attached Plan A,

"Lease" shall mean a lease of part of the Land dated 1 April 2002 and made between Rexmore PLC (1) and Trustees of the Broughton Angling Club (2),

"Lessee" shall mean the current Lessee of the Lease and "Lessees" shall be construed accordingly,

"Management Fee" shall mean 15% of the planning application fees in respect of *Application A, Application B and Application C to be used for the purpose of* management and monitoring of this Agreement and the Planning Obligations contained herein,

"Management Strategy" shall mean the Approved Ecological Mitigation Strategy, Approved Footpath Upgrade and Maintenance Scheme and Approved Delivery Mechanism, taken together;

"Management Strategy Mitigation Sum" shall mean the sum of sixty thousand pounds (£60,000 000) as adjusted by any applicable Inflation Increase that is to be paid by the Owners into the Account and applied and distributed in accordance with the provisions contained within the Approved Footpath Upgrade and Maintenance Scheme and Approved Ecological Mitigation Strategy

"**Mortgagees"** shall mean the First Mortgagee Second Mortgagee and Third Mortgagee together and "Mortgagee" shall be construed accordingly,

"**Occupation"** shall mean occupation for the purposes permitted by the Planning Permission but does not include occupation for marketing or display or occupation in relation to security operations and "**Occupy**" and "**Occupied**" shall be construed accordingly,

"Plan A" shall mean a plan annexed to this Agreement showing the Land edged red and marked "Plan A",

"Plan B" shall mean a plan annexed to this Agreement and marked "Plan B",

"Plan C" shall mean a plan annexed to this Agreement and marked "Plan C",

"Planning Obligations" shall mean the obligations of the Owner specified in the First Schedule to this Agreement,

"Planning Permission A" shall mean outline planning permission granted under the Act for Development A which was allocated planning reference 100039/OO/2012/N1,

"Planning Permission A1" means planning permission granted under the Act amending Development A by varying condition 6 of the Reserved Matters Approval by allowing changes to the specified programme of archaeological works which was allocated planning reference 114848/JO/2016,

"Planning Permission A2" shall mean planning permission under the Act further amending Development A by allowing a further variation of the condition 6

(archaeological works) attached to Planning Permission A1 to be granted pursuant to Application D which has been allocated planning reference 123961/JO/2019,

"Planning Permission B" shall mean outline planning permission granted under the Act for Development B which was allocated planning reference 104435/OO/2013/N1,

"Planning Permission C" shall mean outline planning permission granted under the Act for Development C which was allocated planning reference 114849/JO/2016,

"Planning Permission D" shall mean outline planning permission granted under the Act for Development D which was allocated planning reference 114850/JO/2016;

"Planning Permission E" shall mean outline planning permission under the Actfor Development E to be granted pursuant to Application A which has been allocated planning reference 120489/JO/2018,

"Planning Permission F" shall mean outline planning permission under the Act for Development F to be granted pursuant to Application B which has been allocated planning reference 119341/JO/2018,

"Planning Permission G" shall mean outline planning permission under the Act for Development G to be granted pursuant to Application C which has been allocated planning reference 120492/JO/2018,

"**Planning Permissions**" shall mean all of Planning Permission A, Planning Permission B, Planning Permission C, Planning Permission D, Planning Permission E, Planning Permission F and Planning Permission G together,

"Reserved Matters Approval" means the reserved matters approval allocated planning reference 110554/MO/2015/N1 given in connection with Planning Permission A,

"**Technical Note**" shall mean the technical note appended to this Agreement as Appendix 2 detailing as at the date of this Agreement the only works that have been carried out on the Land by the Owner or its agents in preparation for the Developments,

"Working Day" shall mean any day except Saturday Sunday or a bank holiday and reference to "**Working Days**" shall be construed accordingly

2 A reference in this Agreement to an act of Parliament or to any order, regulation, statutory instrument or the like shall include a reference to any amendment or re-enactment of the same

3 Words importing the masculine gender include the feminine gender and vice versa and words in the singular include the plural and vice versa and words importing individuals shall be treated as importing corporations and vice versa

4 Any headings or side notes are for ease of reference only and shall not affect the construction of this Agreement

5 Where in this Agreement reference is made to any clause, paragraph, schedule, appendix or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph, schedule, appendix or recital in this Agreement

6 If any party to this Agreement comprises more than one party then that party shall be jointly and severally liable under this Agreement

7 Words denoting an obligation on a Party to do any act matter or thing include an obligation to procure that it be done and words placing a Party under a restriction include an obligation not to permit or allow infringement of that restriction

8 This Agreement is made in pursuance of Section 106 of the Act, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other powers and enactments which may give validity hereto and facilitate the enforcement of the obligations and provisions herein contained The Land is subject to planning obligations contained in a planning agreement (the "7 July 2014 Agreement") dated 7 July 2014 made between the Council (1) Norman Leonard Rosenblatt, Michael David Rosenblatt and James Cribb (2) and Barclays Bank (3) as varied by a Deed of Variation (the "10 April 2017 Deed of Variation") dated 10 April 2017 made between the Council (1) the Owner (2) the First Mortgagee (3)

LCG Limited (4) and Stephen Robert Gray and Jonathan Gareth Gwynne (5) The Council confirm and agrees that **Provided That** the Land is Developed in accordance with all of the Planning Permissions then the Council will rely upon the Planning Obligations contained in this Agreement and will not seek to enforce the planning obligations contained in the 7 July 2014 Agreement as varied by the 10 April 2017 Deed of Variation

9 The Owner consents to its interest in the Land being bound by this Agreement and covenants to the Council in the terms set out in the First Schedule to this Agreement, those covenants being planning obligations under section 106 of the Act and enforceable by the Council

10 The Council covenants with the Owner to comply with its obligations in the Second Schedule

11 The Mortgagees consent to this Agreement being entered into with the intention that

11 1 notwithstanding section 104 Law of Property Act 1925, their interests in the Land will be bound by the terms of this Agreement as if it had been executed and registered as a local land charge before the execution of the Charges, and

11 2 notwithstanding clause 11 1, a Mortgagee will not incur any liability for any breach of the obligations contained in this Agreement unless and until it becomes a mortgagee in possession of the Land or any part thereof

12 The Owner covenants with the Council to pay to the Council on the date hereof such sum as is notified in respect of the Council's legal costs in connection with this Agreement Receipt by the Council of the payment of such sum shall not create any lawyer-client type contractual relationship between the Council and the Owner nor absolve the Owner from any liability or obligation imposed upon it by the terms of this Agreement or by statute or at common law

13 No person who is not a party to this Agreement may enforce any terms hereof pursuant to the Contracts (Rights of Third Parties) Act 1999 provided that this clause shall not affect any right of action of any person to whom this Agreement has been lawfully assigned or becomes vested in law

14. If any provision of this Agreement shall be prohibited by or adjudged by a court to be unlawful, void or unenforceable such provision shall to the extent required be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances or the validity or enforcement of this Agreement

15 Nothing in this Agreement prohibits or limits the right to develop any part of the Land in accordance with a planning permission, other than one relating to the Development as specified in the Application, granted before or after the date of this Agreement

16 This Agreement shall be registered in the Council's Register of Local Land Charges immediately on completion thereof

17 Save in respect of transfers of individual Dwellings the Owner agrees to give the Council immediate written notice of any change in ownership of any of their interests in the Land occurring before all the Planning Obligations under this Agreement have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Land or unit of occupation purchased by reference to a plan

18. This Agreement is conditional upon and shall only take effect on the granting of Planning Permission E, Planning Permission F and Planning Permission G and if the Planning Permissions shall all expire before their Commencement or shall all at any time be revoked or modified (without the consent of the Owner) or for any reason they all cease to remain extant prior to their Commencement then this Agreement shall forthwith determine and cease to have an effect and the Council

shall as soon as reasonably practicable remove any entry relating to this Agreement from the Register of Local Land Charges

19 The Owner agrees that all acts required to be undertaken by the Owner under this Agreement or as incidental to this Agreement shall in all respects be at the cost of the Owner

20 This Agreement is governed by and interpreted in accordance with the law of England

21 Any dispute arising between the parties as to their respective rights duties or obligations or as to the failure of the Council or the Owner to give or confirm its consent where required under this Agreement or as to any other matter or thing arising out of or connected with the subject matter of this Agreement (other than a dispute relating to a matter of law or in relation to the construction or interpretation of this Agreement which shall be subject to the jurisdiction of the courts) or as to any failure to agree upon any matter may, if the parties fail to resolve the dispute within 20 Working Days from the date the dispute arose, or in respect of any failure to agree referred to in paragraphs 2 2 , 4 1 and 5 1 of the First Schedule fail to resolve within the time scale set out in those clauses, be referred in accordance with clause 22 below to the determination of an independent expert

22. Any reference to an independent expert in accordance with clause 21 above shall be to a reputable expert unconnected to any of the parties hereto and experienced in commercial development and or ecological land management matters who shall be agreed between the parties to the dispute or appointed, in the absence of written agreement by the parties on who to appoint within 10 further Working Days after the expiration of the time scales referred to in clause 21 above, on the application of any party to the dispute by the President or if applicable head of the appropriate professional body of the expert or his duly appointed deputy and the decision of such independent expert shall be final and binding upon the parties to the dispute and the parties hereby agree to act in accordance with the decision

(save for manifest error) and if the parties to the dispute shall agree in writing such reference shall be deemed to be a reference to an expert (and not an arbitrator) but shall otherwise be deemed to be a reference to an arbitrator pursuant to the Arbitration Act 1996 and if any expert shall act as an expert pursuant to the terms of this clause 22 then each of the parties to the dispute shall be entitled to submit to him representations and cross representations with such supporting evidence as they shall consider necessary and he shall have regard thereto in making his decision which he shall deliver in writing as expediently as possible and the reference to him shall include authority to determine in what manner all the costs of the referral (whether incurred by the parties to the dispute or the expert himself) shall be paid The expert shall be replaced by another expert in the event of his/her becoming at any time unable or unwilling for any reason to discharge his/her functions such replacement expert to be appointed in the manner prescribed in this clause

23 Other than provided for in this Agreement no Party shall be bound by the terms of this Agreement or be liable for the breach of any covenants restrictions or obligations contained in this Agreement occurring after he or it has parted with his or its interest in the Land or the part in respect of which such breach occurs (but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest)

24 Nothing in this Agreement shall be construed as restricting the exercise by the Council of any power or discretion exercisable by it under the Act or under any other Act of Parliament nor prejudicing or affecting the Council's rights powers duties and obligations in any capacity as a local or public authority

25 Wherever this Agreement requires the approval agreement determination confirmation of satisfaction or consent of the Council or the Owner such approval agreement determination confirmation of satisfaction or consent is not to be unreasonably withheld or delayed

26 If any provision of this Agreement shall be prohibited by or adjudged by a court to be unlawful, void or unenforceable such provision shall to the extent required be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances or the validity or enforcement of this Agreement

27 Any approval given by the Council under this Agreement or for the purposes of this Agreement shall not be deemed to be approval for any other purpose whatsoever

28 For the purpose of noting this Agreement on the title of the Owner registered under title number GM529902 at the Land Registry the Owner will on the date hereof provide the Council with a completed Form AN1 (or any replacement of this form) together with either a cheque made payable to the Land Registry to cover the requisite fee or alternatively with the Owner's solicitor's completed Land Registry account key number details inserted in the form The Council will arrange for the AN1 (or any replacement of this form) to be registered at the Land Registry and the Owner will supply the Council with a copy of the amended registers as soon as reasonably practicable following their receipt by the Owner from the Land Registry.

29 The Owner covenants with the Council

29 1 that prior to or upon completion of this Agreement the Owner shall provide the Council with completed Land Registry form RX1 (or any subsequent revisions amendments or replacements of the same) signed by the Owner and thereby authorizing the Council to register a restriction in standard form L at the Land Registry in respect of the Owner's title comprised in the Land in the following terms "No disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be completed by registration without a certificate signed by Manchester City Council, Town Hall, Albert Square, Manchester, M60 2LA, that the provisions of the First Schedule of a s 106 Agreement dated made between (1) The Council of the City of Manchester (2) Blackley Developments

Limited (3) Bridging Finance Limited and (4) Together Commercial Finance Limited have been complied with or that they do not apply to the disposition "

The Council will insert the date of completion of this Agreement into the section of the Form RX1 detailing the wording quoted above following that completion

29 2 to be responsible for the costs of registering the RX1 form referred to in paragraph 29 1 immediately above

30 If any sum payable to the Council under the terms of this Agreement is not paid at the time specified herein the party responsible for making the payment shall pay to the Council interest on such sum calculated on a daily basis and compounded quarterly from the due date until payment at the rate of 4% per annum over the Barclays Bank plc base rate from time to time in force and such amount shall be recoverable by action as a liquidated sum

31 The Owner covenants with the Council to pay to the Council on the date hereof the Management Fee in the sum of £105 30 (one hundred and five pounds and thirty pence)

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

33 The Council acknowledges that it has received the Commencement Notices and that the obligation in this respect contained in the First Schedule has been satisfied

34 All correspondence to the Council in connection with this Agreement shall be sent to the Council at the following address or such other address as may be notified from time to time Planning and Building Control Department, Ref 104435/OO/2013/N1, Manchester City Council, PO Box 532, Town Hall, Manchester, M60 2LA

IN WITNESS whereof this Agreement has been executed as a deed in the manner hereinafter appearing and delivered the day and year first before written

FIRST SCHEDULE

THE OWNER'S PLANNING OBLIGATIONS

1 The Owner hereby covenants with the Council that from the date of this Agreement as follows -

(a) prior to any further above ground construction as part of any Development beyond that detailed in the Technical Note to have in place a Footpath Upgrade and Maintenance Scheme and an Ecological Mitigation Strategy, and

(b) not to allow or permit any above ground construction as part of any Development beyond that detailed in the Technical Note until those parts of the Footpath Upgrade and Maintenance Scheme and Ecological Mitigation Strategy that are required to be implemented and complied with prior to any above ground construction beyond that detailed in the Technical Note are being implemented and complied with in accordance with the provisions contained therein

2 The Owner hereby covenants further with the Council:-

2 1 prior to any further above ground construction as part of any Development beyond that detailed in the Technical Note to have in place the Management Strategy and not to allow or permit any above ground construction as part of any Development beyond that detailed in the Technical Note until those parts of the Management Strategy that are required to be implemented and complied with prior to any above ground construction beyond that detailed in the Technical Note are being implemented and complied with in accordance with the provisions contained therein ,

2 2 that the Footpath Upgrade and Maintenance Scheme shall, not by way of limitation, include details of the following -

(a) the construction of, management of and maintenance provisions relating to the temporary footpath that it will put in

place on the site of the Footpath during the groundworks related to the construction of any Development including evidence confirming that the general public shall have free and uninterrupted access to the temporary footpath pending the completion of the Footpath being provided in accordance with the Footpath Upgrade and Maintenance Scheme which details will include a requirement for notifying the Council in writing immediately the groundworks have been completed and to thereafter immediately proceed to implement and complete the upgrade of the Footpath as set out in the Footpath Upgrade and Maintenance Scheme with provision for the Council to be able to serve written notice on the Owner requiring it to immediately proceed to implement and complete the upgrade of the Footpath in accordance with the provisions of the Footpath Upgrade and Maintenance Scheme if the Council is satisfied that no further groundworks in connection with any Development will or is likely to take place, and

(b) a programme relating to timescales for implementation and completion of the upgrade of the Footpath to adoption standard setting out if not the Owner then the persons or bodies that will be tasked with carrying out the upgrade, and

(c) how the Footpath is to be managed and maintained forever thereafter to adoption standard to include details if not the Owner of any persons or bodies to be allocated the task of managing and maintaining the Footpath, and

(d) evidence confirming that the general public shall have free and uninterrupted access to the Footpath in accordance with the provisions of paragraph 2.4 (a) below including the right to park

vehicles free of charge in a suitable parking facility adjacent to the Footpath

and **IT IS AGREED THAT** within 30 Working Days (or within such other time period that the Council may reasonably require and which may be agreed in writing between the Council and the Owner within the initial 30 Working Day period) of the Council receiving from the Owner the submitted proposed Footpath Upgrade and Maintenance Scheme the Council will either notify the Owner in writing of its Approval or will acting reasonably provide in writing its proposed amendments to the Footpath Upgrade and Maintenance Scheme pursuant to which the Owner shall acting reasonably submit a revised proposed Footpath Upgrade and Maintenance Scheme incorporating those amendments as are reasonable and accepted **PROVIDED THAT** if agreement cannot be reached between the Council and the Owner in relation to the proposed Footpath Upgrade and Maintenance Scheme submitted by the Owner within 40 Working Days of the date of its submission to the Council (or such other period of time that may be agreed by the Council and the Owners) then the provisions of clauses 21 and 22 of this Agreement relating to expert determination can be invoked by any Party in relation to only those matters that are in dispute

2 3 that once the Owner has received written confirmation that the Footpath Upgrade and Maintenance Scheme has been Approved they will:-

(i) subject to the requirements of the Ecological Mitigation Strategy thereafter upgrade or procure the upgrading of the Footpath in accordance with the provisions of the Footpath Upgrade and Maintenance Scheme and if unable to immediately thereafter upgrade or procure the upgrading of the Footpath due to the requirements of the Ecological Mitigation Strategy will do so as soon as reasonably practicable after the Approval of the Footpath Upgrade and Maintenance Scheme and forever thereafter maintain the

Footpath to the equivalent of adoption standard in accordance with the Footpath Upgrade and Maintenance Scheme as the same may be varied by agreement in writing from time to time between the Owner and the Council or if any proposed variation is not agreed then as may be amended following a reference to the expert in accordance with clauses 21 and 22 of this Agreement, and

(ii) Unless all 76 Dwellings have been Completed, not Occupy or allow Occupation of more than 57 Dwellings until the Footpath has been upgraded to the equivalent of adoption standard and the Council has confirmed in writing that it is satisfied that it has been upgraded to the equivalent of adoption standard

2 4 to immediately following receipt of the confirmation in writing from the Council detailed in subparagraph 2 3 (ii) of this Schedule. -

(a) subject to the requirements of the Ecological Mitigation Strategy allow the general public to have pedestrian access to and along the Footpath forever thereafter unrestricted save for any restrictions agreed in advance by the Council in writing (except in the case of emergency) as part of the maintenance provisions contained in the Footpath Upgrade and Maintenance Scheme, and

(b) not to transfer or grant any legal estate in the Footpath without first having obtained the written consent of the Council to such transfer

3 The Owner hereby declares that pursuant to Section 31(5) Highways Act 1980 that the Footpath has not been dedicated to the public nor is any use by the public of any part of the Footpath to be taken in any way as an intention by Owner to dedicate the same as highway

4 The Owner hereby covenants further with the Council -

prior to any further above ground construction as part of any Development beyond that detailed in the Technical Note to have

(a) in place an Ecological Mitigation Strategy and not to allow or permit any above ground construction as part of any Development beyond that detailed in the Technical Note until it is implementing and complying with those provisions contained therein which are required to be implemented and complied with prior to any above ground construction beyond that detailed in the Technical Note, and

(b) terminated the Lease or varied it to include a covenant or covenants by the Lessees drafted so as to be binding on any successors in title agreeing to allow free and unrestricted access to the Owner or any other person authorised, appointed or required under the terms of this Agreement to implement the Ecological Mitigation Strategy and Footpath Upgrade and Maintenance Scheme to any part of the Ecological Mitigation Site comprised in the Lease to which access is reasonably required as part of the implementation of the Ecological Mitigation Strategy and Footpath Upgrade and Maintenance Scheme and requiring the Lessees (insofar as it is within the power of the Lessees) to implement the Ecological Mitigation Strategy on the part of the Land comprised in the Lease

and **IT IS AGREED THAT** within 30 Working Days (or within such other time period that the Council may reasonably require and which may be agreed in writing between the Council and the Owner within the initial 30 Working Day period) of the Council receiving from the Owner the submitted proposed Ecological Mitigation Strategy the Council will either notify the Owner in writing of its Approval or will acting reasonably provide in writing its proposed amendments to the Ecological Mitigation Strategy pursuant to which the Owner shall acting reasonably submit a revised proposed Ecological Mitigation Strategy incorporating those amendments as are reasonable and accepted **PROVIDED THAT** if agreement cannot be reached between the Council

and the Owner in relation to the proposed Ecological Mitigation Strategy within 40 Working Days of the date of its submission to the Council (or such other period of time that may be agreed) then the provisions of clauses 21 and 22 of this Agreement relating to expert determination can be invoked by any Party in relation to only those matters that are in dispute,

(c) immediately upon the coming into existence of the Ecological Mitigation Strategy or Footpath Upgrade and Maintenance Scheme, whichever occurs first, pay the Management Strategy Mitigation Sum into the Account together with any Inflation Uplift

5 The Owner hereby covenants further with the Council -

5 1 prior to any further above ground construction as part of any of the Developments beyond that detailed in the Technical Note to have in place the Delivery Mechanism and not to allow or permit any further above ground construction as part of any of the Developments beyond that detailed in the Technical Note until those parts of the Delivery Mechanism that are required to be implemented and complied with prior to any further above ground construction beyond that detailed in the Technical Note are being implemented and complied with in accordance with the provisions contained in the Delivery Mechanism and in any event within 6 (six) months of the date of this Agreement to have in place the Delivery Mechanism and **IT IS AGREED THAT** within 30 Working Days (or within such other time period that the Council may reasonably require and which may be agreed in writing between the Council and the Owner within the initial 30 Working Day period) of the Council receiving from the Owner the submitted proposed Delivery Mechanism the Council will either notify the Owner in writing of its Approval or will acting reasonably provide in writing its proposed amendments to the Delivery Mechanism pursuant to which the Owner shall acting reasonably submit a revised proposed Delivery Mechanism incorporating those amendments as are reasonable and accepted **PROVIDED THAT** if agreement cannot be reached between the Council and the Owner in relation to the proposed Delivery Mechanism within 40 Working

Days of the date of its submission to the Council (or such other period of time that may be agreed) then the provisions of clauses 21 and 22 of this Agreement relating to expert determination can be invoked by any Party in relation to only those matters that are in dispute, and

5 2 to in perpetuity hereafter and subject to any agreement made in writing between the Owner and the Council requiring otherwise

5 2.1 retain the reservoir situated in the western part of the Ecological Mitigation Site and manage and maintain it in accordance with the Ecological Mitigation Strategy, and

5 2 2 save in respect of any car parking facilities agreed from time to time as part of the Ecological Mitigation Strategy keep unbuilt upon the Ecological Mitigation Site and manage and maintain it in accordance with the Ecological Mitigation Strategy

6 The Owner hereby covenants further with the Council

6 1 to pay the Management Fee to the Council on the date hereof, and

6 2 to serve the Commencement Notices upon the Council within 14 days of Commencement

SECOND SCHEDULE

THE COUNCIL'S COVENANTS

The Council covenants with the Owner as follows -

1 Where under the terms of this Agreement there is reference to the Council's approval consent agreement or other authorisation or confirmation the Council shall

1 1 diligently and reasonably consider any duly made application or submission and shall not unreasonably refuse approval consent agreement or other authorisation or unreasonably withhold or delay the same, and

1 2 Upon the reasonable written request of the Owner at any reasonable time or times after any of the obligations under this Agreement have been fulfilled issue written confirmation thereof and/or at any reasonable time after all of the obligations under this Agreement have been fulfilled or at any reasonable time after this Agreement ceases to have effect issue written confirmation thereof and thereafter cancel all relevant entries in the Register of Local Land Charges

2 To issue Planning Permission E, Planning Permission F and Planning Permission G on the date hereof

Appendix 1

The Ecological Assessment

2013

Andrew Virtue Ecological Consultant

(T) 0113 258 6712
(M) 07557 131219
virchuk65@yahoo.co.uk

ECOLOGICAL ASSESSMENT

LAND AT BOWKER VALE INDUSTRIAL ESTATE, BLACKLEY

An Ecological Assessment was undertaken on land at Bowker Vale Industrial Estate, Blackley. The assessment comprised an Extended Phase I Habitat Survey, and an assessment of all trees for bat roosting potential.

Part of the Site is currently designated as a Grade C Site of Biological Importance (Fw2 Ponds & Small Lodges) due to the presence of a number of aquatic and marginal plant species. However, at the time of survey the reservoir was empty and will remain so permanently due to the serious health and safety risks it poses.

The habitats within and adjacent to the Site have potential value to foraging and commuting bats, badger and to a range of Red and Amber List birds.

A sensitive design scheme should be adopted that will protect the remaining habitats both within the Site and in the local area. Further to this an *Ecological Mitigation Scheme* has been prepared to offset the loss of part of the SBI.

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Appendices

Appendix 1: Phase I Habitat Plan

Appendix 2: Target Notes

Appendix 3: Site Photos

Appendix 4: Site Boundary of SBI

Appendix 5: Ecological Mitigation Scheme

1.0 Introduction

An Ecological Assessment was undertaken on land at Bowker Vale Industrial Estate, Blackley(centred on OS grid reference SD 841 030). The purpose of the assessment was to identify the potential for the site to contain important habitats or species, consider if development would have a significant impact upon local biodiversity, and recommend mitigation where necessary.

The application area (from here on known as 'the Site') is located in the Crumpsall area of Manchester, south-east of Heaton Park. The Site sits within a natural valley and currently comprises a former man-made reservoir that has been permanently drained for health and safety reasons, surrounded by trees.

The local area is dominated by urban housing and associated roads. The Site is bounded to the north by woodland and the River Irk, and to the south by an access road with woodland beyond. To the east is a complex of industrial buildings and to the west is a reservoir that is currently managed by a local fishing club.

2.0 Assessment Methodology

Phase I Habitat Survey

The Extended Phase I Habitat Surveyfollows the recognised methodology for this type of survey (Joint Nature Conservancy Council 1990), and comprises:

- A desk-based assessment for protected species and habitats including consultation with a range of statutory and non-statutory organisations,
- The results of a site visit to assess the potential for the site to support protected species.
- An annotated map showing all habitats and Target Notes **(TN).**

The extended Phase I survey is a description of habitats based upon the plant species present and also includes evidence of any legally protected or notable faunal groups. Target Notes are used to show any potential areas of interest, which may or may not require additional study. These are shown on the Phase I habitat plan at Appendix 1 and described at Appendix 2.

The survey visits were undertaken on 3rd August and 2nd November 2013 The November visit was programmed in order to fully assess all trees for bat-roosting potential. Weather conditions were ideal for survey on both days: dry and sunny.

The survey ecologist was Andrew Virtue. Andrew is a highly-experienced ecologist with nine years experience of undertaking Phase I habitat surveys. Andrew is a Full Member of the Chartered Institute of Ecology and Environmental Management (CIEEM) and holds Natural England Licences for surveying bats and great crested newt.

3.0 Baseline Conditions

A desk study was carried out to identify species or habitats that are considered important in a local context and to identify any species recorded locally that may be associated with the Site. This information can be used to help target groups that need to be considered in more details in order to identify the ecological baseline for the Site. A 2 km search radius was used for the desk study. Where multiple species records exist only the one closest to the Site has been presented in the following summary tables.

Table 1: List of consultees

Organisation	Source	Date	Information Obtained
DEFRA/Natural England	MAGIC website	16th May 2013	Statutory Designated Sites
Greater Manchester Ecology Unit	Patti Patel	1st November 2013	Protected and Notable Species, Local Wildlife Sites
South Lancashire Bat Group	Patti Patel	1st November 2013	Bat records
HyderConsultancy	Blackley Mere survey – summary report	June 2010	Aquatic plants, birds and bat surveys

The Greater Manchester Biodiversity Action Plan (2012-16)

The Greater Manchester Biodiversity Action Plan (BAP) has recently been updated and now contains four key objectives:

– To conserve and enhance biodiversity as part of a changing climate;

– To integrate biodiversity into sustainable development;

– To sustainably manage the environment for biodiversity, and:

– To allow nature to significantly contribute to quality of life, health and wellbeing.

Table 2: Desk study results – habitats

Name	Grid reference	Designation	Distance from Site
Blackley Forest	SD 841 038	Local Nature Reserve (LNR)	200 m to north
Bowker Vale Reservoirs	SD 839 031	SBI	Within Site
Blackley Forest and Heaton Vale Reservoirs	SD 841 038	SBI	200 m to north
Lakeside Woodland in Heaton Park	SD 841 038	SBI	500 m to north-west

Tables 3& 4: Desk study summary results – protected & notable species

PROTECTED SPECIES				
Species	**Designation**	**Grid reference**	**Date**	**Distance from Site**
Myotid bat	European Protected Species (EPS), under the Conservation of Habitats and Species Regulations, 2010 (as amended)	SD 842 038	2009	Foraging on site
Natterers bat	EPS	SD 842 038	2009	Foraging on site
Daubenton's bat	EPS	SD 842 038	2011	Foraging on site
Common Pipistrelle bat	EPS	SD 842 038		Foraging on site
Soprano Pipistrelle	EPS	SD 842 038	2011	Foraging on site

bat				
Badger	Badger Act (1992)	WITHHELD	2013	SETT

NOTABLE SPECIES				
Species	**Designation**	**Grid reference**	**Date**	**Notes**
Bullfinch	AMBER List (British Trust for Ornithology) UK BAP Priority Species (JNCC) NERC Section 41	SD 842 038	2009	Breeding on site
Dunnock	AMBER List NERC Section 41	SD 842 038	2009	Breeding on site
Song thrush	RED List, UK BAP Priority Species NERC Section 41	SD 842 038	2009	Breeding on site
Common Toad	UK BAP Priority Species NERC Section 41	SD 842 038	2009	Breeding on site

Desk Study Summary

Habitats - Statutory Sites

There is one statutory site within the search area - Blackley Forest Local Nature Reserve (LNR), located 200m to the north of the Site.

Non-Statutory Sites

There is one non-statutory site located within the application area (Bowker Vale Reservoirs SBI). There are two further SBIs within the search area: Blackley Forest and Heaton Vale Reservoirs (200 m to the north) and Lakeside Woodland in Heaton Park (500 m to the north-west).

The area coverage of the Bowker Vale Reservoirs SBI has recently been extended to include a section of mature woodland to the south-east (see Appendix 4) When including this woodland area, the qualifying habitat features of the SBI as defined by GMEU (2008) are as follows:

- Fw2 – Ponds& Small Lodges;
- Al1 – Aquatic Invertebrates (for the reservoir site), and.
- Wd1 - Semi-natural Broadleaved Woodland (for the woodland extension).

A *Hyder Consultancy* survey undertaken in 2010 identified the presence of eleven qualifying plant species within the reservoir that forms part of this application.

Species

Bats

A number of bat foraging records were provided by GMEU from within the Site, including Common and soprano *pipistrelle*, natterers and *Daubenton's.* Non-specified bat roosts were noted to the north-east and south-east of the Site

Badger

Two records for badger setts exist from within 1 km of the Site but the locations (which have been withheld) are too far from the Site to be of relevance. Further details can be supplied on demand.

Amphibians

Common Toad (a UK BAP Priority Species) was noted breeding within the Site.

Birds

A *Hyder Consultancy* bird survey undertaken in 2010 revealed the presence of 30 bird species breeding on site, representing 'a typical assemblage of a woodland/scrub habitat within an urban environment'.

There are no records of notable bird species breeding within the reservoirs themselves, but the surrounding scrub and woodland supports breeding and/or probable breeding by song thrush, dunnock and bullfinch (UK Biodiversity Priority Species), in addition to willow warbler, mistle thrush and grey wagtail.

Other faunal species

No further records were reported from the desk study for any other protected or notable faunal species (e.g. otter, water vole).

4.0 Survey Results

The Site consists of a single large area of open land within which sits a redundant man-made reservoir (now empty) surrounded by trees and developing woodland. There are no buildings within the application area. See **Appendix 1** for a map of the Site habitats.

HABITATS

The following habitats were found within or adjacent to the Site:

- Swamp
- Marginal grassland
- Broadleaved woodland
- Trees
- Scrub
- Tall ruderal herb
- Hard-standing

Swamp

The drained reservoir **(TN7)** has the appearance of FI Swamp vegetation, containing tall emergent vegetation typical of the transition between open water and exposed land. The open areas have been inundated with a virtual monoculture of water plantain *(Alisma plantago-aquatica)* and large stands of reed mace *(Typha latifolia).* This probably reflects the opportunistic nature of these two species, as the reservoir was only drained in 2012.

Marginal grassland

Towards the edges a drier marginal zone is noticeable **(TN6)** and here can be found a range of species to include purple loosestrife *(Lythrum salicaria),* great hairy willowherb *(Epilobium hirsutum),* hoary willowherb *(Epilobium parviflorum),* reed mace, yellow flag *(Iris pseudacorus),* soft rush *(Juncus effuses),* reed canary grass *(Phalaris arundinacea),* water horsetail *(Equisetum fluviatile),* gypsywort *(Lycopuseuropaeus),* and Cyperus sedge *(Carex pseudocyperus).* The invasive plant species Himalayan balsam *(Impatiens glandulifera)* is present in large numbers along the northern margins.

These margins are also being inundated by terrestrial species such as nettle *(Urtica dioica),* ragwort *(Jacobaea vulgaris),* rosebay willowherb *(Chamerion angustifolium),* Buddleja *(Buddleja davidii)* and rhododendron *(Rhododendron ponticum).* Coarse grasses present include common bent *(Agrostis capillaris),* creeping bent *(Agrostis stolonifera*), Yorkshire Fog *(Holcus lanatus),* tufted hair-grass *(Deschampsia cespitosa) and* Timothy *(Phleum pratense).* A number of juveline trees are beginning to colonise these marginal zones, including willow (*Salix* spp.), hazel *(Corylus avellana),* and silver birch *(Betula pendula).*

Broadleaved woodland

The former reservoir is fringed by a number of mature and semi-mature trees, forming patches of emergent woodland. Tree species noted include alder *(Alnus glutinosa),* oak *(Quercus sp.),* willow, horse chestnut *(Aesculus hippocastanum),* sycamore *(Acer pseudoplatanus),* lime *(Tilia* sp.), ash *(Fraxinus excelsior),* hazel, hawthorn (*Crataegus monogyna),* wych elm *(Ulmus glabra),* and poplar *(Populus* sp.) **(TN 8 & TN5).**

The ground layer within these woodland areas contain bramble *(Rubus fructicosus),* common hogweed *(Heracleum sphondylium),* hard shield fern *(Polystichum aculeatum),* Lady fern (*Athyrium filix-femina),* male fern *(Dryopteris filix mas)* broad buckler fern *(Dryopteris dilatata),* rosebay willowherb, herb Robert *(Geranium robertianum),* wood avens *(Geum urbanum)* and common sorrel *(Rumex acetosa).*

Surrounding the car park to the reservoir can also be found whitebeam *(Sorbus aria),* hazel, alder, sycamore, goat willow *(Salix caprea),* sycamore and ash. The understorey here is dominated by dogwood *(Cornus sanguinea),* bramble and dog rose *(Rosa canina)*

Trees

Trees line both sides of the access road in the vicinity of the Site. These include sycamore, beech *(Fagus sylvatica),* and lime. Some of these trees are covered in dense ivy *(Hedera helix)* **(TN4).**

Scrub

Small patches of dense and scattered scrub are located towards the western end of the Site, in the vicinity of both the current car-park and along the proposed access route to the west.

Tall Ruderal

Stands of tall ruderal herb are noted in small patches across the Site, particularly around the margins of the drained reservoir.

Hard standing

Areas of hard-standing include the access road into the general site, and the reservoir car-park (and associated access to this). These areas are generally denuded of vegetation due to regular vehicle use.

SPECIES

Bats

An external inspection of all the trees was undertaken for roosting bat potential. Close-focussing binoculars and a high-powered *Clu-lite* torch were used to study all external faces.

Table 5 presents a scoring system developed by the Bat Conservation Trust (BCT, 2012) when assessing trees for their potential to support roosting bats

TREE CATEGORY	DESCRIPTION
CONFIRMED ROOST	
HIGH (or Category 1*)	• Trees with multiple, highly suitable features capable of supporting larger roosts
MODERATE (or Category 1)	• Tree with definite bat potential supporting fewer suitable features than HIGH potential trees; • Or tree has potential for use by single bats
LOW (or Category 2)	• Trees with no obvious potential, although the tree is of an age or size that elevated surveys may find cracks or crevices; • Or the tree supports some features which may have limited potential to support roosting bats
NEGLIGIBLE (or Category 3)	• No features present with bat potential

(BCT 2012 Table 8.4, p.60)

A total of 72 mature and semi-mature trees were assessed for their potential to support roosting bats (49 lining the southern and eastern border of the reservoir, and 23 immediately north or west of the reservoir).

Based on Table 5, none of the trees were considered to have HIGH or MODERATE potential. Five trees were considered to have LOW potential, and the remainder were classed as NEGLIGIBLE. A full inspection of all these trees was possible and none of the trees assessed were covered in ivy.

The five trees that were classed as having LOW potential were seen to have visible holes or cavities but these were scoped out after detailed survey (either because the cavities were too small or because they were downward-pointing and filled with water). No further survey is therefore proposed for these trees.

Three mature lime trees lining the access route into the current site have been assessed as having MODERATE potential for roosting bats **(TN4).**

These trees are densely covered with ivy and this may obscure potential roost holes. It is assumed that these trees are to be retained and no further survey is therefore required. However, if the removal of these trees is proposed as part of the development then further dusk/dawn survey for bats would be required at an appropriate time of year (May-August)

These trees and all the other on-site trees offer good bat foraging habitat and potential commuting routes

Badger

No evidence of any badger activity was found during the survey. However, the habitat remains good for badger and they are in the local area.

Amphibians including Great Crested Newt (GCN)

Smooth newt, frog and common toad (UK Biodiversity Priority Species) are recorded breeding from the two reservoirs. Previous surveys have not identified the presence of GCN.

Reptiles

There are no records of reptile in the local area and their presence on Site can be reasonably precluded.

Birds

The desk study has revealed the presence of a number of notable bird species of potential relevance to the Site. None of these birds are considered rare. However, they are listed as Red List or Amber List species using the British Trust for Ornithology's (BTO) classification for Birds of Conservation Concern (BTO 2009). They are also listed as Priority Species on the UK Biodiversity Action Plan (UK BAP).

Other faunal species

No evidence of any other protected mammal was recorded during the survey Water vole is not known to be present in the local area. If left undisturbed the Site could have value to occasional visiting otter, as they are likely to occupy the adjacent River Irk.

Invasive plants (Schedule 9, Wildlife & Countryside Act 1981)

Himalayan balsam was noted from within the Site, mainly within the northern marginal zone of the former reservoir. Stands of Japanese knotweed *(Fallopia japonica)* are present in large numbers throughout the wider site, particularly along the river bank. *Cotoneaster* sp , *Rhododendron* and *Buddleja* were also noted from within the wider site. The upper reservoir contains the invasive aquatic species Canadian pondweed *(Elodea Canadensis),* although this is outside the boundary of the Site

5.0 Evaluation and Recommendations

Evaluation

Habitats

Bowker Vale Reservoirs SBI (eastern reservoir)

There are in total ten marginal plant species present within the footprint of the drained eastern reservoir that are listed from *Table 4* of GMEU's *Indicative species list for Freshwater Habitats Species* (GMEU 2008). These are. water plantain, reed mace, purple loosestrife, great hairy willowherb, yellow flag, reed canary grass, water horsetail, gypsywort and Cyperus sedge (which counts as double using the criteria).

In order to qualify as a Grade C SBI (Fw2 Ponds & Small Lodges), a site must contain between 9-22 species of aquatic and /or marginal plant species. Although at the lower end of this scale, the Site continues to qualify using these criteria and is assessed as having Moderate Conservation Value (see p 32).

The reservoir is currently drained and if it remains in its current state it will no longer operate as a functioning lodge. If left unmanaged, the former reservoir will over time develop into a different habitat type. Because of the impeded drainage caused by the continued presence of the reservoir foundations the most likely habitat to form over the current mud layer is a swamp community, which may or may not be eventually colonised by willow and alder woodland.

It is important to note that I have been advised by the landowner that the colonising vegetation within the reservoir and along its embankments will be removed over the coming weeks. This is because the underlying deep mud represents a very serious health and safety risk to the general public. It will therefore be important to re-survey this area once the vegetation is cleared This findings and recommendations of this report will then be updated accordingly

Potential Value to Protected Species

The following bullet points summarise the overall value of the Site to protected or notable species·

- The Site has potential value to bats (roosting and foraging);
- The Site has potential value to badger;
- The Site has the potential to support a range of Red and Amber List birds.

Recommendations

A) Further surveys

The following surveys are recommended:

Badger

A pre-demolition badger survey is recommended. This survey should be undertaken during the winter months when vegetative die-back allows for a full inspection of ground conditions.

Bats

Three mature lime trees lining the access route into the current site have been assessed as having MODERATE potential for roosting bats If the removal of these trees is proposed as part of the development then further dusk/dawn survey for bats would be required at an appropriate time of year (May-August).

B) Best Practice

The NERC Act (2006) states that local authorities and government agencies should protect and enhance biodiversity while exercising their functions. To satisfy the policy requirements of the NERC Act it is recommended that the following actions are taken.

Retention of/ mitigation for key habitats

The SBI was originally designated for the assemblage of aquatic and marginal plant species. The reservoir has been permanently drained. There is no realistic prospect of the reservoir being reinstated due to the health and safety risks it poses.

Suitable on-site mitigation should therefore be provided in order to offset the impact of this loss. The proposed residential development could facilitate this.

Tree & shrub clearance - birds

The trees and shrubs within the Site have bird-nesting potential. All nesting birds are fully protected under the Wildlife & Countryside Act (1981, *as amended*). Therefore if any of this vegetation is to be cleared for the development it is recommended that this should take place outside the recognised bird-nesting season (which is March 1st -August 31st inclusive).

Erection of bird & bat boxes

It is recommended that a range of *Schwegler* bird and bat boxes are erected on suitable trees within or adjacent to the Site and/or on a range of proposed buildings.

Sensitive lighting scheme

A sensitive lighting scheme should be adopted within the approved master plan so that the areas of habitat used by foraging bats are protected from excessive light spillage. Whilst it is accepted that *Secure by Design* criteria will require reasonable light levels within the development site, it is important that there should be no additional lighting of the River Irk or its riparian border, or the upper reservoir

6.0 Conclusion

An Ecological Assessment was undertaken on land at Bowker Vale Industrial Estate, Blackley. The assessment comprised an Extended Phase I Habitat Survey, and an assessment of all trees for bat roosting potential

Part of the Site is currently designated as a Grade C Site of Biological Importance (Fw2 Ponds & Small Lodges) due to the presence of a number of aquatic and marginal plant species. However, the reservoir has since been permanently emptied and as such its biological importance is depleted. Its value will be further reduced when the vegetation covering it and its embankments is permanently removed over the coming weeks due to the overriding health and safety risks that the underlying 'mud' poses. A further survey will be conducted at that time to reassess the biological value of the site.

The habitats within and adjacent to the Site also have potential value to foraging and commuting bats, badger and to a range of Red and Amber List birds

The proposed residential development of the site offers a potential opportunity to mitigate for the loss of the reservoir as a water body. A sensitive design scheme should therefore be adopted that will protect the remaining habitats both within the Site and in the wider area under the landowner/applicant's control. Further to this an *Ecological Mitigation Scheme* has been prepared in anticipation of the potential loss of part of the SBI.

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Appendices

Appendix 1: Phase I Habitat Map



Swamp

Wet grassland

Broadleaved woodland

Tall ruderal

Dense scrub

Occasional mature trees

Hard-standing

Amenity grassland with trees

Andrew Virtue
Consultant Ecologist

Title:
Phase 1 Habitat Plan

Date:
December 2013

Appendix 2: Target Notes

Target Note Number	Description	Reason for inclusion
TN1	Scrub	Bird-nesting potential
TN2	Tall ruderalherb	Potential presence of Himalayan balsam
TN3	Scrub	Bird-nesting potential
TN 4	Mature, ivy-covered trees lining sections of access road (indicative only)	Bat roosting & bird-nesting potential
TN 5	Mature and semi-mature trees surrounding reservoir	Bat roosting & bird-nesting potential
TN 6	Marginal plant zone	Potential botanical value & presence of Himalayan balsam
TN7	Swamp	Former site of reservoir, and currently part of Bowker Vale SBI
TN8	Broadleaved woodland	Bat roosting & bird-nesting potential
TN9	Amenity grassland with trees	Bird-nesting potential
TN10	Hard standing	Potential presence of Japanese knotweed

Appendix 3: Site photos

Figure 1: Drained reservoir viewed from south



Figure 2: Drained reservoir viewed from east



Figure 3: Himalayan balsam along northern border of reservoir



Figure 4: Mature trees lining access road



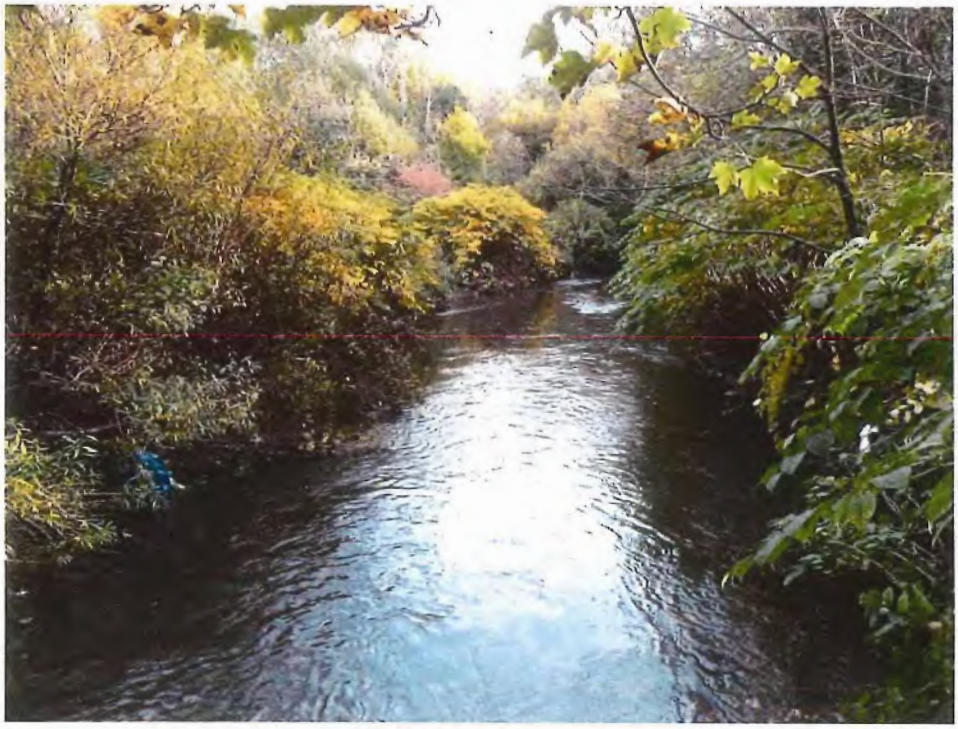
Figure 5: Western reservoir



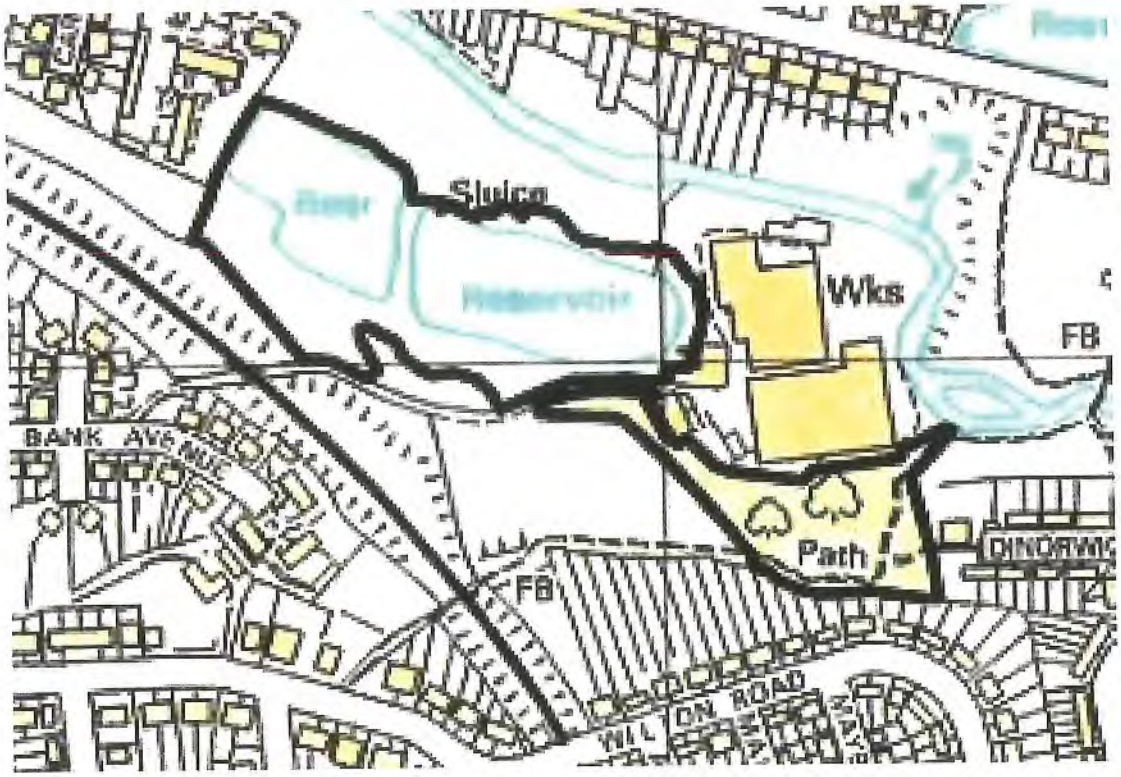
Figure 6: Woodland lining River Irk to north



Figure 7: River Irk, northern boundary



Appendix 4:Boundary of Revised Bowker Vale Reservoir SBI



Appendix 5: Ecological Mitigation Scheme

1.0 Introduction

The proposals will result in the loss of approximately 40% of the newly revised footprint of the Bowker Vale Reservoirs SBI (1.2 ha out of a total of 2.9 ha). Mitigation for this loss is proposed across a wider site which is owned by Rexmore Holdings, totalling 5.44 ha. This will allow for a more comprehensive mitigation scheme that will include the entire land coverage of the recently extended SBI.

This mitigation scheme also meets the requirements of Condition Number 23 for a separate planning permission (Application Number 100039/OO/2012/N1).

The total land area within the SBI used for the development will be replaced by the surrounding wider site area being subject to habitat improvement, ongoing management and available for SBI designation. These adjacent areas of land are not currently designated as SBI With appropriate management these could eventually form part of a revised SBI boundary.

The footprint of the wider site is currently occupied by a mixture of former factory and warehouse buildings, hard landscaping, trees, woodland and scrub. In addition there are two traditional residential properties to the south-west of the site There is also a large reservoir to the far west of the site that is currently managed as a fishing resource.

It is proposed that an *Ecological Mitigation Scheme* is implemented that is underpinned by a Section 106 agreement under the Town & Country Planning Act (1990).

The *Ecological Mitigation Scheme* will be overseen by a Community Land Trust, i.e. a non-for-profit corporate body as defined in the Housing & Regeneration Act (2008). The Trust and the *Ecological Mitigation Scheme* will operate in perpetuity (but for an initial minimum period of 99 year). It will be funded by a covenant paid to the Trust, and supplemented annually via a pro rata proportion (according to the number of dwellings).

The contents of the lease shall be subject to reasonable rights of access to the public and the lease shall contains covenants in favour of the Council to the effect that the Community Land Trust will not use the Ecological Mitigation Scheme for any purpose other than fishing, nature conservation or other ecological purposes as set out in the Management Strategy.

Partnership working is envisaged in the delivery of the *Ecological Mitigation Scheme* providing a long-term and sustainable management of the wider site. Potential partners in the writing and preparation of the *Mitigation Scheme* would be GMEU and the Environment Agency. Potential partners in the implementation of the scheme would include Groundwork or the Lancashire Wildlife Trust.

2.0 Summary Proposals of the Ecological Mitigation Scheme

A single over-arching *Ecological Mitigation Scheme* will be produced, which will have three main components:

- All wetland areas across the wider site will fall within a *Wetland Management Scheme.* This will include the western reservoir and a new wildlife pond to the east of the site (total area coverage – 1.0 ha);
- All woodland areas across the wider site will fall within a *Woodland Management Scheme.* This will also include the area of mature woodland to the far south-east that now forms part of the Bowker Vale Reservoirs SBI (total area coverage – 2.7 ha);
- All terrestrial invasive plant species present across the wider site will be subject to treatment by an *Invasive Non-Native Species (INNS) Management Scheme*(total area coverage – 5.4 ha).

Figure 1 - Ecological Mitigation Scheme – Summary Proposals



3.0 Wetland Management Scheme

The upper (western) reservoir is currently managed by Broughton Angling Club - a private, non-commercial organisation. The reservoir is stocked with common carp, crucian carp, perch, roach and bream.

The presence of large numbers of fish can be detrimental to the ecological interests of any still-water, due to issues of water quality, turbidity, disturbance and consumption of native plant species and the predation on other wildlife (such as invertebrates).

It is proposed that a *Wetland Management Scheme* is prepared, in conjunction with the Environment Agency and GMEU. The main objective of the plan would be to raise the quality of the SBI from Grade C to Grade B status, whilst allowing fishing to continue in a sustainable manner

The plan would be reviewed annually but the initial target for achievement of Grade B SBI status would be five years.

In the first instance the ecological baseline would be established (including stocking rates and species of fish present, current management, current state of the SBI), and then the best management tools for improving the status of the SBI would be identified

Initial habitat improvements would feature zoning off the western third of the reservoir and its adjacent habitat (a total of 0 3 ha), the removal of the fishing pegs in these locations and a restriction on access to these areas via the defensive planting of native shrubs and trees. This section of the reservoir would be managed primarily for nature conservation interests.

The *Wetland Management Scheme* would feature the following broad principles:

- Description of the site (name, location, historical management)
- Site management objectives
- Botanical species present (and dominance)
- Fauna (including rare or unusual species)
- Cultural features
- Statutory designations
- Constraints
- Existing and planned public access

In reality, much of this information is already available as the reservoir is already an SBI. Management options could include the following practices:

- The creation of reed-beds in horseshoe-shaped bays as buffer zones to treat run-off from the adjacent road
- The removal of some fish species, or a reduction in overall fish density
- The establishment of no-go areas for fish
- Planting overhanging bank-side trees and bushes
- Making islands, peninsulas, bunds
- Creating shallow edges or marsh areas
- A planting plan for establishing new aquatic and marginal plant species;
- De-silting

(Taken from Table 6, Environment Agency (2013)

An ongoing programme of aquatic plant and invertebrate monitoring would be implemented in order to assess the success of the programme.

A shallow wildlife pond will also be established to the east of the site, which will provide additional habitat features for wildlife that are sensitive to the presence of fish, such as amphibians and some invertebrate species. The shallow margins of this pond would also be a good seeding area for the range of marginal plant species currently found at the edges of the eastern (drained) reservoir.

4.0 Woodland Management Scheme

It is proposed that a *Woodland Management Scheme* is prepared, in conjunction with GMEU. The main objective of the plan would be to raise the quality of the non-SBI woodland (2 ha of woodland to the north of the site) to that found within the SBI and therefore eventually allow it to qualify for SBI status. Currently this woodland lacks any formal management and is mainly composed of even-aged stands of semi-mature sycamore

Management of the SBI woodland to the east would also be included within the plan (0.7 ha)

The plan would be reviewed annually but the initial target for achievement would be twenty years.

In the first instance the ecological baseline would be established. Then the best management tools for improving the status of the woodland areas would be identified The *Woodland Management Scheme* would follow the broad prescription outlined by the Forestry Commission for managing native broadleaved woodlands.

- Description of the site (name, location, historical management)
- Site management objectives
- Dividing the wood up into manageable compartments
- Tree and shrub species present (and dominance)
- Age classes present
- Ground flora species present (and dominance)
- Fauna (including rare or unusual species)
- Cultural features present
- Statutory designations
- Constraints
- Existing and planned public access

Management options could include the following practices:

- Coppicing rotations
- Selective felling of certain species or age stands
- Selective planting of native tree and shrub species
- Establishing glades and rides
- Developing networks of wildlife habitats (log piles, bird & bat boxes)

5.0 INNS Management Scheme

It is proposed that an *Invasive Non-Native Species (INNS) Management Scheme* is prepared, in conjunction with GMEU. The main objective of the plan would be to eradicate all *Schedule 9 (Wildlife & Countryside Act 1981)* species of plant from the wider site.

The plan would be reviewed annually but the initial target for achievement would be five years. An ongoing maintenance plan would then ensure that the site remained free of these (and any new) species.

The following invasive plant species have been identified from within the boundary of the wider site. Japanese knotweed, Himalayan balsam, *Cotoneaster, Buddleja* and *Rhodedendron ponticum.*These species are most prevalent within and adjacent to the woodland areas and along the river bank. All these species will be subject to an ongoing eradication programme.

The *Knotweed Code of Practice* (Environment Agency 2013) outlines the management of Japanese knotweed on development sites. This approach will be widened to include all terrestrial INNS from within the site. The management prescription would therefore be organised under the following headings·

- Description of the site
- Site management objectives (general)
- Limitations and threats to site management objectives
- Site inventory
- Brief description of the management plan
- Setting priorities
- Preventing further spread
- Management objectives
- Management options
- Actions planned (treatments and monitoring)
- Criteria for success
- Resource needs
- Results of evaluation

NB: The majority of the Japanese knotweed from within the site is located along the banks of the River Irk and for these situations Sections 2 and 3 of the *code of practice* recommends *in-situ* management. If knotweed was identifed within any area subject to development the options for management would need to be modified accordingly.

6.0 Conclusion

The proposed development will result in the loss of approximately 1.2 ha (40%) of the newly revised site boundary for Bowker Vale Reservoirs SBI. An *Ecological Mitigation Scheme* has therefore been proposed that includes the following components.

- *A Wetland Management Scheme*
- *A Woodland Management Scheme*
- *An Invasive Non-Native Species (INNS) Management Scheme*

The aim of the *Wetland Management Scheme* will be to raise the quality of the remaining western reservoir from SBI Grade C to Grade B status, whilst allowing fishing to continue in a sustainable manner.

The aim of the *Woodland Management Scheme* will be to raise the quality of all non-SBI woodland (2 ha) to SBI status. Currently this woodland lacks any formal management and is mainly composed of even-aged stands of semi-mature sycamore.

The aim of the *Invasive Non-Native Species (INNS) Management Scheme* will be to eradicate all *Schedule 9 (Wildlife & Countryside Act 1981)* species of terrestrial plant from the wider site. Two of these species (Japanese knotweed and Himalayan balsam) are present in large numbers across the wider site and threaten all habitat types, including the current SBI designations.

Partnership working is envisaged in the delivery of the overall *Ecological Mitigation Scheme* providing a long-term and sustainable management of the wider site. It is proposed that the scheme is underpinned by a Section 106 agreement and overseen by a Community Land Trust

NB: Incorporation of swale habitat adjacent to the River Irk

Preliminary discussions with Gary Morris (Biodiversity Officer, Environment Agency) have been held on site and the incorporation of a swale has been requested as part of the overall mitigation plan. This proposal is accepted in principle but the exact details of the requirements will need to be finalised under reserved matters

References

Environment Agency (2013) - *Healthier Environment, better fishing – Freshwater Fisheries and Wildlife Conservation - a guide to good practice*. Environment Agency, Bristol.

Environment Agency (2013): *the knotweed code of practice - managing Japanese knotweed on development sites (version 3, amended in 2013).*Environment Agency, Bristol.

Forestry Commission (2003) - *The management of semi-natural woodlands: 3. Lowland mixed broadleaved woods.* Forestry Commission.

http://www.environment-agency.gov.uk/homeandleisure/wildlife/31350.aspx

http://www.swog.org.uk/articles/woodland-management-planning/

http://www.wildaboutmanchester.info/www/images/stories/Biodiversity%20Action%20Plan%202012%20-%2016.pdf

Table 1: Summary of Proposals and Potential Partners

Proposal	Target	Target Date	How achieved	Potential partners
Wetland Management Scheme	Western reservoir to become Grade B SBI	5 years after planning permission	Nature conservation becomes priority over fishing rights	Environment Agency, Groundwork, GMEU, Lancashire Wildlife Trust
Woodland Management Scheme	All woodland to become Grade C SBI	20 years after planning permission	To raise status of non SBI woodland to that of current SBI by active management	Groundwork, GMEU, Lancashire Wildlife Trust
INNS Management Scheme	Eradication of all terrestrial plant INNS across site	5 years after planning permission	Implementation of ongoing INNS programme	Groundwork, GMEU, Lancashire Wildlife Trust
Biological Surveys	Maintain biological records across whole site	Ongoing	Community Land Trust appoints a Ecological Clerk of Works	Groundwork, GMEU, Lancashire Wildlife Trust

Table 2: Criteria for designation of Fw2 Ponds & Small Lodges(GMEU 2008)

Conservation Value	Plant Species numbers	Grading
Very High	>40	A
High	23-39	B
Moderate	9-22	C

Table 3: Criteria for designation of Wd1 Semi-Natural Broadleaved Woodland (GMEU 2008)

Conservation Value	**Plant Species numbers**
A woodland which meets the UK BAP Broad Habitat type – Broadleaved, mixed and yew woodland of greater than 20% broadleaved trees, where it exhibits a variety of woodland community types in the ground flora and supports one of the following,	
	10 dry woodland species from a supporting table found within the 2008 guidelines (Table 1, p.18)
	7 wet woodland (WW) species.

Appendix 2

Technical Note

Blackley Mere, Crumpsall

Brief Technical Note on Works done to date

1 WORKS NOVEMBER 2019 TO PRESENT

1.1 Initial Work

- Removal of illegal waste and take to landfill or permitted waste treatment sites as appropriate
- Ecological walkover to update the Invasive Weeds situation
- Vegetation strip
- Groundwater risk assessment in addition to the removal of the 'waste' and an updated Remediation Strategy
- Processing the 'waste' to segregate hazardous waste from non-hazardous waste

1.2 Remediation Related Works now complete

- Earthworks to infill Reservoir R1 – this was the soils from the western end of the site
- Excavation of the soil stockpiles at the western end of the site to
    - Remove the underlying concrete slabs and foundations
    - Re-engineer the stockpiled soils
- Invasive weeds strategy

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PLAN 'A'

H. M. LAND REGISTRY

NATIONAL GRID PLAN SD 8303

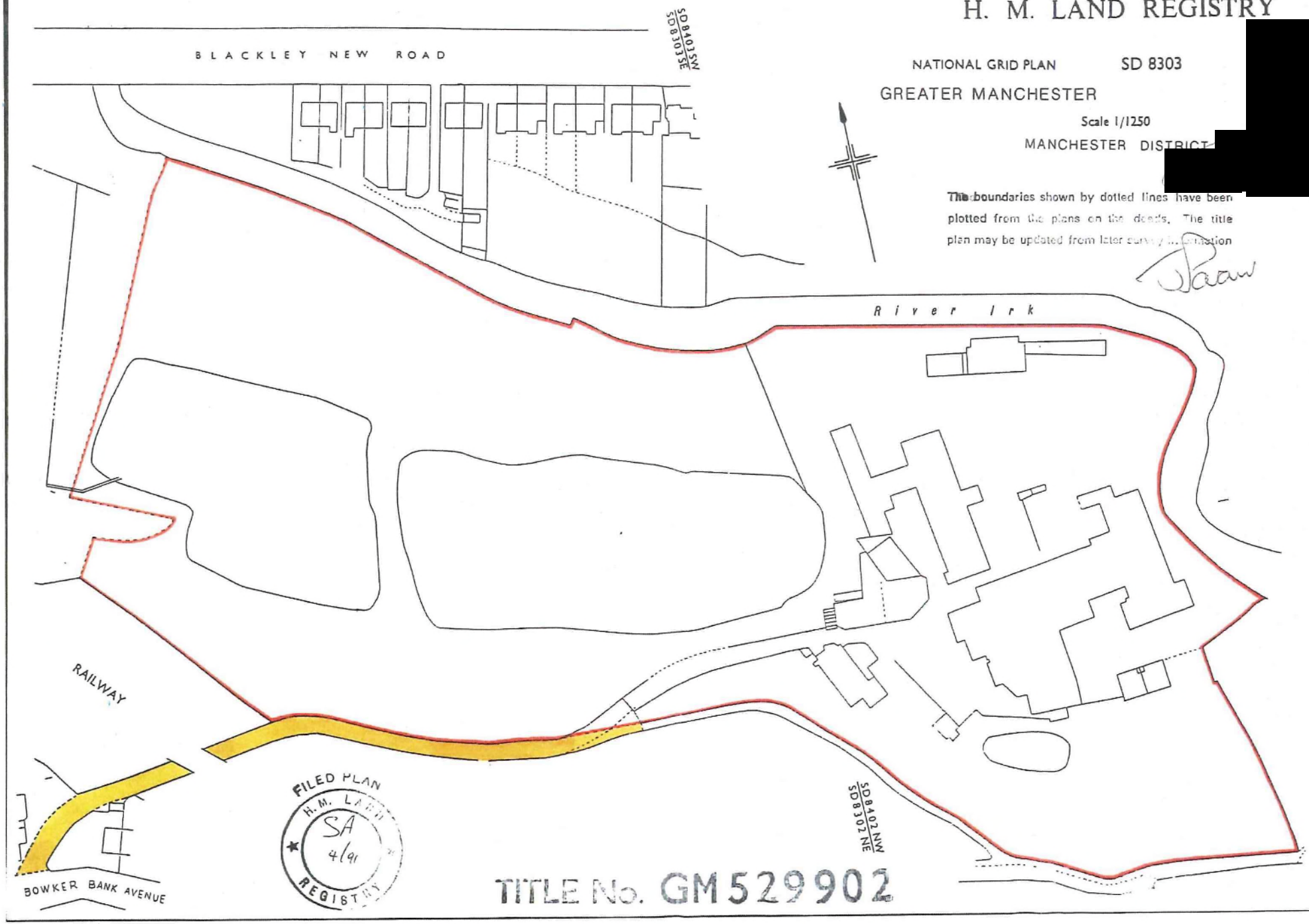
GREATER MANCHESTER

Scale 1/1250

MANCHESTER DISTRICT

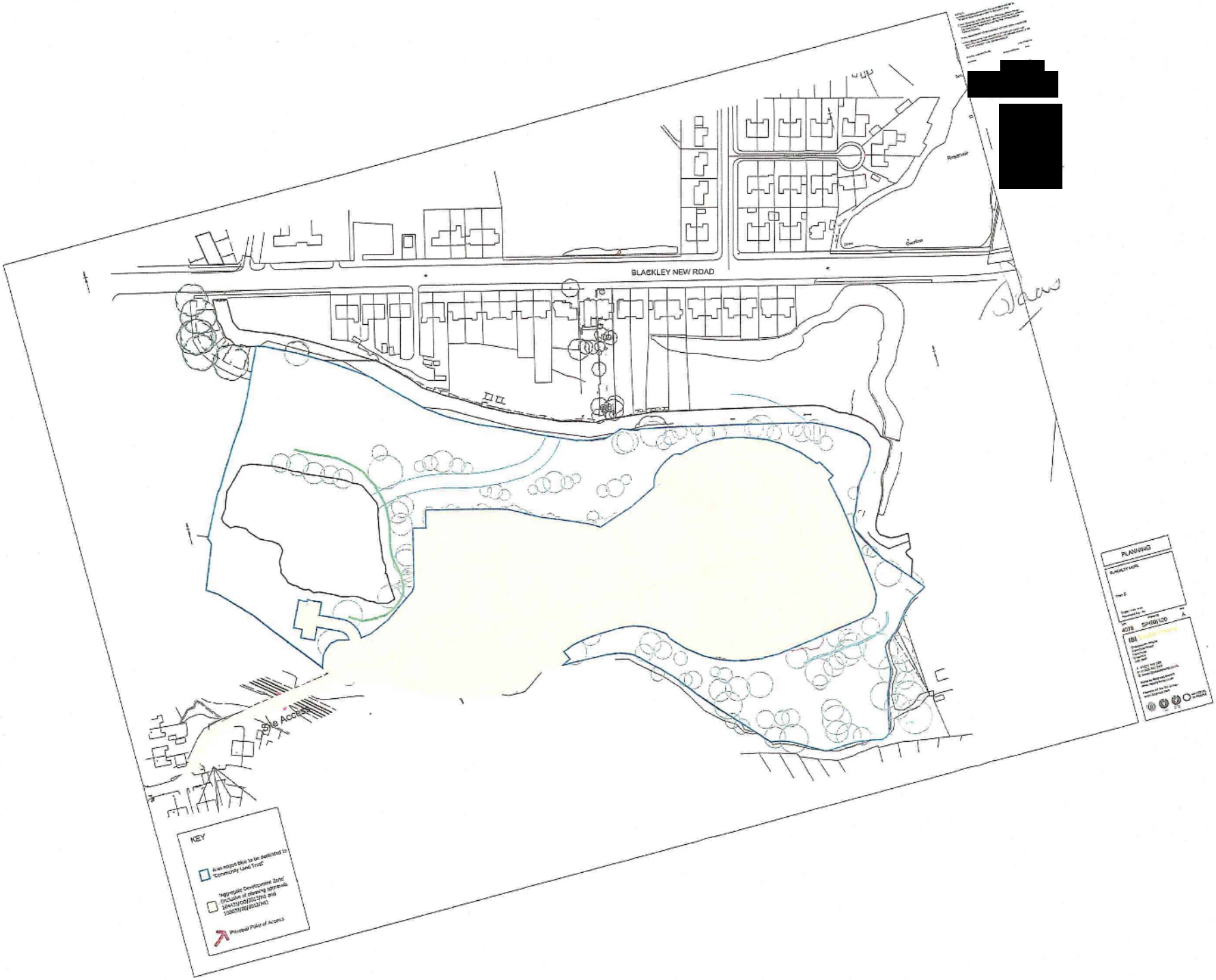
[redacted]

The boundaries shown by dotted lines have been plotted from the plans on the deeds. The title plan may be updated from later survey information



TITLE No. GM529902


BLACKLEY NEW ROAD
Site Access
KEY
Area edged blue to be dedicated to 'Community Land Trust'
'Aggregate Development Zone' (includes all planning approvals 104435/00/2013/N1 and 100039/00/2012/N1)
Principal Point of Access
PLANNING
BLACKLEY MARE
4070
SP/00/118
A
IBI


BLACKLEY NEW ROAD
Site Access
KEY
Area edged blue to be dedicated to "Community Land Trust"
"Aggregate Development Zone" (Inclusive of planning approvals 104475/00/2012/N1 and 103079/00/2012/N1)
Principal Point of Access
PLANNING
BLACKLEY MOR
4078
SP(00)120
A

01113887

THE COMMON SEAL of **THE COUNCIL OF THE CITY OF MANCHESTER** was hereunto affixed in pursuance of an Order of the Council of the said City: -

Authorised Signatory

EXECUTED AS A DEED by **BLACKLEY DEVELOPMENTS LIMITED**
acting by a director
DIRECTOR
Signature: [redacted]
Name: (in block capitals) IAN COULTER
IN THE PRESENCE OF
Signature: [redacted]
Name (in block capitals) [redacted]
Address [redacted]

Occupation Accountant

EXECUTED AS A DEED by **BRIDGING FINANCE LIMITED** [redacted]
acting by a director [redacted]
DIRECTOR
Signature: [redacted]
Name: (in block capitals) [redacted]
IN THE PRESENCE OF
Signature: [redacted]
Name (in block capitals) CLAIRE WEDGE
Address [redacted]

Occupation Corporate Sales Executive

EXECUTED AS A DEED by **TOGETHER COMMERCIAL FINANCE LIMITED**

acting by a director

DIRECTOR

Signature [redacted]

Name (in block capitals) . . . . . .

IN THE PRESENCE OF

Signature [redacted]

Name (in block capitals) CLAIRE WEDLOCK

Address [redacted]

Occupation Corporate Sales Executive

EXECUTED AS A DEED by **LAGAN AVIATION & INFRASTRUCTURE LIMITED**

acting by a director

DIRECTOR

Signature [redacted]

Name (in block capitals) DAVID RAMSEY

IN THE PRESENCE OF [redacted]

Signature

Name (in block capitals)

Address [redacted]

Occupation Solicitor

EXECUTED AS A DEED by **CLONROSE DEVELOPMENTS LIMITED**

acting by a director

DIRECTOR

Signature [redacted]

Name (in block capitals) [redacted]

IN THE PRESENCE OF

Signature [redacted]

Name (in block capitals) [redacted]

Address [redacted]

Occupation [redacted]