

DATED 202

THE COUNCIL OF THE CITY OF MANCHESTER

– and –

THE PINSTRIPE PROPERTY INVESTMENT CO. LIMITED

- and –

BANIDEV LIMITED

- and –

HOPE MILL PARTNERSHIP LLP

and others

Agreement

**pursuant to section 106 of the Town and Country Planning Act 1990 (as
amended) relating to Land at Pollard Street
Manchester**

City Solicitor
P O Box 532
Town Hall
Albert Square
Manchester
M60 2LA

L/BH/EVD3001/3928

THIS AGREEMENT is entered into the
202

day of

BY:

- (1) **THE COUNCIL OF THE CITY OF MANCHESTER** of Town Hall, Albert Square, Manchester, M60 2LA (the “**Council**”)
- (2) **THE PINSTRIPE PROPERTY INVESTMENT CO. LIMITED** (incorporated in England with company number 02305888) whose registered office is at 15 Little Peter Street, Manchester, M15 4PS (the “**First Owner**”)
- (3) **BANIDEV LIMITED** (incorporated in England with company number 10838525) whose registered office is at 15 Little Peter Street, Manchester, M15 4PS (the “**Second Owner**”)
- (4) **HOPE MILL PARTNERSHIP LLP** (LLP registration number OC386712) whose registered office is at 113 Pollard Street, Manchester, M4 7JA (the “**Third Owner**”)
- (5) **THE FACTORY OF CREATIVITY** (a Charitable Incorporated Organisation (CIO) registered with the Charity Commission with the registration number 1183251) of Hope Mill Theatre, 113 Pollard Street, Manchester, M4 7JA (the “**Fourth Owner**”)
- (6) **HANDELSBANKEN PLC** (incorporated in England with company number 11305395) whose registered office is at 3 Thomas More Square, London, E1W 1WY (the “**Mortgagee**”)
- (7) **DAVID PAGE** the sole proprietor trading as **White Bear Studios** of Hope Mill, 113 Pollard Street, Manchester, M4 7JB (the “**First Tenant**”)
- (8) **DAVID TOLAN** and **THOMAS TWEMLOW** and **STEPHEN POPPLETON** and **JODY JENNINGS** and **HENRIC MATTSSON** (together the “**Hope Mill Partners**”) trading as **Hope Mill Recording Studios** of 113 Pollard Street, Manchester, M4 7JA (the “**Second Tenant**”)

BACKGROUND

A The Council is the local planning authority for the purposes of the Act in relation to the Site and is the authority by whom any obligations hereby created are enforceable. The Development will be carried out on the Site. The Site is situated within the Administrative Boundaries of Manchester and any planning obligation created by this Agreement is enforceable by the Council.

- B The First Owner is the freehold owner of the majority of the Site registered at the Land Registry with Title Absolute under Title Numbers GM170579, GM419512, and GM409934 together with but subject to all matters contained or referred to in the Title Registers thereunder.
- C The Second Owner is the freehold owner of the rest of the Site registered at the Land Registry with Title Absolute under Title Number GM738251 together with but subject to all matters contained or referred to in the Title Registers thereunder.
- D The Third Owner is the freehold owner of the Adjacent Site (as defined herein) registered at the Land Registry with Title Absolute under Title Number GM185100 together with but subject to all matters contained or referred to in the Title Registers thereunder.
- E The Fourth Owner is the leasehold owner of part of the Adjacent Site registered at the Land Registry with Title Absolute under Title Number MAN350766 together with but subject to all matters contained or referred to in the Title Registers thereunder.
- F The First Tenant is the leasehold owner of part of the Adjacent Site.
- G The Second Tenant is the leasehold owner of part of the Adjacent Site.
- H The Mortgagee is interested in the Site by virtue of a registered charge dated 31 August 2017.
- I The Second Owner submitted the Application to the Council for planning permission to carry out the Development in the manner set out in the plans, specifications and particulars forming part of the Application. The parties hereto have entered into this Agreement in order to consent to and be bound by the provisions of this Agreement in so far as they relate to themselves.
- J The Council resolved on 1 June 2023 that it was minded to grant the Planning Permission (as herein defined) subject to completion of this Agreement.
- K The Council has recognised the difficulty faced by lower income groups in buying homes within the Administrative Boundary of Manchester and the planning purpose of this Agreement is to increase the provision of affordable housing within the Administrative Boundaries of Manchester. The Owners (as herein defined) intend

to make provision for Affordable Housing in the manner hereinafter appearing. The Council has recognised the need to mitigate the effect of the Development on the Adjacent Site in the manner hereinafter appearing. The Council is satisfied that the provision of Affordable Housing and the obligation relating to the Adjacent Site are:

- (a) necessary to make the Development acceptable in planning terms (including where appropriate, obligations necessary to mitigate the adverse impacts of the Development in accordance with the development plan for the area and other material considerations);
- (b) directly related to the Development; and
- (c) fairly and reasonably related in scale and kind to the Development and in any event will secure planning benefits.

L The Owners (as herein defined) and the Adjacent Site Owners (as herein defined) have agreed to enter into this Agreement in support of the Application so as to create planning obligations in favour of the Council pursuant to section 106 of the Act and to be bound by and observe and perform the covenants hereinafter contained in so far as they relate to themselves.

M The Tenants as herein defined have agreed to enter into this Agreement solely to the extent detailed in Clause 26.

N The Council has determined that the Development in order to comply with the Core Strategy will support the payment of £5,534,270 (five million five hundred and thirty four thousand two hundred and seventy pounds) as an Affordable Housing Contribution (as defined herein). However, the Owners (as herein defined) have stated that there are viability issues affecting the development of the Site and have submitted to the Council documentation in support of this contention. The Council has accepted that at the date of this Agreement the implementation of the Development is not viable if payment is required to be made to the Council of the Affordable Housing Contribution. The Council will subject to the provisions contained in this Agreement in respect of any possible Viability Payment accept the postponement of the payment of the Maximum Contribution (as herein defined) on the basis of the information contained in the documentation relating to viability

submitted by the Owner to the Council. The Owners have agreed to enter into the planning obligations contained herein requiring them to submit a Viability Appraisal and pay any Viability Payment found to be due in accordance with the provisions contained in this Agreement.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

- 1.1 The definitions and rules of interpretation set out in this Clause apply to this Agreement.

“Act” the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004 and the Planning Act 2008;

“Actual Land Value” means the actual purchase price paid for the Site as evidenced to the reasonable satisfaction of the Council;

“Adjacent Site” the property described in Schedule 1 as the Adjacent Site and shown for the purposes of identification only edged red on Plan 2 and which shall be the land against which the planning obligations contained in Schedule 3, paragraph 5 that have been entered into by the Adjacent Site Owners may be enforced against;

“Adjacent Site Owners” means together the Third Owner and Fourth Owner;

“Administrative Boundaries of Manchester” all the wards that together comprise the city of Manchester;

“Affordable Housing” affordable housing as defined in the NPPF that will be available to persons who cannot afford to rent or buy housing generally available on the open market;

“Affordable Housing Contribution” shall mean the sum of £5,534,270 (five million five hundred and thirty four thousand two hundred and seventy pounds) together with any Inflation Increase payable as a contribution towards the provision of Affordable Housing within the Administrative Boundaries of Manchester in accordance with policy PA1 of the Core Strategy. This represents a sum that is a monetary equivalent to the cost of providing 20% of the Dwellings as Affordable Housing;

“Agreed Land Value” means the lower of i) the Benchmark Land Value or ii) the Actual Land Value;

“Agreed Stamp Duty” means the stamp duty land tax (the "SDLT") that has been paid in respect of the acquisition of the Site or if lower the SDLT that would have been paid if the SDLT had been applied on the basis of the Benchmark Land Value;

“Agreement” means this agreement;

“All in Build Costs” means the total costs relating to the building of the Development from the Commencement of Development up until the Calculation Date;

“Application” the application to which the Council gave the reference 133324/FO/2022 for planning permission for proposed erection of two part 8, part 4 storey buildings and refurbishment of the southern part of the Ancoats Works building to Pollard Street to form 183 residential apartments and 10 duplex apartments (Use Class C3a) together with flexible commercial space (Use Class E/Sui Generis) (274 sqm) with associated landscaping, car and cycle parking and associated works following demolition and partial demolition of existing buildings;

“Architect” means BDP of 11 Ducie Street, PO Box 85, Piccadilly Basin, Manchester, M60 3JA;

Baseline Viability Assessment” means the financial viability appraisal submitted with the Application;

“Benchmark Land Value” shall mean the agreed fixed land value of the land upon which the Development is to take place as set out in Clause 23.1 of this Agreement;

“Best Endeavours” means that it is agreed by the parties hereto that the party under such an obligation will not thereby be required to take proceedings (including any appeal) in any court public inquiry or other hearing (unless specified to the contrary) but subject thereto and to other terms of this agreement such party will be bound to attempt to fulfil the relevant obligation by

the expenditure of such effort and/or sums of money and the engagement of such professional or other advisers as in all the circumstances may be reasonable to expect; in the case of the Owners, of a competent commercial developer in the context of the Development and of a competent landowner in the context of the Development, and in the case of the Council, of a competent local planning authority acting reasonably in the context of its statutory functions;

“Calculation Date” for the Viability Appraisal shall be the date upon which first Occupation of a Dwelling has occurred;

“Chartered Surveyor” a professional expert who is a chartered member of the Royal Institution of Chartered Surveyors with a minimum of ten (10) years post-qualification experience;

“Commencement of Development” the date upon which the Development shall begin by the carrying out of a material operation in accordance with the provisions of section 56(4) of the Act PROVIDED THAT any works of or associated with site clearance, remediation works, environmental or archaeological investigations, site and soil surveys, erections of contractors work compound, erection of site office, erection of fencing to site boundaries, marking of site boundaries and laying out of access roads and services shall for the purposes of this Agreement be deemed not to be material operations and **“Commence”**, **“Commencement”** and **“Commenced”** shall be construed accordingly;

“Completion of Construction” the date upon which a valid certificate of completion shall have been issued in respect of the relevant number of Dwellings for the purposes of 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 the relevant number of 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 Owners 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;

“Construction Period” means the period from the carrying out of the first Material Operation to the date of Practical Completion of the Development;

“Core Strategy” means the Manchester Core Strategy (adopted 11th July 2012) which is the key document in the Council’s Local Development Framework and details the Council’s vision for the development of Manchester during the period 2012 to 2027;

“Costs” means the costs to be taken into account for the purpose of the Viability Appraisal as defined in paragraph 012 (reference: 10-012-20180724) of the section of the NPPG headed “Viability” as the same may be amended or any replacement thereof. In addition the Council will accept in the calculation of Costs:

1. the actual costs Reasonably and Properly Incurred in relation to the Development prior to and up until the time of submission of the Viability Appraisal; and
2. the estimated costs that remain to be Reasonably and Properly Incurred in completing the Development and such details shall be included in the Viability Appraisal, provided always in the case of (1) and (2) of this definition that any such actual or estimated costs are amongst those detailed or referred to in paragraph 012 of the NPPG section headed “Viability”;

“Development” the development undertaken on the Site pursuant to the Planning Permission as specified in the Application;

“Director” the Council’s Director of Planning, Building Control and Licensing;

“Disposal” any of the following in respect of any Dwelling:

- (a) the completion on an arm’s length basis of the sale or disposition of the freehold interest in any Dwelling; or
- (b) the grant on an arm’s length basis of a lease for a term of 99 years or more whether or not a rent of more than nominal value is reserved;

and “Disposed Of” shall be construed accordingly;

“Drawings” the drawings numbered 1596-BDP-XX-XX-DR-A-10308 Revision P01 and 1596-BDP-XX-XX-DR-A-10306 Revision P04 appended hereto as Appendix 2 showing coloured yellow the location of the eleven windows that are to receive Replacement Windows and Secondary Glazing in accordance with the provisions of this Agreement;

“Dwelling” a unit of accommodation to be constructed on the Site as part of the Development pursuant to the Planning Permission and ‘Dwellings’ shall be construed accordingly;

“Etihad Campus Resident Parking Scheme” a scheme within the vicinity of the Etihad campus whereby parking within the area covered by the scheme during the period within which the restrictions under the scheme operate is restricted to residents that hold a permit issued to them under the scheme;

“Expert” a professional expert in town planning, who is a Chartered Member of the Royal Town Planning Institute with a minimum of ten (10) years post-qualification experience;

“FVA” the VA once it includes as part of the VA any documentation in accordance with the provisions of this Agreement that the Council, acting reasonably, may in writing request be provided as part of the VA in order to assist the Council when reviewing the VA;

“Finance Cost” means those costs which the Owner has Reasonably and Properly Incurred as a result of financing the Application and Development providing always that those costs shall not exceed seven (7) per cent above the Bank of England base rate as at the date of the Baseline Viability Assessment. “Finance Costs” will be construed accordingly;

“Forward Funding Arrangement” a commitment to provide funding to assist the development of the project going forward with the sole aim of facilitating either a single sale of the whole or part of the Development, but not necessarily a commitment to purchase the Development or the retention of the whole or part of the Development by the Developer on Completion of Construction as a Private Rental Sector Investment. For the avoidance of doubt funding not

provided for the purposes outlined in the previous sentence of this definition but provided for example for the purpose of covering the construction costs of any dwelling that is to be sold on the Open Market to an individual purchaser will not be classed as a Forward Funding Arrangement.

“Forward Sale” the committed sale and purchase of the whole or part of the completed Development on agreed terms at a future date as evidenced by binding legal documents which are unconditional as to the sale of the whole or part of the completed Development and the requirement to undertake the construction of the Development and which detail (without limitation) payments made on completion of the sale of the whole or part of the completed Development and during the construction and on completion of the Development;

“GDV” Subject to the Proviso contained in this definition when calculating the cumulative total GDV arising from the Development:

- (a) in respect of Dwellings Disposed Of prior to the Preparation Date the Council will accept as the calculation of GDV in respect of those Dwellings the actual monies received from a Disposal of each Dwelling Disposed Of;
- (b) in respect of Dwellings which have not been Disposed Of prior to the Preparation Date the GDV shall be the highest figure of:
 - (i) the gross development value as defined in paragraph 011 (reference: 10-011-20180724) of the Viability Section of the NPPG as the same may be amended or any replacement thereof; or
 - (ii) in respect of any Dwellings not Disposed Of but that have been sold subject to contract then the subject to contract price agreed for those Dwellings; or
 - (iii) for Dwellings not yet Disposed of or sold their Market Value;
- (c) in respect of Dwellings that are Let the Council will accept as part of the calculation of GDV their Market Value; and
- (d) in addition to any of the above calculations of GDV in (a), (b) and (c) above that may apply the GDV of the Development shall include not by way of limitation any income not already included in the calculations of GDV in (a), (b)

and (c) above that will be derived from the Development in addition to income from Disposals and Lets for example:

- (i) in the form of ground rents or from the renting of car parking spaces;
- (ii) the actual revenue from the disposal of the Site or any part of the Site;
- (iii) the Market Value of the Site, excluding the Dwellings but for the avoidance of doubt shall include the Market Value of any freehold and leasehold reversion of the Dwellings and the Market Value of any part of Development that has a non-residential use and the Market Value of any part of Site not forming part of the Development;
- (iv) the value of any Grant Funding or Public Subsidy received in respect of the Development
- (v) any receipts (which shall include any rental income but not any service charge or other repayment against costs) or Market Value of any other interest in the Site not already referred to in this sub clause (d) or included in the calculations of GDV in (a), (b) and (c) above

Provided That where in the opinion of the Council a Dwelling has not been Disposed Of at or greater than its Market Value or for a Dwelling not yet Disposed Of or sold subject to contract the advertised price for a Dwelling in respect of a Dwelling not yet Disposed Of as detailed in advertisements made as part of any sales and marketing strategy is in the opinion of the Council not greater than its Market Value then the Council may opt in writing to substitute the Market Value of the said Dwelling concerned in place of the actual monies received or if applicable in place of its advertised price and “Gross Development Value” shall be construed accordingly;

“Grant Funding or Public Subsidy” means any funds received towards the funding of the Development from public bodies, for example, not by way of limitation, local authorities, central government and bodies funded by central government, for example, the HCA or the Regulator of Social Housing;

“Gross Margin” the figure after deducting the Costs from the GDV as more particularly detailed in the Viability Appraisal;

“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 (or contained in any official publication substituted therefor) or such other index as may from time to time be published in substitution therefor;

“Inflation Increase” shall mean the amount calculated by way of the formula contained in clause 20 of this Agreement;

“Interest” interest at 4% (four per cent) above the base lending rate of the Bank of England from time to time;

“Let” shall mean any Dwelling let by way of lease for a term of less than 99 years or Assured Shorthold Tenancy, Assured Tenancy or any other form of tenancy for a term of less than 99 years and **“Lets”** shall be construed accordingly;

“Listed Building Consents” the Replacement Windows Listed Building Consent and Secondary Glazing Listed Building Consent that will both be required from the Council acting as local planning authority for the installation of Replacement Windows and Secondary Glazing solely to the façade of the Adjacent Site that include windows elevations located within the Adjacent Site occupied by the Tenants as shown on the Drawings;

“Management Fee” shall mean 15% of the planning application fee which equates to six thousand eight hundred and seventy four pounds and five pence (£6,874.05) to be used for the purpose of management and monitoring any Planning Obligations that may be created by this Agreement as detailed herein;

“Market Value” the market value as defined in the RICS Valuation – Global Standards (the “Document”), Incorporating the IVSC International Valuation Standards, published in 2019 by the Royal Institution of Chartered Surveyors (RICS) effective on 31 January 2020 and set out on pages 55 to 56 of the section headed VPS4 in Part 4 of the Document or any replacement, update or amendment of the same from time to time save in respect of any Dwellings that are Let or any part of the Development that has a non-residential use or any other part of the Site not forming part of the Development where the Council will (acting reasonably) accept the Market Value as determined by the

application of an investment valuation method using an appropriate capitalisation factor to the market rental income for each let unit and “MV” shall be construed accordingly;

“Maximum Contribution” shall mean the sum of £5,534,270 (five million five hundred and thirty four thousand two hundred and seventy pounds) together with any Inflation Increase;

“NPPF” the National Planning Policy Framework (NPPF) issued in December 2024 (as may be updated or replaced with an equivalent policy from time to time) being the framework setting out the Government’s planning policies for England and how these are expected to be applied as may be amended or any replacement of the same;

“National Planning Practice Guidance” the web based resource revised in respect of its section on viability on 1 September 2019 as the same may be further revised or amended or any replacement of the same which resource is provided by the government of the United Kingdom and brings together in one place planning guidance on various planning related topics and “NPPG” shall be construed accordingly;

“Objective” means a reduction of Rw55-60db in the eleven (11) windows detailed in the Drawings and located on the Adjacent Site (which shall be achieved by a combination of Secondary Glazing and Replacement Windows in accordance with this agreement);

“Occupation” means occupation of any part of the Development for the purposes permitted by the Planning Permission but does not include use by personnel whilst engaged in construction, fitting out or decoration of the Dwellings or occupation for marketing or display or occupation in relation to security operations and “Occupy” and “Occupied” shall be construed accordingly;

“Owners” shall mean together the First Owner and Second Owner and a reference to “Owner” shall mean either of the Owners;

“Plan 1” the plan attached to this Agreement marked “Plan 1” showing edged red thereon the Site;

“Plan 2” the plan attached to this Agreement marked “Plan 2” showing edged red thereon the Adjacent Site;

“Planning Obligations” shall mean the obligations of the Owners and the Adjacent Site Owners and specified in Schedule 3;

“Planning Permission” the planning permission granted pursuant to the Application substantially in the form as appended at Schedule 2 and as may be amended by any non-material amendment;

“Practical Completion” issue of a certificate of practical completion under the building contract for the Development;

“Preparation Date” means the date by which in accordance with the provisions of this Agreement the Viability Appraisal is prepared and completed;

“Pre Sale” means a Forward Sale or Forward Funding Arrangement or Private Rental Sector Forward Funding Arrangement of the whole or part of the Completed Development prior to the Calculation Date;

“Pre Sale Element” the part, or if more than one Pre Sale occurs, all of the parts of the Development in respect of which a Pre Sale has taken place;

“Private Rental Sector Forward Funding Arrangement” means a Forward Funding Arrangement in which the Owners will retain the whole or part of the Development;

“Private Rental Sector Investment” means a Development that will deliver new-build homes for the private rental market, with all or some of the Dwellings to be retained by the Owners or either of the Owners as an investment;

“Professional Fees” means all of the costs of those third parties (including but not limited to their agents, contractors, professional advisors and technical consultants) that have agreed with the Owners or other relevant third party to provide services in relation to i) the Application, ii) construction and iii) sale of

the Development provided that they have been Reasonably and Properly Incurred.

“Profit Level” means when the Gross Margin is equivalent to 17.50% of the GDV or in respect of a Pre Sale when the Gross Margin is equivalent to 15% of the GDV;

“Reasonably and Properly Incurred” shall mean in respect of costs incurred in developing the Site and in respect of Sales Incentives only those costs that a competent and reputable developer of land would reasonably expect to incur;

“Replacement Windows” means double or triple glazed windows that have a sound reduction performance of Rw 49-59db which will include a minimum of 10.8mm and 12.8mm Solaglas Stadip Silence laminated glass to replace those eleven (11) windows located where the Secondary Glazing is to be situated as will be more particularly detailed in the Replacement Windows Listed Building Consent that will be required in order to achieve the Objective;

“Replacement Windows Listed Building Consent” the consent that will be required from the Council acting as local planning authority for the installation of eleven (11) Replacement Windows solely to the parts of the façade of the Adjacent Site that include windows elevations located within the parts of the Adjacent Site occupied by the Tenants as shown on the Drawings;

“Retail Price Index” twelve (12) month percentage change in the All Items Retail Price Index published by the Office for National Statistics Centre and in the Monthly Digest of Statistics (or contained in any official publication substituted therefor) or such other index as may from time to time be published in substitution therefor;

“RICS” the Royal Institution of Chartered Surveyors;

“Sales Incentives” means costs Reasonably and Properly Incurred by the the Owners in order to incentivise the purchase of a Dwelling by a person intending to Occupy the Dwelling;

“Sales and Marketing Costs” means the Reasonably and Properly Incurred costs relating to the sale and marketing of part or all of the Development provided always that those costs shall not exceed three (3) per cent of the GDV;

“Secondary Glazing” means works to install glazing in the eleven (11) windows shown on the Drawings, each to be fitted with an internally fitted sliding plane system with a minimum of 10.8mm thick acoustic laminated glass to be used in accordance with the recommendation contained in paragraph 5.6 on page 13 of the Noise Impact Assessment dated May 2023 prepared by Hepworth Acoustics Ltd a copy of which is attached as the Appendix 1 to this Agreement in order to achieve the Objective;

“Secondary Glazing Listed Building Consent” the consent that will be required from the Council acting as local planning authority for the installation of Secondary Glazing solely to the parts of the façade of the Adjacent Site that include windows elevations located within the parts of the Adjacent Site occupied by the Tenants as shown on the Drawings;

“Site” the property described in Schedule 1 as the Site and shown for the purposes of identification only edged red on Plan 1 and which shall be the land against which the planning obligations contained in Schedule 3 that have been entered into by the Owners may be enforced against;

“Tax Relief” means any tax concession or relief provided only in relation to the Development and the construction of the same excluding any tax concessions or relief (including but not limited to Contaminated Land Tax Relief or its replacement) granted as a result of any remediation of contamination or anything similar on the Site;

“Tenants” means together the First Tenant and Second Tenant;

“Viability Appraisal” a written appraisal to assess the Gross Margin required to be provided on the Calculation Date in accordance with the provisions of Schedule 3 of this Agreement. The format of the Viability Appraisal shall take the form of the Viability Report detailed in Schedule 5 and “VA” shall be construed accordingly. The VA must include as part of the VA any documentation the Council, acting reasonably, may in writing request be provided as part of it in order to assist the Council when reviewing the VA. The

VA must comply with the requirements set out in paragraphs 2.1 to 2.14 of the RICS Professional Statement, first edition, issued in May 2019 and effective from 1/9/2019 titled “Financial viability in planning: conduct and reporting” which requirements set out what must be included in the VA and how the VA must be carried out;

“Viability Assessment Fee” a reasonable and properly incurred fee of up to £12,000 (twelve thousand pounds) to cover the cost of the Council’s review of the Viability Appraisal in order to determine whether and the extent to which the Development can support a requirement to provide the Viability Payment;

“Viability Payment” a payment required to be made by the Owners to the Council if the Viability Appraisal shows that the Profit Level as assessed will be achieved and will be 50% (fifty per cent) of the amount by which the Gross Margin exceeds the Profit Level PROVIDED THAT the Viability Payment shall be capped so that it shall not exceed the Maximum Contribution. The Viability Payment will be payable within the timescale set out in the provisions contained in Schedule 3;

“Viability Report” the form in Schedule 5 setting out the required inputs for the Viability Appraisal and the percentage values that are to be applied to various inputs as detailed in Schedule 5;

“Working Day” means any day except Saturday Sunday or a bank holiday and reference to “Working Days” shall be construed accordingly.

- 1.2 The Clause headings do not affect this interpretation.
- 1.3 Unless otherwise indicated, references to Clauses and Schedules are to Clauses of and Schedules to this Agreement and references in a Schedule to a Part or Paragraph are to a Part or Paragraph of that Schedule.
- 1.4 References to any statute or statutory provision include reference to:
 - 1.4.1 all Acts of Parliament and all other legislation having legal effect in the United Kingdom as directly or indirectly amended, consolidated, extended, replaced or re-enacted by any subsequent legislation; and
 - 1.4.2 any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision.

- 1.5 Except for the provisions of Clause 9 references to the Site include any part of it.
 - 1.6 References to any party in this Agreement shall include the successors in title of that party. In addition, references to the Council shall include any successor local planning authority exercising planning powers under the Act and any successor local highway authority exercising powers under the Highways Act 1980.
 - 1.7 “Including” means **“including, without limitation”**.
 - 1.8 Any covenant by the Owners or the Council not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.
 - 1.9 If any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of this Agreement is to be unaffected.
 - 1.10 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
 - 1.11 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. This Agreement is made pursuant to section 106 of the Act, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling legislation and is a planning obligation for the purposes of section 106 of the Act, with the intent that covenants hereinafter contained in so far as they apply to the Owners and/or the Adjacent Site Owners shall be enforceable by the Council acting under the powers contained in section 106 or such other enabling powers against the Owners and/or the Adjacent Site Owners in accordance with clauses 3, 6 and 7
 3. Save for clause 26 (which binds the Tenants) and Schedule 3, paragraph 5 (which binds the Adjacent Owners), the obligations contained within this Deed shall not be binding upon nor enforceable against the Adjacent Site or the Adjacent Site Owners or Tenants.
 4. **CONDITION PRECEDENT**

This Agreement is conditional upon the grant of the Planning Permission save for the provisions of Clauses 5, 7, 9, 11, 13, 14, 15, 16, and 17 which shall have immediate effect.

5. CONDITION SUBSEQUENT

If the Planning Permission for the Development has not been implemented by the carrying out of a material operation in accordance with the provisions of sections 56, 91 and 93 of the Act or is revoked or modified in whole or in part (other than in approval of an application by or on behalf of either of the Owners) or quashed or declared unlawful as a result of legal proceedings then this Agreement shall absolutely determine and become null and void but without prejudice to the rights of either party against the other in respect of any antecedent breach.

6. THE OWNERS' COVENANTS

The Owners on behalf of themselves and any person deriving title to any part of the Site from the Owners hereafter hereby covenant with the Council so as to bind the Site to fully observe and perform the obligations on their part contained in this Agreement including those obligations set out in Schedule 3, paragraphs 1-4 and hereby agree that the Site shall be permanently subject to the obligations, restrictions and provisions specified in Schedule 3, such obligations being planning obligations for the purpose of section 106 of the Act.

7. THE ADJACENT SITE OWNERS' COVENANTS

The Adjacent Site Owners on behalf of themselves and any person deriving title to any part of the Adjacent Site from the Adjacent Site Owners hereby covenant with the Council so as to bind the Adjacent Site to fully observe and perform the obligations on their part as set out in paragraph 5 of Schedule 3 and hereby agree that the Adjacent Site shall be permanently subject to the obligations, restrictions and provisions specified in paragraph 5 of Schedule 3, such obligations being planning obligations for the purpose of section 106 of the Act.

8. THE COUNCIL'S COVENANTS

The Council hereby covenants with the Owners and Adjacent Site Owners to observe and perform the obligations on its part in this Agreement including those obligations set out in the Schedule 4.

9. DISPUTE RESOLUTION

- 9.1 In the event of any dispute arising in connection with any of the terms of this Agreement other than a dispute involving the construction or interpretation of the terms of this Agreement or the enforcement of any decision pursuant to this Clause, the same shall unless the Council and the Owners and Adjacent Site Owners otherwise agree be referred to an Expert or in relation to the Viability Appraisal to a Chartered Surveyor to be appointed by agreement between the Council and the Owners.
- 9.2 If the Council and the Owners and Adjacent Site Owners are unable to agree on the appointment of an Expert or Chartered Surveyor within thirty (30) days of one party serving notice on the other calling for the appointment of an Expert or Chartered Surveyor then an Expert or Chartered Surveyor shall be appointed on the application of any of the parties to the President for the time being of the Royal Town Planning Institute or in respect of a dispute relating to the Viability Appraisal on the application of the Council or the Owners to the President of the Royal Institution of Chartered Surveyors as applicable.
- 9.3 Any reference of a dispute to an Expert or Chartered Surveyor shall if the parties are agreed in writing be deemed to be a reference to an expert or chartered surveyor (and not to an arbitrator) whose decision shall be final and binding (save for manifest error) but shall otherwise be deemed to be a reference to an arbitrator pursuant to the Arbitration Act 1996 and any statutory amendment variation substitution or re-enactment thereof.
- 9.4 Any party to this Agreement shall be entitled to submit to the Expert or Chartered Surveyor representations and cross-representations with such supporting evidence as they shall respectively consider necessary and the Expert or Chartered Surveyor shall have regard thereto in making his decision which shall be delivered in writing. The reference of any dispute shall include authority to determine in the relevant timescales for the submission of representations and what manner all the costs of the referral shall be paid.

10. **WAIVER**

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 Agreement shall constitute a continuing waiver and no such waiver shall

prevent the Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

11. CHANGE IN OWNERSHIP & LIABILITY

11.1 The Owners and Adjacent Site Owners will give the Council immediate written notice of any change in ownership of any of their interests in the Site or Adjacent Site, whichever is applicable, occurring before all the 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 (unless the purchase relates to the entirety of the Site or Adjacent Site, whichever is applicable) the area of the Site or Adjacent Site, whichever is applicable, or unit of occupation purchased by reference to a plan.

11.2 No person shall be liable for any breach, non-performance and non-observance of the covenants, obligations and restrictions contained in this Agreement after it shall have parted with its entire interest in the Site or Adjacent Site, whichever is applicable, but without prejudice to liability for any subsisting breach arising prior to parting with such interest nor shall this hinder or preclude the Council's rights as the Local Planning Authority to require that the breach, non-performance or non-observance be remedied after that person has parted with its interest in the Site or Adjacent Site, whichever is applicable.

11.3 The Owners warrant that no person other than the Owners has any legal or equitable interest in the Site and the Owners hereby indemnify the Council in respect of any loss that arises should there be any breach of this warranty.

11.4 The Adjacent Site Owners warrant that no person other than the Adjacent Site Owners and the Mortgagee has any legal or equitable interest in the Adjacent Site.

12. COUNCIL'S CONSENT OR APPROVAL

Where in this Agreement the consent, agreement or approval of the Council is required to be given by the Council, the Council confirms that such consent, agreement or approval shall not be unreasonably withheld or delayed provided that this shall not fetter the proper discretion of the Council in relation to the exercise of its statutory functions.

13. LOCAL LAND CHARGE AND LAND REGISTRY ENTRY

- 13.1 This Agreement is a local land charge and shall be registered as such by the Council.
- 13.2 The Council will upon receipt of a written request of either of the Owners or either of the Adjacent Site Owners or their successors in title, at any time after the obligations and covenants that relate to them set out herein have been fulfilled in their entirety issue written confirmation thereof and thereafter cancel all related entries in the register of local land charges and in the land registry.
- 13.3 The reasonable costs of cancellation pursuant to clause 11.2 above shall be met by the Owners if requested by the Council.

14. NON-PROHIBITION ON DEVELOPMENT

Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement.

15. THE CONTRACTS ACT

Save as provided in respect of the successors in title to the Site or the Adjacent Site or any successor to the relevant statutory functions of the Council this Agreement shall not be enforceable by any third party pursuant to the Contracts (Rights of Third Parties) Act 1999 and no third party shall acquire any benefit rights or claims whatsoever pursuant thereto.

16. COMMUNICATION

- 16.1 Any notice or document to be served on or sent pursuant to this Agreement shall either be delivered personally or sent by recorded delivery service
- 16.1.1 to the Council and addressed to the Director at the Council's address first above written;
- 16.1.2 to the Owners, Adjacent Site Owners and the Mortgagee respectively at their registered office addresses;
- 16.1.3 to the Tenants at their addresses first above written.

17. FEES

- 17.1 The Second Owner shall pay to the Council on the date of this Agreement:
- 17.1.1 its legal fees reasonably and properly incurred in preparation of this Agreement;
- 17.1.2 the Management Fee

17.2 Receipt by the Council of the payment of such sums shall not create any lawyer-client type contractual relationship between the Council and the Second Owner nor absolve the Second Owner from any liability or obligation accepted by them by the terms of this Agreement or by statute or at common law.

17.3 The Owners shall pay to the Council the Viability Assessment Fee within 10 (ten) Working Days of their receipt from the Council of an invoice detailing the amount.

18. **JURISDICTION**

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

19. **COMPLETION**

The provisions of this Agreement shall be of no effect until this Agreement has been dated.

20. **DECLARATIONS**

It is hereby declared that this Agreement shall not be enforceable against any owner, occupier, or tenant of any individual Dwelling or the successors in title of any such person or mortgagee or any person deriving title therefrom.

21. **INTEREST**

If any payment due under this Agreement is paid late Interest will be payable from the date payment is due to the date that payment is received.

22. **INFLATION INCREASE**

The Maximum Contribution shall be increased using the formula $A = (B \times (C / D))$ provided that (C / D) shall always be greater than or equal to 1, where:

- (1) A is the Maximum Contribution including the Inflation Increase;
- (2) B is £5,534,270 (five million five hundred and thirty four thousand two hundred and seventy pounds)
- (3) C is in respect of (1) above: Inflation as shown in the relevant index published last before the Calculation Date

- (4) D is Inflation as shown in the relevant index for the month in which this Deed is dated; and the Inflation Increase will be equal to A minus B.

23. VIABILITY

The Owners and the Council agree that in respect of the preparation of any Viability Appraisal required to be submitted by the Owners in accordance with the provisions of this Agreement:

23.1 the cost input when assessing the Agreed Land Value of the Site upon its acquisition by the Owners is to be fixed at either the Benchmark Land Value of £1,230,000 (one million two hundred and thirty thousand pounds) or the Actual Land Value for the Site, whichever is the lower.

23.2 any Viability Appraisal will detail that the whole of the Development is the subject of the Viability Appraisal and will calculate the Gross Margin on that basis. For the purpose of ascertaining the Profit Level the VA will detail whether the whole or part of the Development is the subject of a Pre-Sale and if part will detail the specific Dwellings that are the subject of each and every Pre-Sale that has been entered into on or before the Calculation Date so that they may be assessed at the relevant level of Gross Margin which shall be equivalent to 15% of the GDV for a Pre-Sale and 17.50% of the GDV in all other cases;

23.3 any VA not by way of limitation shall include and confirm the GDV and the Costs and the matters referred to in Clause 23.1 and 23.2

23.4 within 10 (ten) Working Days of any applicable Calculation Date the Owners shall confirm in writing to the Council whether the Development was subject to a Pre-Sale and provide the Council with a copy of the VA for agreement by the Council;

23.5 when it has received the VA the Council will provide the Owners with a written acknowledgement of service within 10 (ten) Working Days of the date that it receives the VA;

23.6 within 40 (forty) Working Days (or such extended period agreed in writing by the parties) of its receipt of the VA and of the Viability Assessment Fee the Council shall (acting reasonably) give written notice to the Owners detailing any further or amended documentation that the Owners must provide in writing to the Council before the VA can be accepted by the Council as the FVA;

23.7 if the Council make a request pursuant to clause 23.6 then within 10 (ten) Working Days of the date of that request the Owners shall provide the Council with written copies of the documentation or amended or supplementary documentation, whichever is applicable, requested;

23.8 within 30 (thirty) Working Days of its receipt of the documentation referred to in clause 23.7 or in the event that no further documentation is requested by the Council pursuant to clause 23.6 within 40 (forty) Working Days of the receipt of the VA and the Viability Assessment Fee the Council shall give written notice to the Owners confirming whether or not it accepts that the VA is in FVA form

23.9 if the Council notifies the Owners pursuant to clause 23.8 that it accepts that the VA is in FVA form it shall within 40 (forty) Working Days of such notice being given give further written notice to the Owners either:-

23.9.1 stating that it approves the FVA, or

23.9.2 correcting or challenging any of the amounts or conclusions included in the FVA and giving details of the disputed amounts or conclusions.

23.10 in the event that the Council notifies the Owners pursuant to clause 23.8 that it does not accept the VA is in FVA form or pursuant to clause 23.9 that it does not approve the FVA then in either case the service of such notice shall be treated as a viability dispute ("Viability Dispute")

23.11 if a Viability Dispute arises then the Owners and the Council shall use reasonable endeavours to resolve the Viability Dispute so that the Council may approve the FVA provided always that at any time after a Viability Dispute arises either the Council or the Owners may refer the Viability Dispute to the Chartered Surveyor, in accordance with the provisions of clause 9, with the Chartered Surveyor being requested that he/she should as soon as practicable issue a written determination:-

- in the case of a Viability Dispute pursuant to clause 23.8 as to whether the documentation in dispute is reasonably required to enable the Council to carry out its review of the VA and as to the content and form of that documentation that the Council can reasonably expect to receive which the parties agree will be final and binding upon them (save for manifest error); or

- in the case of a Viability Dispute pursuant to clause 23.9 a written determination of the correct VA, which the parties agree will be final and binding upon them (save for manifest error);

23.12 if the Council does not serve notice on the Owners pursuant to clauses 23.6, 23.8 or 23.9 within the timescales set out in the respective clauses then the Council shall be deemed to have agreed the Viability Appraisal.

24. SECTION 111 COVENANT and RESTRICTION ON TITLE

24.1 The Owners covenant with the Council pursuant to section 111 of the Local Government Act 1972 and all other enabling legislation that they will notify all potential tenants and occupiers of the Development in writing prior to Occupation that (save for Disabled Badge Holders) they will not be eligible to apply for a parking permit under the Etihad Campus Resident Parking Scheme.

24.2 That prior to or upon completion of this Agreement the Owners shall each provide the Council with completed Land Registry forms RX1 (or any subsequent revisions amendments or replacements of the same) signed by them and thereby authorising the Council to register a restriction in standard form L at the Land Registry against each of their interests in the Site in the following terms:

“No disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a certificate signed on behalf of the Council of the City of Manchester of Town Hall, Albert Square, Manchester, M60 2LA by the City Solicitor that the provisions of Clause 22.1 of a Section 106 Agreement dated made between (1) The Council of the City of Manchester (2) The Pinstripe Property Investment Co. Limited (3) Banidev Limited and (4) X Limited have been complied with or that they do not apply to the disposition.”

24.3 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;

24.4 Prior to or upon completion of this Agreement the Owners will provide the Council with a cheque to cover the cost of registering the form RX1 at the Land Registry.

25. MORTGAGEE

25.1 The Mortgagee consents to this Agreement being entered into with the intention that, notwithstanding section 104 Law of Property Act 1925, its interest in the

Site 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 registered charge.

- 25.2 Notwithstanding clause 25.1, the 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 of it.

26. **TENANTS**

The Tenants covenant with the Council pursuant to section 111 of the Local Government Act 1972 and all other enabling legislation that if the Listed Building Consents are granted then if the Owners and/or the Adjacent Owners make a written request for permission to enter the parts of the Adjacent Site in which their tenancies are located in order to install the Replacement Windows and the Secondary Glazing they will liaise with the Owners and/or the Adjacent Owners to facilitate the installation of the Replacement Windows and the Secondary Glazing and permit and allow the Owners and their contractors and agents such reasonable access to the parts of the Adjacent Site in which their tenancies are located to the extent that is reasonably required in order to install the Replacement Windows and Secondary Glazing PROVIDED THAT the Owners and/or the Adjacent Owners shall give at least 30 (thirty) Working Days written notice of their request to access the Tenant's part of the Adjacent Site (or such alternative period as agreed between the Tenants and the Owners and/or the Adjacent Owners)

EXECUTED as a deed by the parties on the day and year first hereinbefore appearing.

SCHEDULE 1

The Site and the Adjacent Site

The Site is land bounded by Carruthers Street and Pollard Street, Manchester and shown for the purposes of identification only edged red on Plan 1.

The Adjacent Site is land at Hope Mill, 113 Pollard Street, Manchester and shown for the purposes of identification only edged red on Plan 2.

SCHEDULE 2

Draft Planning Permission

SCHEDULE 3

THE OWNERS GENERAL COVENANTS

The Owners hereby covenant with the Council as follows:

1.

1.1 To notify the Council in writing within five (5) Working Days of Commencement of Development that development has commenced;

1.2 To notify the Council in writing within five (5) Working Days of the date on which the first Dwelling has been Occupied.

1.3 To comply with the provisions of Clause 23.

2.

2.1 In the event that a Viability Appraisal is agreed in writing by the Council or determined pursuant to the provisions contained in Clause 23 and the information contained therein shows that in accordance with the provisions of this Agreement a Viability Payment is due then the Owners shall pay to the Council the Viability Payment together with any Inflation Increase in accordance with paragraph 2.2 of this Schedule 3 **PROVIDED ALWAYS** that the sum total of the Viability Payment received by the Council shall not exceed the Maximum Contribution.

2.2 The Viability Payment together with any Inflation Increase shall be paid by the Owners to the Council within 20 (twenty) Working Days of the agreement by the Council of the Viability Appraisal or if applicable within 20 (twenty) Working Days of the Viability Appraisal being determined pursuant to the provisions contained in Clause 23.

2.3 In the event that the information contained in the Viability Appraisal (as agreed by the Council or determined pursuant to the provisions of Clause 23) shows that a Viability Payment is not due then it is agreed by the Council that the

Viability Payment shall not be payable and the obligation in this paragraph 2 of this Schedule 3 shall cease to bind the Site

3.

- 3.1 Not to Commence Development unless and until the Listed Building Consents have been granted;
- 3.2 Not to commence Development prior to completion of the installation of the Replacement Windows and the Secondary Glazing at the Adjacent Site;
- 3.3 If the provisions of paragraph 4 of this Schedule take effect to use all reasonable endeavours to install the Replacement Windows and the Secondary Glazing as soon as reasonably practicable following being granted permission by the Adjacent Site Owners to enter the Adjacent Site for that purpose.

4

- 4.1 The Owners shall use Best Endeavours to continue to employ the Architect throughout the Construction Period and until Completion of Construction of the Development **PROVIDED THAT** the Architect remains willing and able to fulfil such role in relation to the Development and that such employment is capable of being secured on reasonable commercial terms.
- 4.2 Should the Architect not be appointed or continue to be appointed in accordance with paragraph 1.2.1 above the Owners shall immediately notify the Council of this fact in writing and shall use Best Endeavours to appoint a replacement Architect of a similar calibre and reputation as soon as reasonably practicable and shall thereafter notify the Council of the identity of the replacement architect immediately thereafter.

THE COVENANT OF THE ADJACENT SITE OWNERS

The Adjacent Site Owners hereby covenant with the Council as follows:

- 5. If the Listed Building Consents are granted then if and when they receive a request in writing from the Owners requesting permission to enter the Adjacent

Site in order to install the Replacement Windows and the Secondary Glazing they will liaise with the Owners and the Tenants to facilitate the installation of the Replacement Windows and the Secondary Glazing and permit and allow the Owners and their contractors and agents such reasonable access to the Adjacent Site to the extent that they are lawfully allowed to so permit and allow in order to install the Replacement Windows and the Secondary Glazing and will use Best Endeavours to procure that the Tenants permit and allow the Owners and their contractors and agents such reasonable access the parts of the Adjacent Site (in accordance with clause 26) where the tenancies are located to the extent that is reasonably required in order to install the Replacement Windows and the Secondary Glazing.

SCHEDULE 4

THE COUNCIL'S COVENANTS

The Council hereby covenants with the Owners as follows:

- 1 To use any Affordable Housing Contribution for the provision of Affordable Housing within the Administrative Boundaries of Manchester and for no other purpose;
2. At the written request of either of the Owners to provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed within twenty (20) Working Days of receipt of the request;
3. that the Council shall provide written details of any expenditure incurred by the Council using any Viability Payment received within 20 Working Days of a written request to do so from the party/person who paid the Affordable Housing Contribution to the Council;
4. that at the written request of either of the Owners the Council shall repay to the person who first paid such monies any balance of any Viability Payment received (excluding any such sums in respect of which though not yet expended the Council has contractually committed to expend) which remains unexpended 10 (ten) years from the date of payment of any Viability Payment received together with all interest accrued thereon;
5. that
 - 5.1 Within 10 (ten) Working Days of its receipt of the VA (or such extended period agreed in writing by the parties) the Council shall (acting reasonably) give written notice to the Owners detailing any further documentation that the Owners must provide in writing to the Council before the VA can be accepted by the Council as the FVA.
 - 5.2 Within 30 (thirty) Working Days of its receipt of the documentation referred to in paragraph 5.1 of this Schedule (or such extended period agreed in writing by the parties) the Council shall give written notice to the Owners either confirming it accepts that the VA is in FVA form or requesting amended or supplementary documentation to enable it to carry out its review of the VA;

Provided that in the event that the Council considers that the Owners have not complied with or not fully complied with the provisions of Paragraph 5.1 and/or 5.2 of this Schedule 4 then it may refer the matter in dispute to the Chartered Surveyor, in accordance with the provisions of clause 7, with the Chartered Surveyor being requested that he/she should as soon as practicable issue a written determination as to whether the documentation in dispute is reasonably required to enable the Council to carry out its review of the VA and as to the content and form of that documentation that the Council can reasonably expect to receive which the parties agree will be final and binding upon them.

- 5.3 Once the Council has accepted that the VA is in FVA form it will notify the Owners of that fact in writing and shall within 20 (twenty) Working Days of that date (or such extended period agreed in writing by the parties), give written notice to the Owners either:-

5.3.1 stating that it accepts the FVA, or

5.3.2 correcting or challenging any of the amounts or conclusions included in the FVA and giving details of the disputed amounts or conclusions.

SCHEDULE 5

Site at Pollard Street, Manchester

Open Market Gross Development Value (GDV) £

Open Market Net Development Value (NDV) = GDV less Sales Incentives £

GDV of Pre Sale Element (Contract to be evidenced) £

Profit Level – based upon 17.50 % of GDV of Open Market Value	£
Profit Level – based upon 15% of GDV of Pre Sale Element	£
All in Build Cost – [Includes (but is not limited to) - House Build (Superstructure), Plot Costs (Incl. Substructure), Infrastructure, Overheads and Prelims]	£
Schedule of abnormals TBA	£
Contingency on build costs and abnormals TBA	£
Professional fees on build costs and abnormals TBA	£
Sales and Marketing Costs TBA	£
Finance cost of TBA	£
Interest cost on Deposits - TBA	£
Tax Relief - TBA	£
Agreed Land Value (The Lower of 1). Benchmark Land Value set at Planning Consent Stage of £1,230,000 or 2). Actual Land Value – to be evidenced)	£
Agreed Stamp Duty @ the prevailing rate	
Agreed Site Legal & Agents Fees @ 1% of Land Value	
TOTAL COSTS	
Surplus = NDV - Costs	
VIABILITY PAYMENT –	

NB – Viability Payment Cannot Exceed the Maximum Contribution

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 **THE PINSTRIPE PROPERTY INVESTMENT CO. LIMITED**)

acting by a director in the presence of)

a witness)

Signature of director

Witness signature

Name

Occupation

Address

.....

.....

.....

Executed as a Deed by **BANIDEV LIMITED**)

acting by a director in the presence of)

a witness)

Signature of director

Witness signature

Name

Occupation

Address

.....

.....

.....

Executed as a Deed by **HOPE MILL PARTNERSHIP LLP**)

acting by a director in the presence of)

a witness)

Signature of director

Witness signature

Name

Occupation

Address

.....

.....

Executed as a deed by **THE FACTORY OF
CREATIVITY** CIO, “Charitable Incorporated

Organisation” acting by

.....

and

Charity trustee

,two of its charity trustees

.....

Charity trustee

Executed as a Deed by **HANDELSBANKEN PLC)**

acting by a director in the presence of)

a witness)

Signature of director

Witness signature

Name

Occupation

Address

.....

.....

.....

SIGNED AS A DEED by **DAVID PAGE**

trading as White Bear Studios

in the presence of

Witness signature

Witness name

Witness address

SIGNED AS A DEED by

Hope Mill Recording Studios

through its agent **DAVID TOLAN**, a partner

.....

in the presence of

Partner

Witness signature

Witness name

Witness address

SIGNED AS A DEED by

Hope Mill Recording Studios

Through its agent **THOMAS TWEMLow**, a partner

.....

in the presence of

Partner

Witness signature

Witness name

Witness address

SIGNED AS A DEED by

Hope Mill Recording Studios

through its agent **STEPHEN POPPLETON**, a partner

in the presence of Partner

Witness signature

Witness name

Witness address

SIGNED AS A DEED by

Hope Mill Recording Studios

through its agent **JODY JENNINGS**, a partner

in the presence of Partner

Witness signature

Witness name

Witness address

SIGNED AS A DEED by

Hope Mill Recording Studios

through its agent **HENRIC MATTSSON**, a partner

in the presence of Partner

Witness signature

Witness name

Witness address

APPENDIX 1

Noise Impact Assessment

**PROPOSED RESIDENTIAL DEVELOPMENT - ANCOATS WORKS, MANCHESTER
NOISE IMPACT ASSESSMENT**

On behalf of:

Banidev Limited C/O Capital & Centric and Kamani Property Group

**PROPOSED RESIDENTIAL DEVELOPMENT - ANCOATS WORKS, MANCHESTER
NOISE IMPACT ASSESSMENT**

Report prepared by:
Hepworth Acoustics Ltd
21 Little Peter Street
Manchester
M15 4PS

On behalf of:
Banidev Limited C/O Capital & Centric and Kamani Property Group

Report prepared by:
James Shaw MIOA – Senior Consultant

Report checked by:
Graham Bowland BSc MIOA – Technical Director

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1.0 INTRODUCTION

- 1.1 This report has been prepared by Hepworth Acoustics Ltd on behalf of Banidev Limited, to support a full planning application for a residential-led development to provide 183 no. apartments and 10 no. duplex apartments (Use Class C3) and flexible commercial space (Use Class E/ sui generis) at the site of Ancoats Works on Pollard Street, Manchester.
- 1.2 The site extends to approximately 0.55 hectares and is located approximately 1.5km to the east of Manchester City Centre. It is currently occupied by a range of industrial buildings associated with the former Ancoats Works industrial site, and also includes the former Bank of England pub, both of which are now vacant. The main Ancoats Works building is of three storey height and occupies the north-eastern half of the site, with car parking toward the Carruthers Street boundary. The existing building is a traditional and substantial industrial unit with a double-gabled roof.
- 1.3 The site is bound to the north by the Ashton Canal, to the east by Hope Mill, a grade II* listed 7-storey former mill building which comprises a theatre and a range of other business uses, to the south by Pollard Street and to the west by Carruthers Street. There are dwellings opposite the site on Pollard Street, Carruthers Street and to the northwest beyond the canal on Piercy Street.
- 1.4 There are dwellings opposite the site on Pollard Street, Carruthers Street and to the northwest beyond the canal on Piercy Street.
- 1.5 The demolition and partial demolition of existing buildings is proposed, but the scheme includes retention of the southern area of the former industrial building together with its Pollard Street elevation. Two new build residential blocks are proposed to the north of the retained building, with a central courtyard providing amenity space for use by residents.
- 1.6 In addition, a ground floor commercial unit is proposed on the corner of Pollard Street and Carruthers Street. Therefore, the noise assessment focuses on the measures that are necessary to mitigate the impact of noise (i.e. from road traffic) on the proposed residential element of the development. The need to control noise impact associated of commercial elements proposed on ground floor of the development is also considered, but as the future tenants, and thus details of the types of use, are unknown at this stage, this is addressed by recommending appropriate noise design limits for any associated mechanical services plant.

1.7 The noise assessment has included:

- An inspection of the site and surrounding area;
- Measurement of noise levels during representative periods of the daytime and night/early morning;
- Recommendation of appropriate mitigation measures.

1.8 The various noise units and indices referred to in this report are described in Appendix I. All noise levels mentioned in the text have been rounded to the nearest decibel, as fractions of decibels are imperceptible.

2.0 NOISE SURVEYS

- 2.1 Noise measurements have been carried out at the site in order to establish the prevailing noise climate around the site.
- 2.2 Unattended noise monitoring was carried out for a full 24-hour period between approximately 12:30 on Wednesday 8th September and 12:30 on Thursday 9th September 2021 at two locations. Additional monitoring was carried out at one location on the north-eastern elevation (close to Hope Mill) between Friday 28th January and Wednesday 2nd February 2022.
- 2.3 In response to concerns in respect to noise from the use of Hope Mill Recording Studios a scheme of noise break-out measurements were carried out in conjunction with a band performing in the studio live room on Friday 9th September 2022.
- 2.4 The measurement Locations are summarised below:
1. Pollard Street– To measure noise from road traffic (Pollard Street, Carruthers Street and Merrill Street) and noise from the nearby tram line that runs on Merrill Street.
 2. Carruthers Street - To measure noise from road traffic from vehicles on Carruthers Street.
 3. Hope Mill – To measure noise from Hope Mill Theatre and other tenants of the building. The survey coincided with “Turn on Fest” a music and arts festival which included live performances and club nights.
 4. (a, b, c & d) Measurements were carried out at various locations close to the existing northern elevation of the building close to Hope Mill.
- 2.5 The noise measurements at Location 1 and 4 were taken in ‘facade’ conditions and therefore include any reflections of sound from the building. The measurements at Locations 2 and 3 were taken in free field conditions.
- 2.6 The noise measurements at Locations 1-3 were undertaken in sequential 5 minutes periods using Rion NL-52 ‘Class 1’ sound level meters (s/n: 320643, 242747 & 620870). Acoustic calibration checks of the sound level meters was carried out before and after the noise measurements and there was no significant variation in the calibration noise levels.
- 2.7 The music noise levels measurements at Locations 4a, 4b, 4c and 4d were carried out using a Brüel & Kjær 2250 (s/n: 3011706) ‘Type 1’ sound level meter. Acoustic calibration checks of the sound level

meter were carried out before and after the noise measurements and there was no significant variation in the calibration noise levels. Synchronised measurements during the performance were also taken within the recording studio using a Rion NL-52 'Class 1' sound level meter (s/n: 821105).

- 2.8 Weather conditions during the September survey were dry, warm (~16-20°C), clear skies with periods of light cloud and light westerly breeze (<5 m/s) during the daytime with dry, mild (~16-17°C), cloudy and light westerly breeze (<5 m/s) conditions at night.
- 2.9 Weather conditions during the January survey were generally dry with a period of rain and fairly high winds on Friday 28th January, winds were generally moderate with a westerly breeze (<5 m/s) during the daytime with dry and cold conditions at night (~2-7°C), and a light westerly breeze (<5 m/s).
- 2.10 The Daytime $L_{Aeq,16hr}$ and Night-time $L_{Aeq,8hr}$ noise levels at Locations 1-3 have been determined by the logarithmic average of the measured $L_{Aeq,5min}$ measurements.
- 2.11 The full results of the noise surveys shown in the form of charts in Appendix II. The daytime and night-time exposure levels are summarised in Table 1 below.

Table 1: Calculated Noise Exposure Levels

Location	Daytime $L_{Aeq,16hr}$	Night Time $L_{Aeq,8hr}$
1. Pollard Street	61	57
2. Carruthers Street	62	55
3. Hope Mill	47-55	45-51

- 2.12 The main noise in the area during the surveys was traffic noise from the surrounding roads and passing trams on Merrill Street.
- 2.13 At Location 3 there was very little noise attributable to Hope Mill except for brief periods of bottle bins emptying towards the end of the night (22:45). It was noted that whilst the door is open to allow access to the courtyard faint music was audible.
- 2.14 Peaks of noise (L_{Amax}) during the night time period ranged between dB L_{Amax} 48 and 92 at Location 1, 43 and 83 dB L_{Amax} at Location 2 and 85-44 L_{Amax} at Location 3.

Live Music Measurements

- 2.15 Measurements were carried out during the performance of live music, in the live room of Hope Mill Recording Studio. The studio is located at the south west corner of Hope Mill on the second floor of the building the live room live room itself has openable windows that overlook the courtyard area shared with Anocats Works. The survey was carried out with the band playing rock type music which included drums, bass guitar, electric guitar, and vocals.
- 2.16 Measurements were carried out at Locations 4a, 4b, 4c and 4d at both ground and first floor levels at various distances from the recording studio. The music was performed while all openable windows were open to ensure a worst-case scenario. It was observed that during the performance music levels measured within the live room were consistently over 100 dB $L_{Aeq,1min}$ to put that into perspective the “Lower Exposure Action Value” daily noise dosage without hearing protection as detailed in “The Control of Noise at Work Regulations” would be exceeded in as little as four minutes.
- 2.17 The full results of the noise survey are shown in the form of charts in Appendix II. The measured noise levels are summarised in Table 2 below.

Table 2: Measured Music Noise Level

Location	Measured Noise Level L_{Aeq}
4a. (8m from open windows)	70 dB
4b. (15m from open windows)	66 dB
4c. (20m from open windows)	62 dB
4d. (25m from open windows)	61 dB

- 2.18 It is important to note that the studio’s live room is in constant use, and whilst most performances would be quieter, there would be a reasonable number where the music noise level would be at the level measured during our survey which represent a worst-case scenario.
- 2.19 Nevertheless, any scheme of noise mitigation proposed takes account of these worst-case conditions. The implications of the noise exposure values are set out in Section 6.0.

3.0 ACOUSTIC DESIGN CRITERIA

NPPF

- 3.1 The National Planning Policy Framework (NPPF) 2021 states at paragraph 174 that “Planning policies and decisions should contribute to and enhance the natural and local environment by: ... *e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of ... noise pollution ...*”.
- 3.2 Further, paragraph 185 states that “*Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life ...*”.
- 3.3 The NPPF 2021 also provides some general guidance to local authorities on taking noise into account in planning policies and decisions. This includes guidance that local authorities should ‘*aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development*’ and that ‘*existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses*’.

NPSE:2010

- 3.4 The Noise Policy Statement for England (NPSE) 2010, which is referred to the in NPPF, includes three aims:
1. Avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.
 2. Mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

3. Where possible, contribute to the improvement of health and quality of life through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

- 3.5 Therefore, it is necessary to refer to established national guidance such as the acoustic design goals for residential development that are set out in British Standard 8233: 2014, *Guidance on sound insulation and noise reduction for buildings*, which carries the full weight of an adopted British Standard.
- 3.6 As transportation noise from the roads is the predominant source of noise on the site, the noise mitigation measures will focus on noise control measures to limit the impact of these sources.

BS 8233: 2014, 'Guidance on sound insulation and noise reduction for buildings'

- 3.7 No specific guidance is given in the NPPF on acoustic criteria, therefore the guidance discussed below has been used for acoustic design purposes which carries the full weight of an adopted British Standard.
- 3.8 Guidance on acceptable noise levels in habitable rooms and private gardens is set out in British Standard 8233: 2014, *'Guidance on sound insulation and noise reduction for buildings'* (referred hereafter as BS 8233). The design criteria recommended in BS 8233 for daytime periods (07:00–23:00) and night-time periods (23:00–07:00) are summarised in Table 3.

Table 3: BS 8233:2014 Recommended Acoustic Design Criteria

Activity	Location	Daytime (07:00 - 23:00)	Night-time (23:00 - 07:00)
Resting	Living room	35 dB $L_{Aeq,16hr}$	-
Dining	Dining room/area	40 dB $L_{Aeq,16hr}$	-
Sleeping (daytime resting)	Bedroom	35 dB $L_{Aeq,16hr}$	30 dB $L_{Aeq,8hr}$

- 3.9 BS 8233 also recognises that regular individual noise events at night can cause sleep disturbance but does not provide specific design criteria. Peaks of noise from individual events such as these are usually described in terms of dB L_{Amax} values. ProPG: Planning & Noise 'Professional Practice Guidance on Planning & Noise' 2017 states that *"in most circumstances in noise-sensitive rooms at night (e.g. bedrooms) good acoustic design can be used so that individual noise events do not normally exceed 45dB $L_{Amax,F}$ more than 10 times a night."* The 10th highest L_{Amax} value measured at Location 1 was 78 dB at Location 2 it was 81 dB and at Location the 10th highest value was 76 dB.

- 3.10 For outdoor amenity spaces, such as balconies, gardens and patios, BS 8233 states that it is desirable that the external noise level does not exceed 50 dB $L_{Aeq,T}$ with an upper guideline value of 55 dB $L_{Aeq,T}$ which would be acceptable in noisier environments'. However, BS 8233 acknowledges that these are only guidelines and some flexibility may need to be applied for residential developments in higher noise areas near to major roads. The standard states that *'it is also recognised that these guideline values are not achievable in all circumstances where development might be desirable. In higher noise areas, such as city centres or urban areas adjoining the strategic transport network a compromise between elevated noise levels and other factors, such as the convenience of living in these locations or making efficient use of land resources to ensure development needs can be met, might be warranted. In such a situation, development should be designed to achieve the lowest practicable levels in these external amenity spaces but should not be prohibited. Other locations, such as balconies, roof gardens and terraces, are also important in residential buildings where normal external amenity space might be limited or not available, i.e. in flats, apartment blocks, etc. In these locations, specification of noise limits is not necessarily appropriate. Small balconies may be included for uses such as drying washing or growing pot plants, and noise limits should not be necessary for these uses. However, the general guidance on noise in amenity space is still appropriate for larger balconies, roof gardens and terraces, which might be intended to be used for relaxation. In high-noise areas, consideration should be given to protecting these areas by screening or building design to achieve the lowest practicable levels. Achieving levels of 55 dB $L_{Aeq,T}$ or less might not be possible at the outer edge of these areas but should be achievable in some areas of the space'*
- 3.11 There are a number of balconies proposed but these will not be on elevations facing towards Caruthers Street or Pollard Street. A communal landscaped amenity space for the residents is proposed in the central courtyard area, much of which will be set back and shielded from the surrounding roads by the building itself. We calculate for the inwardly facing balconies and the amenity space that traffic noise will be within 55 dB $L_{Aeq,16hr}$ in accordance with the extract from BS 8233 above. Therefore, our recommendations for noise mitigation focus on the apartments themselves.
- 3.12 The minimum building regulations sound insulation requirements between apartments and the ground floor commercial space is to be achieved with upgrades to be incorporated by ground floor tenants if necessary and commensurate to their operation.
- 3.13 The results of the environmental noise survey have been used as a basis for recommending appropriate noise design limits for any external building services equipment associated with ground floor

commercial uses, in accordance with BS 4142:2014. These acoustic design limits are described in Section 4.0.

3.14 Therefore, for this development we recommend that the following noise criteria be adopted:

- Daytime noise levels within 35 dB $L_{Aeq,16hr}$ inside living rooms and bedrooms, and within 40 dB $L_{Aeq,16hr}$ in dining rooms; and
- Night-time noise levels within 30 dB $L_{Aeq,8hr}$ and generally not exceeding 45 dB L_{Amax} in bedrooms (i.e. typically no more than 10 times per night).

4.0 RECOMMENDED NOISE MITIGATION MEASURES

Sound Insulation of Dwellings

- 4.1 Windows of standard well-fitted thermal double glazing (4mm glass – 4mm glass) have a typical sound reduction performance of 25 dB $R_w + C_{tr}$. Therefore, where external noise levels exceed 60 dB $L_{Aeq,16hr}$ during the daytime and/or 55 dB $L_{Aeq,8hr}$ and/or 70 dB L_{Amax} at night, higher specification glazing will be necessary. (Note $R_w + C_{tr}$ is sometimes notated as R_{tra}). Therefore, sound insulation measures will be necessary for the windows of the proposed apartments and our recommendations are made below.
- 4.2 We understand that mechanical ventilation in the form of an MVHR system is proposed for all living rooms and bedrooms of all dwellings on the proposed development. This measure will provide future residents with the option of ventilating the rooms without opening a window, whilst still achieving the adopted internal noise criteria. Thus, the recommendations made below are on the assumption that windows will be closed for ventilation, except for periods of rapid/purge ventilation.
- 4.3 For the avoidance of doubt the below recommendations are for **all** floors of the development.
- 4.4 For all outwardly facing living rooms fronting onto and with a view of (i.e those not behind the brick frontage) Pollard Street and Carruthers Street elevations as marked in **magenta** on Figure 2, we recommend that windows of habitable rooms are fitted with double glazing that has a sound reduction performance of at least 30 $R_w + C_{tr}$. Typically this would be achieved with double glazing specifications of:
- 6.4mm Solaglas 'Stadip Silence' laminated glass - nominal (8-20mm) cavity - 4mm glass; or
 - 8mm glass - nominal (8-20mm) cavity - 4mm glass.
- 4.5 For all outwardly facing bedrooms fronting onto and with a view of Pollard Street and Carruthers Street elevations (i.e those not behind the brick frontage) as marked in **yellow** on Figure 2 we recommend the following high specification of glazing (minimum 35 dB $R_w + C_{tr}$):
- 8.4mm Solaglas 'Stadip Silence' laminated glass - nominal (8-20mm) cavity – 8mm glass; or
 - 10mm glass - nominal (8-20mm) cavity - 4mm glass.

- 4.6 To control noise from the commercial units associated with Hope Mill, including Hope Mill Recording Studios and White Bear Studios, we recommended that bedrooms and living rooms with a view of Hope Mill marked in **Green** on Figure 2, are fitted with double glazing that has a sound reduction performance of at least $37 R_w + C_{tr}$. Typically this would be achieved with double glazing specifications of:
- 8.8mm Solaglas 'Stadip Silence' laminated glass - nominal (8-20mm) cavity – 10.8mm glass
- 4.7 Bedrooms and living rooms marked in **yellow** on Figure 2, are fitted with double glazing that has a sound reduction performance of at least $35 R_w + C_{tr}$. Typically this would be achieved with double glazing specifications of:
- 8.8mm Solaglas 'Stadip Silence' laminated glass - nominal (8-20mm) cavity – 8.4mm glass
- 4.8 Calculation sheets are presented in Appendix III.
- 4.9 Windows can be openable but must have compressible seals for effective sealing when closed.
- 4.10 It should be noted that neither the existing single glazed, or existing thin double-glazed windows in the part of the building to be retained will provide adequate sound reduction to meet the criteria detailed in Section 3.0 and will need to be replaced in line with the recommendations above.
- 4.11 Depending on the proposed usage of the proposed ground floor commercial unit, dwellings in close proximity may require an enhanced scheme of sound insulation. However, as the usage is not currently known it would not be appropriate to make detailed recommendations.
- 4.12 The implementation of an adequate scheme of noise mitigation measures these dwellings can be ensured by the use of an appropriately worded planning condition. Nevertheless, it is worth noting that dwellings facing towards Pollard Street and Carruthers Street would already benefit from an enhanced level of sound insulation due to their proximity to the road traffic and tram noise.
- 4.13 For all other elevations, including the and inwardly facing apartments and those apartments behind the brick frontage on Pollard Street, windows of standard thermal double glazing with a minimum specification of $25 \text{ dB } R_w + C_{tr}$ (4 mm glass - 4 mm glass) will be suitable for these in order to control internal ambient noise levels to within the BS 8233 criteria.

Noise Design Limits for Mechanical Services Plant

- 4.14 Acoustic requirements for fenestration of the ground floor commercial unit will need to be commensurate with the types of uses and will be a matter for detailed design once likely tenants are known.
- 4.15 At this stage, guidance can be given on control of noise from any mechanical services equipment (i.e. external equipment or grilles/vents from plant rooms, etc.). Taking into account as Manchester City Council's 'Planning & Noise Technical Guidance' dated December 2015 which states:
- 'Externally mounted ancillary plant, equipment and servicing shall be selected and/or acoustically treated in accordance with a scheme designed so as to achieve a rating level of 5dB (L_{Aeq}) below the typical background (L_{A90}) level at the nearest noise sensitive location'*
- 4.16 Along with, the L_{A90} results of the noise survey, and requirements of BS4142:2014 'Methods for rating and assessing industrial and commercial sound' recommendations for suitable cumulative plant noise limits for this development have been made.
- 4.17 The mode (most common) background noise level measured on the Carruthers Street elevation during the daytime (46 dB L_{A90}) and night time (36 dB L_{A90}) have been adopted as the typical background noise level. On this basis our recommendations for control of plant noise from the proposed ground floor commercial operations are set out in Table 4.
- 4.18 The recommended limits below must take account of any tonal, impulsive or intermittent characteristics of the plant noise in accordance with the guidance set out in BS4142:2014.

Table 4: Recommended Cumulative Plant Noise Limits Outside Apartments (Rated to BS4142:2014)

Daytime 07:00 – 23:00	Night 23:00 - 07:00
41 dB $L_{Aeq,1hr}$	31 dB $L_{Aeq,15 mins}$

5.0 SOUND INSULATION IMPROVEMENTS TO HOPE MILL RECORDING STUDIO

- 5.1 We understand that following discussions between the developer and the operator of Hope Mill recording studio the installation of secondary glazing has been proposed to improve the sound insulation of the recording studio, and thus allow for windows of proposed apartments to be openable. Therefore, we have calculated the noise level at the nearest proposed dwelling with the implementation of secondary glazing to the studio windows.
- 5.2 Of course, it is important to note that the performance of the glazing will depend on the windows remaining closed during the use of the recording studios.
- 5.3 Based on music noise levels measured in the recording studio on Friday 9th September 2022 where measured noise levels in the studio during use were over 100 dB L_{Aeq} . We have adopted suitable music noise levels for the purposes of calculations. The adopted values are summarised in Table 5 below.

Table 5: Adopted Music Levels in L_{eq} (dB)

Location	Octave Band Centre Frequency (Hz)							A
	63	125	250	500	1k	2k	4k	
Adopted Music Level	100	103	104	98	92	90	90	101

- 5.4 Using the adopted music levels in Table 5 alongside details of the external building envelope, we have calculated the likely resulting egress of music to the nearby proposed apartments.
- 5.5 The substantial masonry external wall will provide a high level of sound insulation and so noise egress will be dictated by the glazed areas in the façade. Our calculations have taken into account the areas and sound reduction indices for the existing single glazed windows with a suitable secondary glazing system.
- 5.6 We recommend secondary glazing consisting of a 10.8mm thick acoustic laminated glass pane in a separate internal frame behind each window within the live room, the maximum possible air gap of at least 100mm should be formed between the existing outer glazing and new inner secondary glazing frame. The secondary glazing should be fully sealed.
- 5.7 Our recommendation of secondary glazing could be removed at a later date if needs be, and all areas made good and would not materially alter the fabric of the building.

- 5.8 We have calculated the likely noise break-out considering the building construction including the implementation of secondary glazing in the two recording studios, the distance to the nearest proposal dwellings, (at a distance of at least 21m) and with apartment windows closed.
- 5.9 We have also provided details of the noise level without the secondary glazing being installed at Hope Mill & White Bear Recording Studios. As shown in Tables 6 & 7 below.

Table 6: Calculated Noise in Apartments without Secondary Glazing (dB)

Description	Octave Band Centre Frequency (Hz)							A
	63	125	250	500	1k	2k	4k	
Adopted music level within nearest dwelling with windows closed (L_{Aeq})	18	30	31	22	18	18	8	26
Lowest background noise level measured (L_{A90})	45	38	37	36	36	28	16	44
Comparison	-27	-8	-6	-14	-18	-20	-8	-18

Table 7: Calculated Noise in Apartments with Secondary Glazing (dB)

Description	Octave Band Centre Frequency (Hz)							A
	63	125	250	500	1k	2k	4k	
Adopted music level within nearest dwelling with windows closed (L_{Aeq})	8	20	20	8	-3	-5	-6	24
Lowest background noise level measured (L_{A90})	45	38	37	36	36	28	16	44
Comparison	>-20	-18	-17	>-20	>-20	>-20	>-20	-20

- 5.10 Clearly the above music levels within the apartments with windows closed are very low and well below that of the background noise level, but it is important to note the actual internal noise level will be affected by all sources of noise in the area and will naturally be higher than the above.
- 5.11 It is generally accepted that a partially open window will reduce the external noise level by 10-15 dB(A). Therefore, we have included a modest 10 dB reduction of external noise level with windows partially open and doesn't not take into account the performance of the high specification glazing proposed for habitable rooms with a view to the recording studios. As shown in Tables 8 & 9 below.

Table 8: Calculated Noise Level in Apartments without Secondary Glazing (dB)

Description	Octave Band Centre Frequency (Hz)							A
	63	125	250	500	1k	2k	4k	
Adopted music level within nearest dwelling with partially open window (L_{Aeq})	50	47	43	30	20	23	17	37
Lowest background noise level measured (L_{A90})	45	38	37	36	36	28	16	44
Comparison	-5	+9	+14	+6	-16	-5	+1	-7

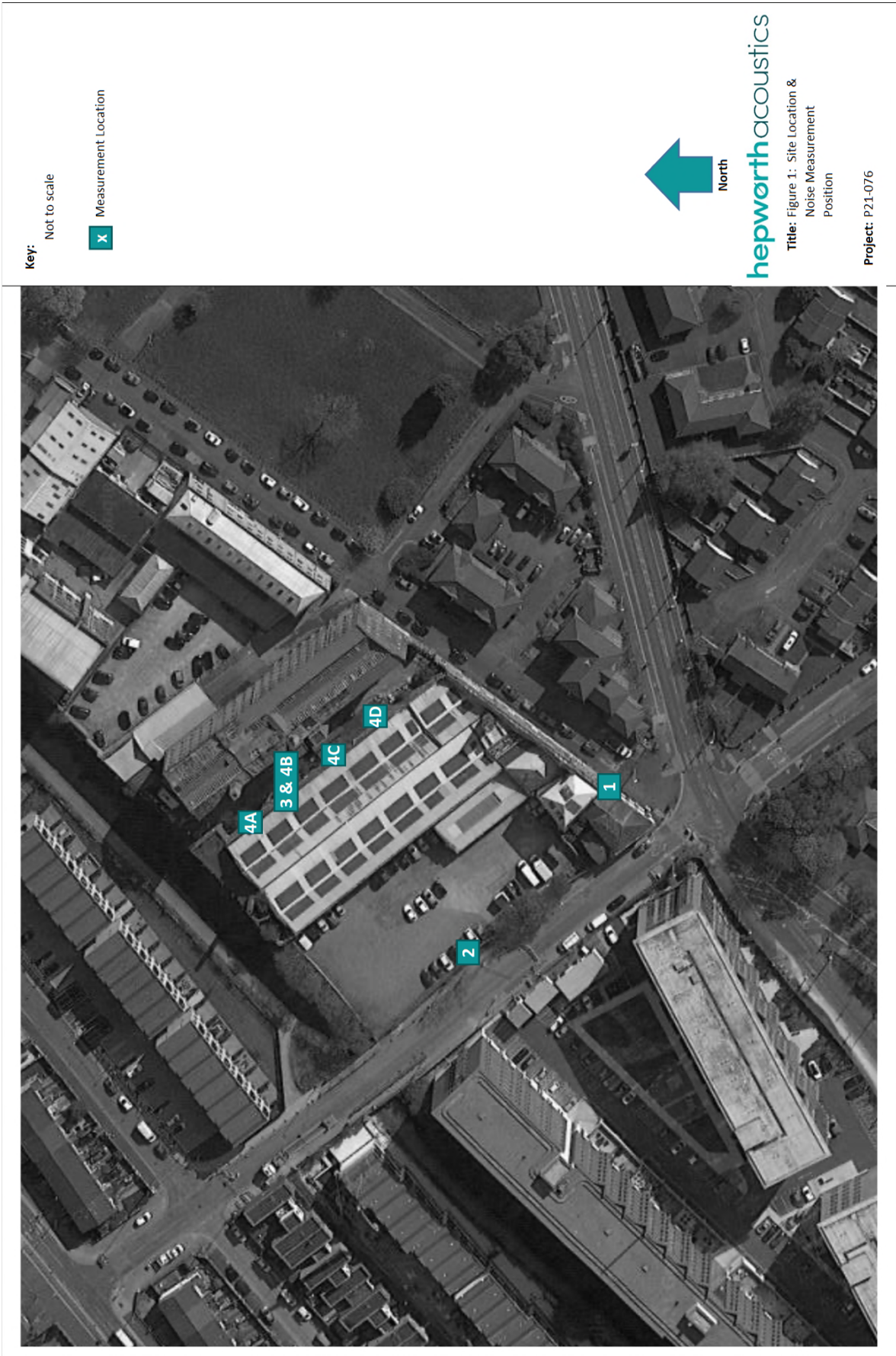
Table 9: Calculated Noise in Apartments with Secondary Glazing (dB)

Description	Octave Band Centre Frequency (Hz)							A
	63	125	250	500	1k	2k	4k	
Adopted music level within nearest dwelling with partially open window (L_{Aeq})	40	37	32	16	-1	0	3	26
Lowest background noise level measured (L_{A90})	45	38	37	36	36	28	16	44
Comparison	-5	-1	-5	-20	-37	-28	-13	-18

- 5.12 Table 9 shows that the calculated music noise level inside the nearest dwellings (with secondary glazing installed in the recording studio), in terms of octave band L_{eq} , will not exceed the lowest background noise levels measured during the recording studios normal opening hours of 10:00 - 23:00 seven days a week in terms of octave band L_{90} .
- 5.13 The calculations above demonstrate music noise break-out will not result in any unacceptable noise impact.
- 5.14 The calculated noise level also achieves entertainment noise guidance set out within Manchester City Council 'Planning & Noise Technical Guidance', which relates to control of entertainment noise within dwellings themselves. The criteria for the control of entertainment noise within habitable rooms of dwellings are 47 dB and 41 dB L_{eq} in the 63 Hz and 125 Hz octave bands respectively.

6.0 SUMMARY

- 6.1 The impact of ambient noise has been assessed for the residential element of the proposed redevelopment of the Ancoats Works in Manchester.
- 6.2 A noise monitoring survey has been carried out over a 24-hour period, outside two elevations of the building in order to establish the prevailing noise climate of the area.
- 6.3 Appropriate acoustic design criteria have been adopted from relevant British Standards that will ensure the protection of residential amenity.
- 6.4 From the survey results, the existing windows will not provide adequate sound insulation and therefore, to achieve the design criteria, it will be necessary to implement a scheme of sound insulation measures. Appropriate recommendations for sound insulated windows and acoustic vents have been made in the report.
- 6.5 Suitable noise limits have also been provided for control of noise from any mechanical services equipment associated with the proposed commercial space.
- 6.6 The implementation of an adequate scheme of noise mitigation measures for the development can be ensured by the use of an appropriately worded planning condition.





Appendix I: Noise Units & Indices

Sound and the decibel

A sound wave is a small fluctuation of atmospheric pressure. The human ear responds to these variations in pressure, producing the sensation of hearing. The ear can detect a very wide range of pressure variations. In order to cope with this wide range of pressure variations, a logarithmic scale is used to convert the values into manageable numbers. Although it might seem unusual to use a logarithmic scale to measure a physical phenomenon, it has been found that human hearing also responds to sound in an approximately logarithmic fashion. The dB (decibel) is the logarithmic unit used to describe sound (or noise) levels. The usual range of sound pressure levels is from 0 dB (threshold of hearing) to 120dB (threshold of pain).

Due to the logarithmic nature of decibels, when two noises of the same level are combined together, the total noise level is (under normal circumstances) 3 dB(A) higher than each of the individual noise levels e.g. 60 dB(A) plus 60 dB(A) = 63 dB(A). In terms of perceived 'loudness', a 3 dB(A) variation in noise level is a relatively small (but nevertheless just noticeable) change. An increase in noise level of 10 dB(A) generally corresponds to a doubling of perceived loudness. Likewise, a reduction in noise level of 10 dB(A) generally corresponds to a halving of perceived loudness.

The ear is not equally sensitive to sound at all frequencies. It is less sensitive to sound at low and very high frequencies, compared with the frequencies in between. Therefore, when measuring a sound made up of different frequencies, it is often useful to 'weight' each frequency appropriately, so that the measurement correlates better with what a person would actually hear. This is usually achieved by using an electronic filter called the 'A' weighting, which is built into sound level meters. Noise levels measured using the 'A' weighting are denoted dB(A) or dBA.

Frequency and Hertz (Hz)

As well as the loudness of a sound, the frequency content of a sound is also very important. Frequency is a measure of the rate of fluctuation of a sound wave. The unit used is cycles per second, or hertz (Hz). Sometimes large frequency values are written as kiloHertz (kHz), where 1 kHz = 1000 Hz.

Young people with normal hearing can hear frequencies in the range 20 Hz to 20 kHz. However, the upper frequency limit gradually reduces as a person gets older.

Glossary of Terms

When a noise level is constant and does not fluctuate, it can be described adequately by measuring the dB(A) level. However, when the noise level varies with time, the measured dB(A) level will vary as well. In this case it is therefore not possible to represent the noise climate with a simple dB(A) value. In order to describe noise where the level is continuously varying, a number of other indices can be used. The indices used in this report are described below.

$L_{Aeq,T}$ This is the A-weighted 'equivalent continuous noise level' which is an average of the total sound energy measured over a specified time period. In other words, L_{Aeq} is the level of a continuous noise which has the same total (A-weighted) energy as the real fluctuating noise, measured over the same time period. It is increasingly being used as the preferred parameter for all forms of environmental noise.

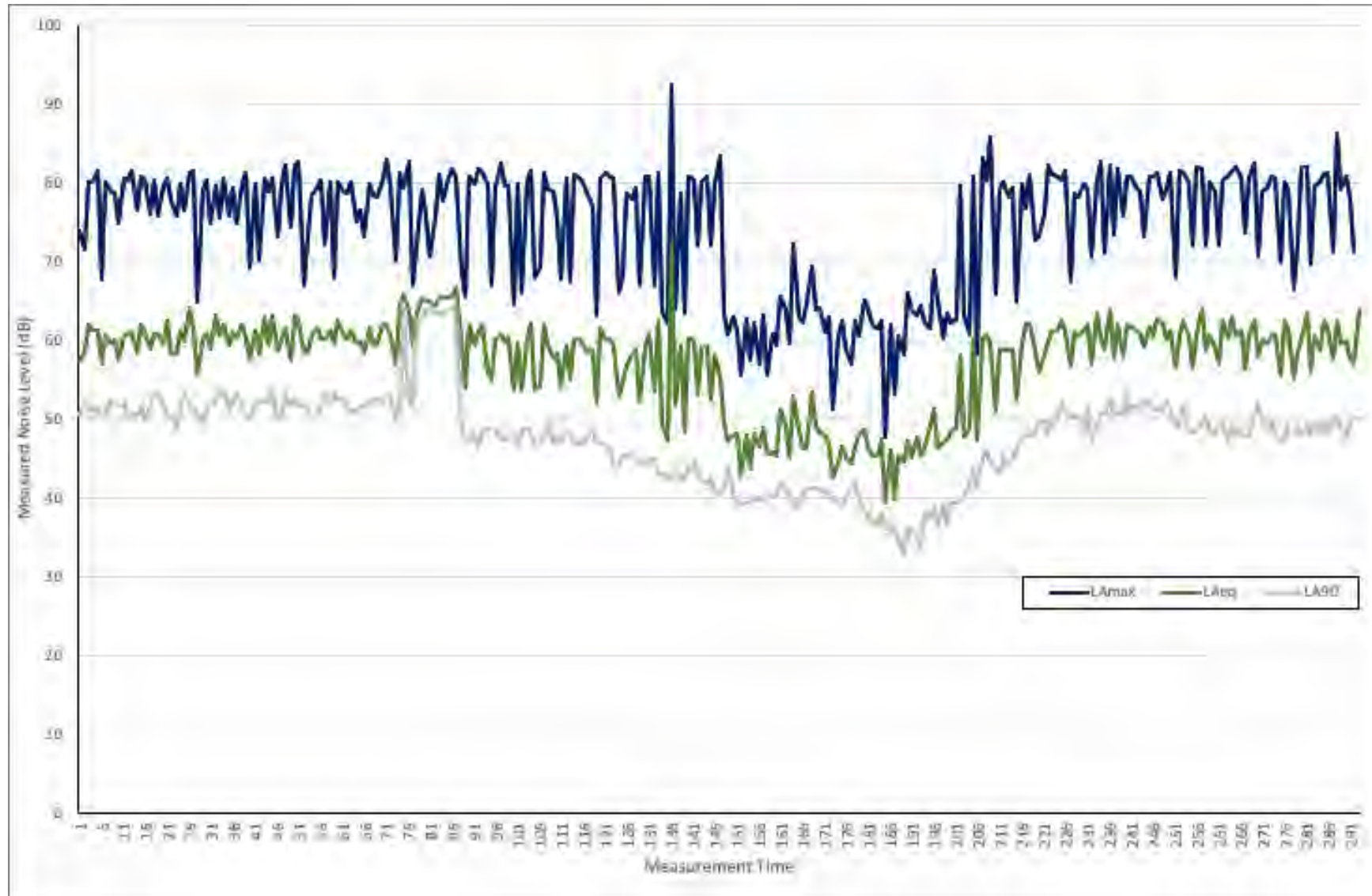
L_{Amax} This is the maximum A-weighted noise level that was recorded during the monitoring period.

$L_{A90,T}$ This is the A-weighted noise level exceeded for 90% of the time period. L_{A90} is used as a measure of background noise.

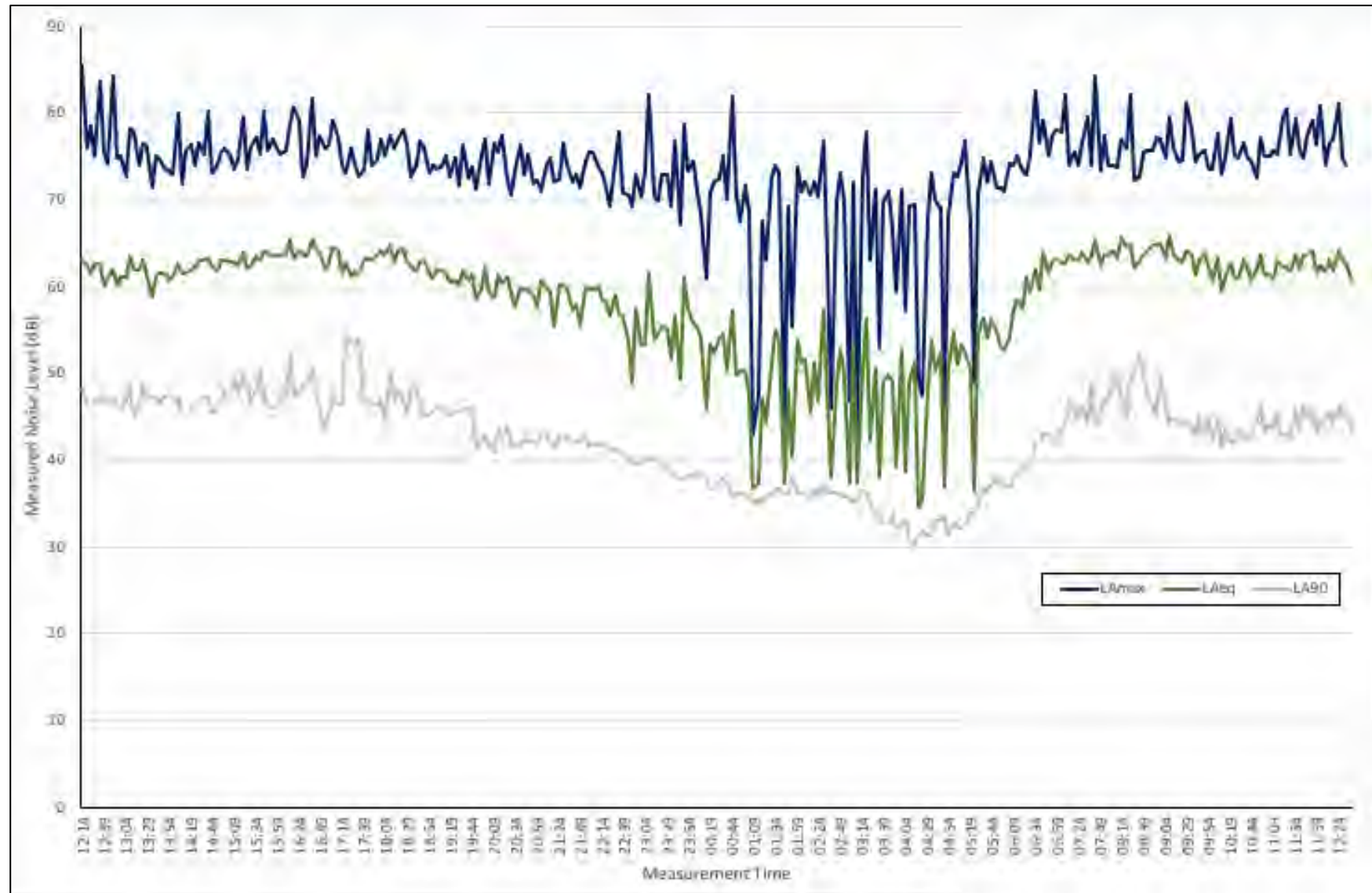
Appendix II: Noise Survey Results

Date(s):	Wednesday 8 th September - Thursday 9 th September 2021
	Friday 28 th January – Wednesday 2 nd February 2022
	Friday 9 th September 2022
Equipment:	3 Rion NL-52 'Class 1' sound level meters (serial nos. 00242747, 320643 and 620870) calibrator and environmental kit, pole and windshield
	Brüel & Kjær 2250 'Type 1' sound level meter (serial no. 3011706) and tripod
Weather:	Daytime dry, warm (~16-20°C), clear skies with periods of light cloud and light westerly breeze (<5 m/s).
	Night-time – Dry, mild (~16-17°C), cloudy and light westerly breeze (<5 m/s)
All levels in dB(A)	

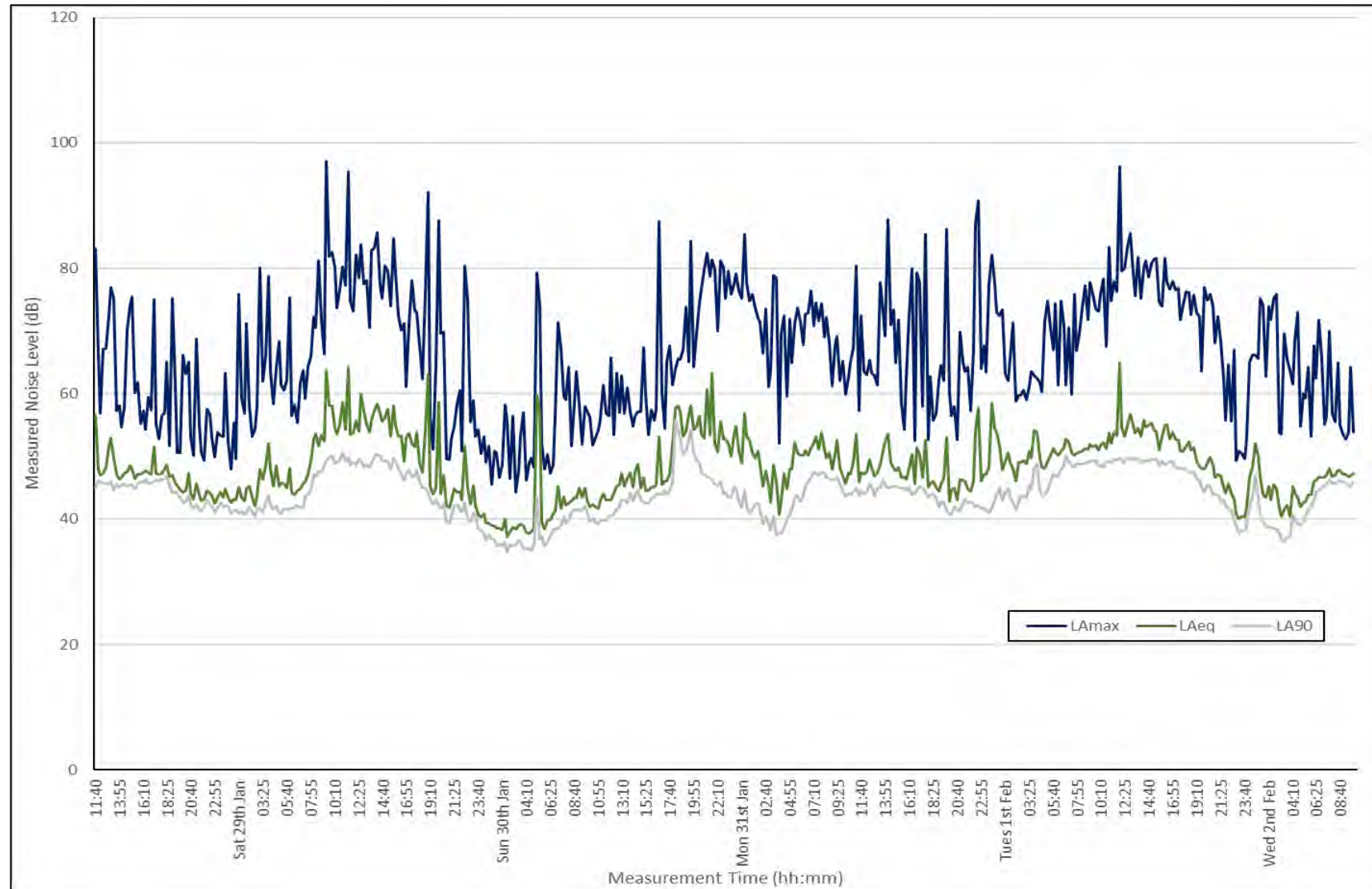
Location 1: Pollard Street



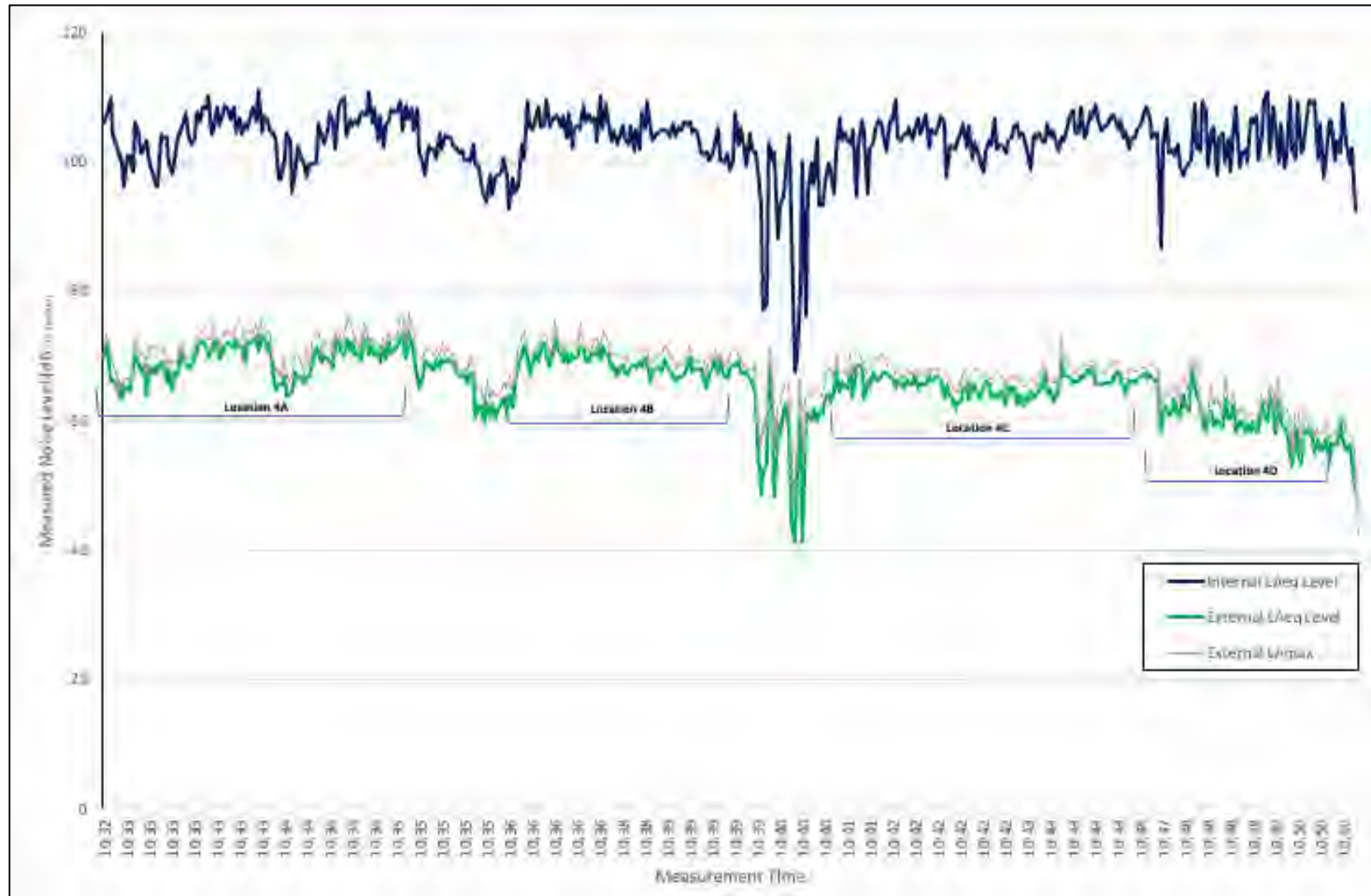
Location 2: Carruthers Street



Location 3: Hope Mill



Location 4: Live Music



Appendix II: Internal Noise Level Calculations

The expected precision of this calculation is ± 2 dB

Site: Ancoats Works

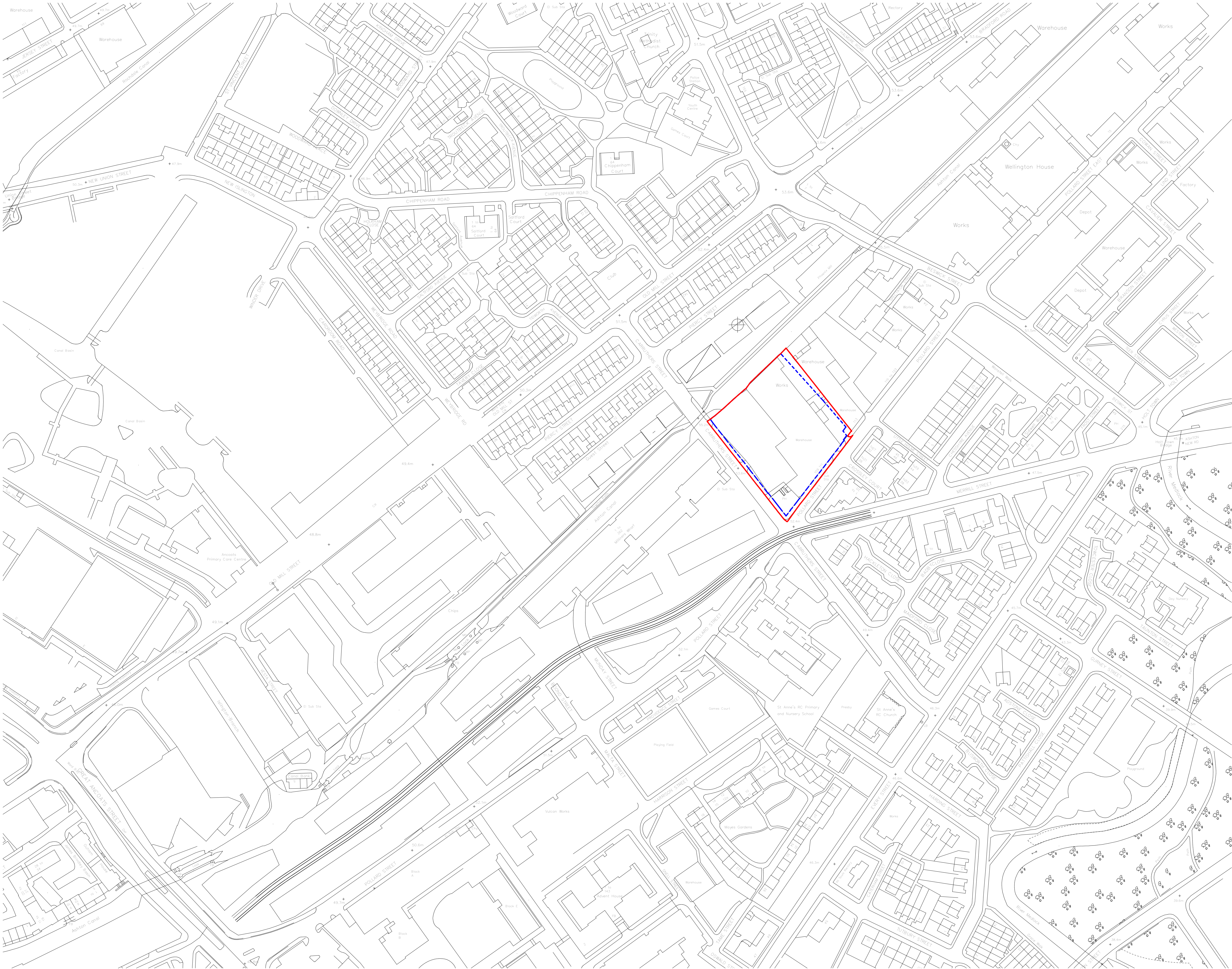
Period Day

Room: **Living Room**

NOTES Window partially open in recording studio

APPENDIX 2

Drawings



BUILDING DESIGN PARTNERSHIP SHALL HAVE NO RESPONSIBILITY FOR ANY USE MADE OF THIS DOCUMENT OTHER THAN FOR THAT WHICH IT WAS PREPARED AND ISSUED.

ALL DIMENSIONS SHOULD BE CHECKED ON SITE.

DO NOT SCALE FROM THIS DRAWING

ANY DRAWING ERRORS OR DIVERGENCIES SHOULD BE BROUGHT TO THE ATTENTION OF BUILDING DESIGN PARTNERSHIP AT THE ADDRESS SHOWN BELOW.

DRAWINGS SHALL BE READ IN CONJUNCTION WITH THE FOLLOWING BEFORE WORK COMMENCES:

- THE CDM DESIGN ISSUES REGISTER
- THE BDP RISK SERIES OF DRAWINGS
- THE PROJECT CDM RISK REGISTER

NOTES

- Planning Application Boundary
- Site Ownership Boundary

NOTE:

Red line boundary is approximate and should be used for illustrative purposes only.

Red line boundaries are based on the following title plans:

- GM170579
- GM409934
- GM419512
- GM738251

P04 Planning Issue	DOC	rOc	25.10.21
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These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

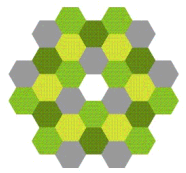
This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

This official copy is issued on 06 June 2023 shows the state of this title plan on 06 June 2023 at 12:17:03. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. This title is dealt with by the HM Land Registry, Fylde Office .

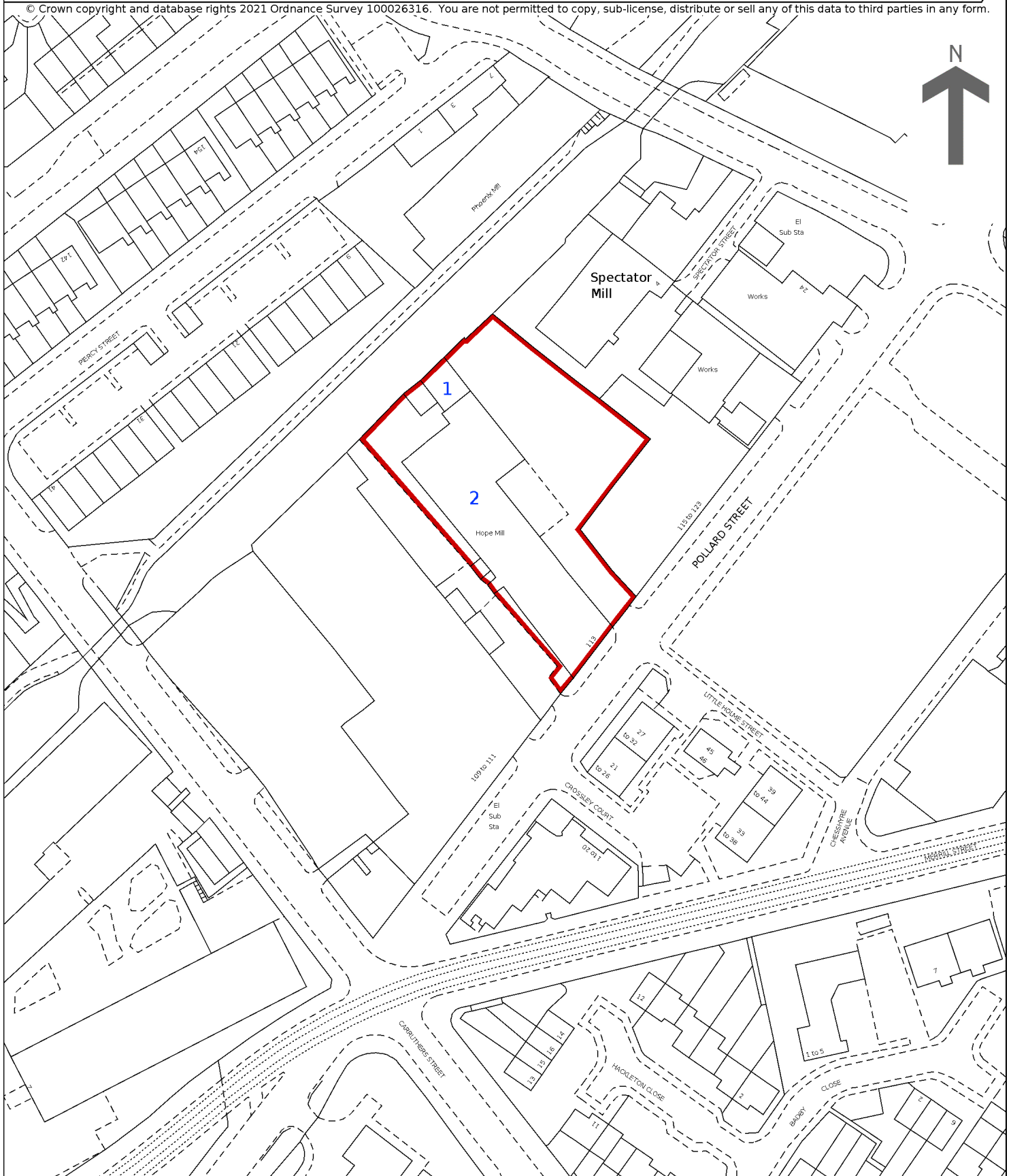
HM Land Registry

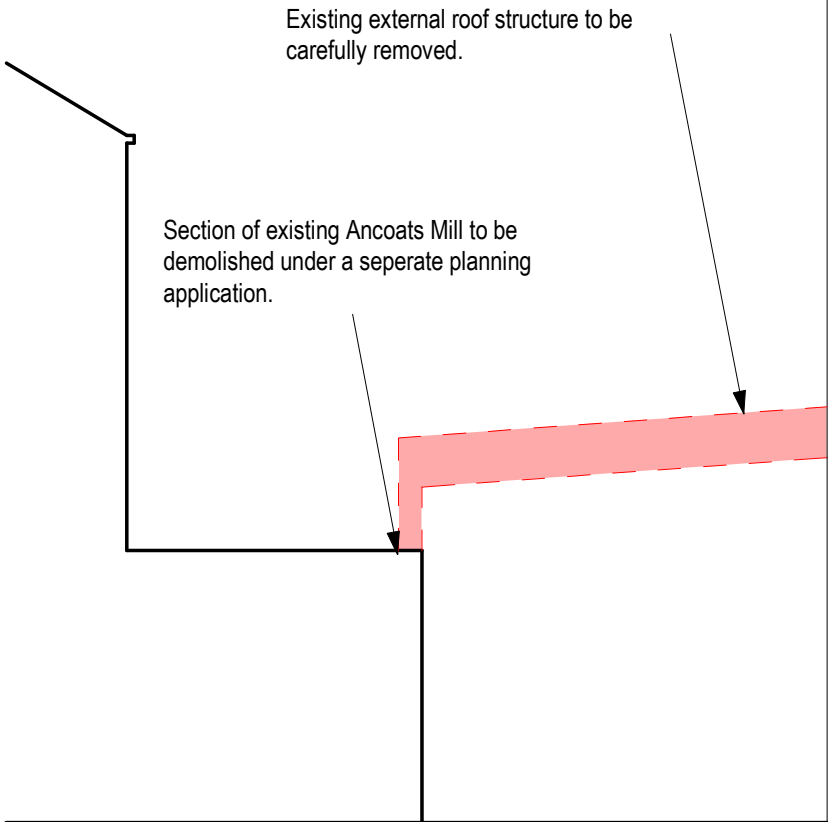
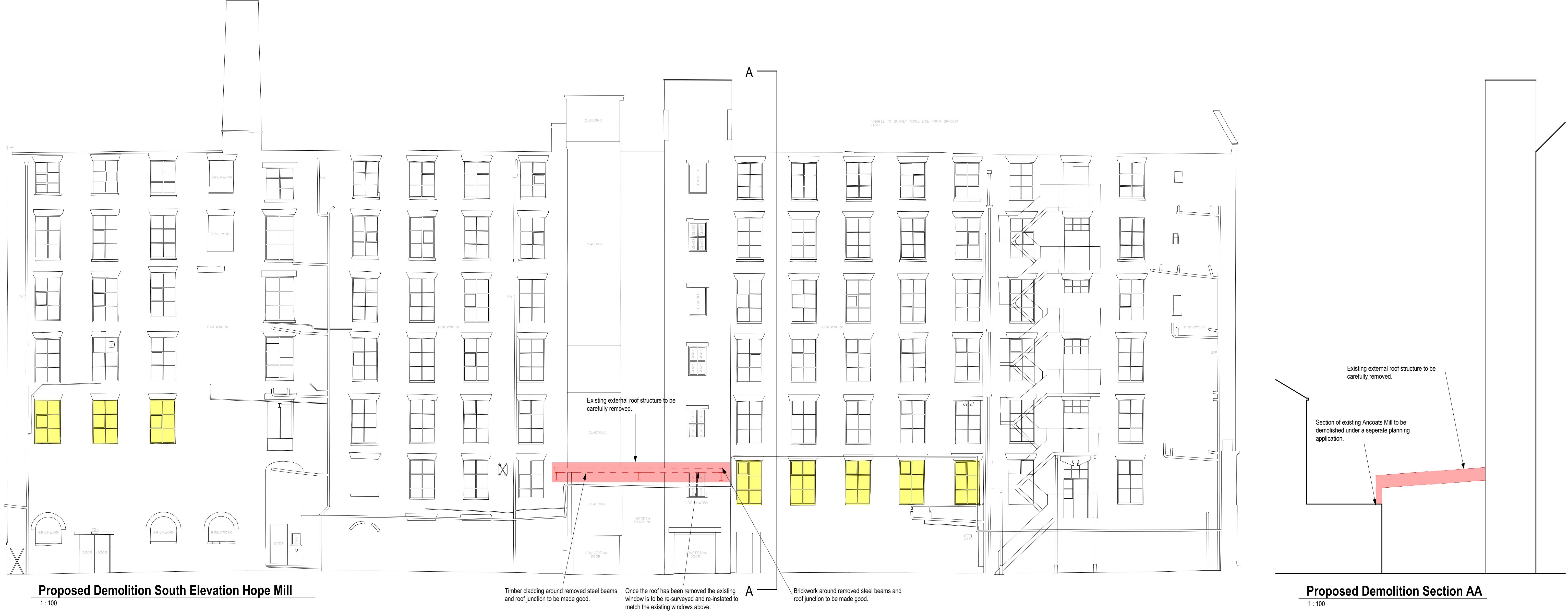
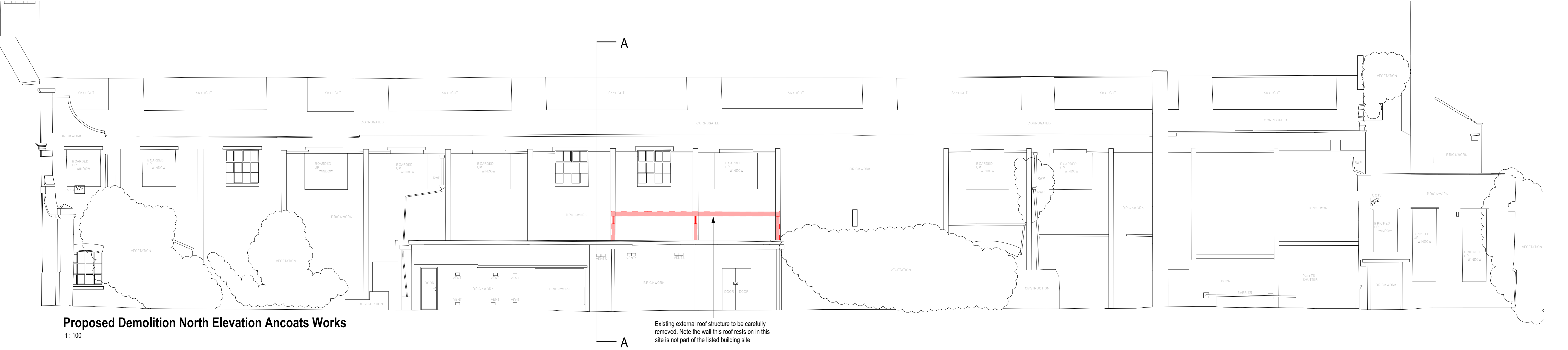
Official copy of title plan

Title number **GM185100**
Ordnance Survey map reference **SJ8598NE**
Scale **1:1250**
Administrative area **Greater Manchester :**
Manchester



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BUILDING DESIGN PARTNERSHIP SHALL HAVE NO RESPONSIBILITY FOR ANY USE MADE OF THIS DOCUMENT OTHER THAN FOR THAT WHICH IT WAS PREPARED AND ISSUED. ALL DIMENSIONS SHOULD BE CHECKED ON SITE. DO NOT SCALE FROM THIS DRAWING ANY DRAWING ERRORS OR DIVERGENCES SHOULD BE BROUGHT TO THE ATTENTION OF BUILDING DESIGN PARTNERSHIP AT THE ADDRESS SHOWN BELOW. DRAWINGS SHALL BE READ IN CONJUNCTION WITH THE FOLLOWING BEFORE WORK COMMENCES: • THE CDM DESIGN ISSUES REGISTER • THE BDP RISK SERIES OF DRAWINGS • THE PROJECT CDM RISK REGISTER		NOTES Fabric Removals General Notes - Fabric to be carefully dismantled and removed. Adjacent fabric to be retained to be protected and made good with masonry repairs and repointing agreed with the Architect. Dismantled masonry to be reclaimed and set aside for re-use -Roof to be carefully dismantled and removed. Adjacent fabric to be retained to be protected and made good with masonry repairs agreed with the Architect. Dismantled masonry to be reclaimed and set aside for reuse. - Windows to be internally secondary glazed refer to separate report for details of specification and method of installation.		Proposed Works Refer to the (20) series drawings for proposed works. Note - To be read in conjunction 1596-BDP-XX-ZZ-DR-A-10200 Demolition Plans. - All subject to further inspection following safe site access. - All subject to Structural Engineers comments. - All subject to contractors method statement inclusive of heritage aspects. - Repairs/ cleaning applicable to regions of external elevations below adjoining building roof lines.		REVISION <table><tr><td>P04</td><td>Planning Issue</td><td>MB</td><td>rOc</td><td>23.02.23</td></tr><tr><td>P03</td><td>Planning Issue</td><td>DOC</td><td>rOc</td><td>25.02.22</td></tr></table> REVISIONDESCRIPTIONDRAWN/CHECKEDDATE REVISION 2 1 2 1		P04	Planning Issue	MB	rOc	23.02.23	P03	Planning Issue	DOC	rOc	25.02.22	CLIENT CAPITAL&CENTRIC KAMANI PROPERTY GROUP 11 Ducie Street PO Box 85 Piccadilly Basin Manchester M60 3JA United Kingdom T +44 [0]161 828 2200 www.bdp.com		BDP. PROJECT TITLE Ancoats Works, Manchester REF: JOB NUMBER P3001596 DRAWING TITLE Hope Mill Listed Building Consent - Roof Removal DATE FIRST ISSUED 03/12/21 SCALE @ A1 1: 100 DRAWING NO. 1596-BDP-XX-XX-DR-A-10306 REVISION P04	
P04	Planning Issue	MB	rOc	23.02.23																	
P03	Planning Issue	DOC	rOc	25.02.22																	



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