

DATED 26 November 2024

- (1) CHURCHILL LIVING LIMITED
- (2) ANCHORBRIDGE DEVELOPMENTS LIMITED
- (3) THE COUNCIL OF THE CITY OF MANCHESTER

AGREEMENT

Under section 106 of the Town and Country Planning Act 1990
relating to Wren House, 108 Palatine Road, Manchester M20 3ZA

PLANNING APPLICATION REF 138765/FO/2023

PLANNING APPEAL REFERENCE APP/B4215/W/24/3345060

SHOOSMITHS

Shoosmiths LLP
Forum 5
The Forum
Parkway
Whiteley
Fareham
PO15 7PA
Tel 03700 866800
Fax 03700 866801
Ref MYP/M-01116418

THIS AGREEMENT is made on 26th November 2024

BETWEEN

- 1 **CHURCHILL LIVING LIMITED** (Company Regn No 06260373), of Churchill House, Parkside, Ringwood, Hampshire, BH24 3SG (the “**Applicant**”),
- 2 **ANCHORBRIDGE DEVELOPMENTS LIMITED** (Company Regn No 12730376) of Wren House, 108 Palatine Road, Didsbury, Manchester, England, M20 3ZA (the “**Owner**”), and
- 3 **THE COUNCIL OF THE CITY OF MANCHESTER** of PO Box 532, Town Hall, Albert Square, Manchester, M60 2LA (the “**Council**”)

BACKGROUND

- (A) For the purposes of the 1990 Act, the Council is the local planning authority in relation to the Site and is the authority by whom the obligations hereby created are enforceable. The Development will be carried out on Site. The Site is situated within the Administrative Boundaries of Manchester and this planning obligation is enforceable by the Council.
- (B) The Owner is the freehold owner of the Site registered at HM Land Registry under Title Number GM601031 free from encumbrances that would prevent the Applicant from entering into this Agreement subject to an option to purchase dated 28 September 2023 in favour of the Applicant.
- (C) Pursuant to the Planning Application the Applicant applied to the Council for full planning permission for the Development.
- (D) By notice of refusal dated 16 February 2024 the Council refused to grant the Planning Permission for the reasons set out in the notice. The Applicant has made the Planning Appeal and enters into this Agreement to the intent that any objections of the Council or the Secretary of State to the grant of planning permission are overcome.

The parties agree as follows

1 DEFINITIONS

In this Agreement, unless the context otherwise requires, the following definitions apply

“1990 Act”	the Town and Country Planning Act 1990,
Administrative Boundaries of Manchester	all the wards that together comprise the city of Manchester,
“Agreement”	this agreement,
“ Affordable Housing”	shall have the same meaning given to it in policy H8 of the Core Strategy and in the National Planning Policy Framework (December 2023) Annex 2 Glossary or any such successor national planning policy,
“Affordable Housing Contribution”	the sum of £65,125 (sixty five thousand one hundred and twenty five pounds) Index Linked to be paid by the Owner towards the provision

of off-site Affordable Housing within the Administrative Boundaries of Manchester,

“Charge Holder”

means any mortgagee or chargee of the Site (or any part of the Site) from time to time or the successors in title to such mortgagee or chargee or any receiver or manager appointed by such mortgagee or chargee,

“Commencement Date”

the date on which the Development commences by the carrying out on the Site pursuant to the Planning Permission of a material operation as specified in section 56(4) of the 1990 Act other than (for the purposes of this Agreement and no other),

(a) site investigations or surveys,

(b) archaeological works,

(c) site decontamination,

(d) excavation works,

(e) the clearance or re-grading of the Site

(f) the erection of hoardings and fences,

(g) works connected with infilling,

(h) works for the provision or diversion of drainage or mains services to prepare the Site for development, or

(i) the construction of access and service roads,

and **“Commence”** and **“Commenced”** shall be construed accordingly,

“Committed”

subject to a contract or other legally binding obligation,

“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,

“Development”

Erection of three storey building to provide 37 retirement living apartments (comprising 24 no 1 bed and 13 no 2 beds) including communal facilities, access, car parking and landscaping and reconfigured car parking arrangement for Wren House as detailed in the Planning Application,

“Dwelling”

a unit of residential accommodation comprised within the Development and **“Dwellings”** shall be construed accordingly,

“Expert”

a person having appropriate qualifications and local knowledge and experience in the matters in dispute as agreed by the Relevant Parties or failing agreement such person as is nominated by the

“Index Linked”	<p>President for the time being of the Royal Institution of Chartered Surveyors on the application of the Relevant Parties,</p> <p>adjusted on an annual basis or pro rata per diem from the date of this Agreement to the relevant date of payment in accordance with Retail Price Index and “Index Linking” shall be construed accordingly,</p>
“Interest”	<p>interest at 4 (four per cent) above the base lending rate of the Bank of England from time to time or if such rate shall not be published at any time such other comparable rate of interest as the Council may then in writing specify having regard to interest rates current at such time,</p>
“Inspector”	<p>the inspector appointed by the Secretary of State to determine the Planning Appeal,</p>
“Occupation”	<p>occupation of the Development for the purposes permitted by the Planning Permission but not occupation for the purposes of construction, fitting out or decoration for marketing or display purposes or in connection with security operations and “Occupy” and “Occupied” shall be construed accordingly,</p>
“Plan”	<p>the plan attached to this Agreement at Schedule 3,</p>
“Planning Appeal”	<p>the planning appeal submitted by the Applicant under Section 78 of the 1990 Act in respect of the Council’s refusal of the Planning Application which has been given reference APP/B4215/W/24/3345060,</p>
“Planning Application”	<p>the application for full planning permission for the carrying out of the Development validated on 5 December 2023 and given the reference 138765/FO/2023 by the Council,</p>
“Planning Permission”	<p>the full planning permission that may be granted for the Development in pursuance of the Planning Application following the completion of this Agreement or any variation to that permission granted pursuant to Section 73 of the 1990 Act,</p>
“Relevant Parties”	<p>the parties to this Agreement,</p>
“Secretary of State”	<p>the Secretary of State for , Housing, Communities and Local Government (or such successor Secretary of State or minister of state who shall assume the same decision making powers from time to time)</p>
“Site”	<p>the land at Wren House, 108 Palatine Road, Manchester M20 3ZA shown edged in red on the Plan against which this Agreement may be enforced</p>

2 INTERPRETATION

- 2 1 The clause headings in this Agreement are for reference only and do not affect its construction or interpretation

- 2 2 References to clauses and Schedules are to the clauses and Schedules of this Agreement, unless stated otherwise
- 2 3 A reference to a paragraph is to the paragraph of the Schedule in which the reference is made, unless stated otherwise
- 2 4 Words importing one gender include any other genders and words importing the singular include the plural and vice versa
- 2 5 A reference to a person includes a reference to a firm, company, authority, board, department or other body and vice versa
- 2 6 Unless this Agreement states otherwise, any reference to any legislation (whether specifically named or not) includes any modification, extension, amendment or re-enactment of that legislation for the time being in force and all instruments, orders, notices, regulations, directions, byelaws, permissions and plans for the time being made, issued or given under that legislation or deriving validity from it
- 2 7 References to the Site include any part of it
- 2 8 References to any party in this Agreement include the successors in title of that party and in the case of the Council include any successor local planning authority exercising planning powers under the 1990 Act
- 2 9 References to “including” means “including, without limitation”
- 2 10 Any covenant by the Applicant and/or the Owner not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing
- 2 11 Where two or more people form a party to this Agreement, the obligations they undertake may be enforced against them all jointly or against each of them individually
- 2 12 If any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of this Agreement shall be unaffected

3 LEGAL EFFECT

- 3 1 This Agreement constitutes a deed and is made pursuant to section 106 of the 1990 Act and section 2 of the Localism Act 2011 and all other enabling powers and enactments that are relevant
- 3 2 To the extent that they fall within the terms of section 106 of the 1990 Act, the obligations contained in this Agreement are planning obligations for the purposes of section 106 of the 1990 Act with the intent that they bind the Site and are enforceable by the Council
- 3 3 The Council is the local planning authority having the power to enforce the planning obligations contained in this Agreement against the Owner but without prejudice to all and any other means of enforcing them at law or in equity or by statute and a planning obligation not to do any act or thing includes an obligation not to cause or permit or suffer that act or thing to be done by any other person
- 3 4 No person constituting the Owner will be liable for breach of a covenant restriction or obligation contained in this Agreement after he has parted with all the interest in the Site or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest

- 3 5 No Charge Holder shall have any liability under or in connection with this Deed unless and until it takes possession of the Site or the relevant part of it (and it shall not be liable for any pre-existing breach arising prior to the date it enters into possession nor for any breach after it has parted with or released its interest in the Site)
- 3 6 Nothing in this Agreement
- 3 6 1 prohibits or limits the right to develop any part of the Site in accordance with a planning permission, other than one relating to the Development as specified in the Planning Application, granted after the date of this Agreement, whether or not pursuant to an appeal,
- 3 6 2 shall be construed as restricting the exercise by the Council of any powers exercisable by it under the 1990 Act or under any other Act in the exercise of their functions as a local authority
- 3 7 The obligations in this Agreement will not be enforceable against
- 3 7 1 the individual owners or occupiers or mortgagees of any Dwellings constructed on the Site pursuant to the Planning Permission nor anyone deriving title from such owners, occupiers or mortgagees nor against anyone whose only interest in the Site is in the nature of the benefit of an easement or covenant , or
- 3 7 2 a statutory undertaker after the transfer of statutory apparatus (and any land upon or in which the statutory apparatus is situated or is to be situated) by the Owner to that statutory undertaker
- 3 8 If in determining the Planning Appeal, the Secretary of State or the Inspector expressly states in his decision letter that any individual obligation within this Agreement does not comply with regulation 122 of the Community Infrastructure Levy Regulations 2010 that/those obligations(s) will cease to have effect

4 COMMENCEMENT

- 4 1 This Agreement will take effect on the Commencement Date save for clauses 10, 11, 13 and 15 which shall take effect immediately upon completion of this Agreement

5 OBLIGATIONS OF THE PARTIES

- 5 1 The Owner covenants to comply with the obligations expressed to be on their part set out in Schedule 1 in relation to the Development
- 5 2 The Council covenants to comply with the obligations expressed to be on its part set out in Schedule 2
- 5 3 Within 28 (twenty-eight) days of a request from the Owner the Council will certify whether or not an obligation under this Agreement has been satisfied and if not the steps that are required to be taken in order to secure its satisfaction provided that where such obligation is an ongoing obligation this clause shall not apply
- 5 4 The Council agrees that upon the Owner's obligations under this Agreement being satisfied and upon receipt of a written request by the Owner the Council will remove all relevant entries relating to this Agreement from the Local Land Charges Register

6 TERMINATION OF THIS AGREEMENT

- 6 1 This Agreement will come to an end if
- 6 1 1 the Planning Permission is quashed or revoked before the Commencement Date, or
- 6 1 2 the Planning Permission expires before the Commencement Date without having been implemented,
- 6 1 3 the Planning Appeal is dismissed, or
- 6 1 4 in determining the Planning Appeal the Secretary of State or the Inspector states in his decision letter that this Agreement is not a material planning consideration or that no weight can be attached to the deed in determining the Planning Appeal

7 NOTICES

- 7 1 Any notice, consent, demand or any other communication served under this Agreement will be effective only if in writing and delivered by hand or sent by first class post, pre-paid or recorded delivery
- 7 2 Any notice, consent, demand or any other communication served shall be sent to the address of the relevant party set out at the beginning of this Agreement or to such other address as one party may notify in writing to the others at any time as its address for service

8 DETERMINATION OF DISPUTES

- 8 1 Any dispute relating to or arising out of the terms of this Agreement shall be referred to the Expert for determination of that dispute provided that the provisions of this clause shall be without prejudice to the right of any party to seek the resolution of any matter relating to this Agreement by the courts and/or in accordance with Section 106(6) of the 1990 Act
- 8 2 The Expert shall be appointed jointly by the Relevant Parties who are in dispute
- 8 3 The decision of the Expert shall be final and binding upon the Relevant Parties who are in dispute and subject to the following provisions
- 8 3 1 the charges and expenses of the Expert shall be borne equally between the Relevant Parties who are in dispute unless the Expert shall otherwise direct,
- 8 3 2 the Expert shall give the Relevant Parties who are in dispute an opportunity to make representations and counter representations to him before making his decision,
- 8 3 3 the Expert shall make his decision within the range of any representations made by the Relevant Parties who are in dispute themselves,
- 8 3 4 where there is a dispute as to the amount of any contribution the Owner shall pay its estimate of such contribution to the Council at the time specified in this Agreement and shall pay any difference between that figure and the amount determined by the Expert within 20 working days of the Expert's decision together with Interest thereon calculated (in accordance with this Agreement) from the date the payment was required until the date it is made

9 WAIVER

- 9 1 No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this 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

10 CHANGE IN OWNERSHIP & LIABILITY

- 10 1 But for disposals covered by Clause 3 7 of this Agreement, the Owner agrees with the Council to give the Council immediate written notice of any change in ownership of any of its interest in the Site occurring before 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) the area of the Site or unit of occupation purchased by reference to a plan

11 LOCAL LAND CHARGE AND LAND REGISTRY ENTRY

- 11 1 This Agreement is a Local Land Charge and shall be registered as such by the Council
- 11 2 The Owner will within 20 (twenty) days of the date of the Planning Permission apply to the Land Registry to register a copy of this Agreement against title number GM601031 and will provide the Council with a copy of the application As soon as reasonably practicable following receipt the Owner will supply the Council with a copy of the updated register of title
- 11 3 The Council will upon receipt of a written request of the Owner or its successors in title, at any time after the obligations set out herein have been fulfilled in their entirety issue written confirmation thereon and thereafter cancel all related entries in the register of local land charges
- 11 4 The costs of registration and cancellation pursuant to clauses 11 3 above shall be met by the Applicant

12 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 12 1 The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it provided that the exclusion of the said Act shall not prevent all or any future successors in title to any of the parties to this Agreement from being able to benefit from or to enforce any of the provisions of this Agreement

13 JURISDICTION

- 13 1 This Agreement shall be governed by the laws of England and Wales and the Courts of England shall have sole jurisdiction in respect of the construction of this Agreement and as to the respective rights and liabilities of the parties

14 INTEREST

- 14 1 If any sum due under this Agreement is paid late Interest will be payable from the date the payment is due to the date of payment

15 FEES

- 15 1 The Applicant covenants with the Council to pay to the Council prior to the date hereof the Council's reasonable legal fees for the preparation, negotiation and completion of this Agreement

16 WARRANTY AS TO TITLE

- 16 1 The Owner hereby warrants to the Council that the title details recited in this Agreement are complete and accurate in every respect and that no other persons have an interest in the Site who have not been disclosed to the Council prior to the date hereof

IN WITNESS of which this document has been duly executed as a deed and delivered on the date stated at the beginning of this document

SCHEDULE 1

Owner's Obligations

1 CONTRIBUTIONS

- 1 1 The Owner agrees with the Council to pay the Affordable Housing Contribution to the Council on or before Occupation of any of the Dwellings
- 1 2 The Owner agrees with the Council not to Occupy any of the Dwellings prior to paying the Affordable Housing Contribution to the Council

SCHEDULE 2

Council's Obligations

- 1 1 The Council agrees to use the Affordable Housing Contribution towards the purposes set out in this Agreement and for no other purposes within 10 (ten) years of receipt of the Affordable Housing Contribution
- 1 2 The Council agrees to repay to the party that pays the Affordable Housing Contribution any part of the Affordable Housing Contribution that has not been spent or Committed in accordance with this Agreement within 50 days of the end of the 10 (ten) year period referred to in paragraph 1 1 of this Schedule 2

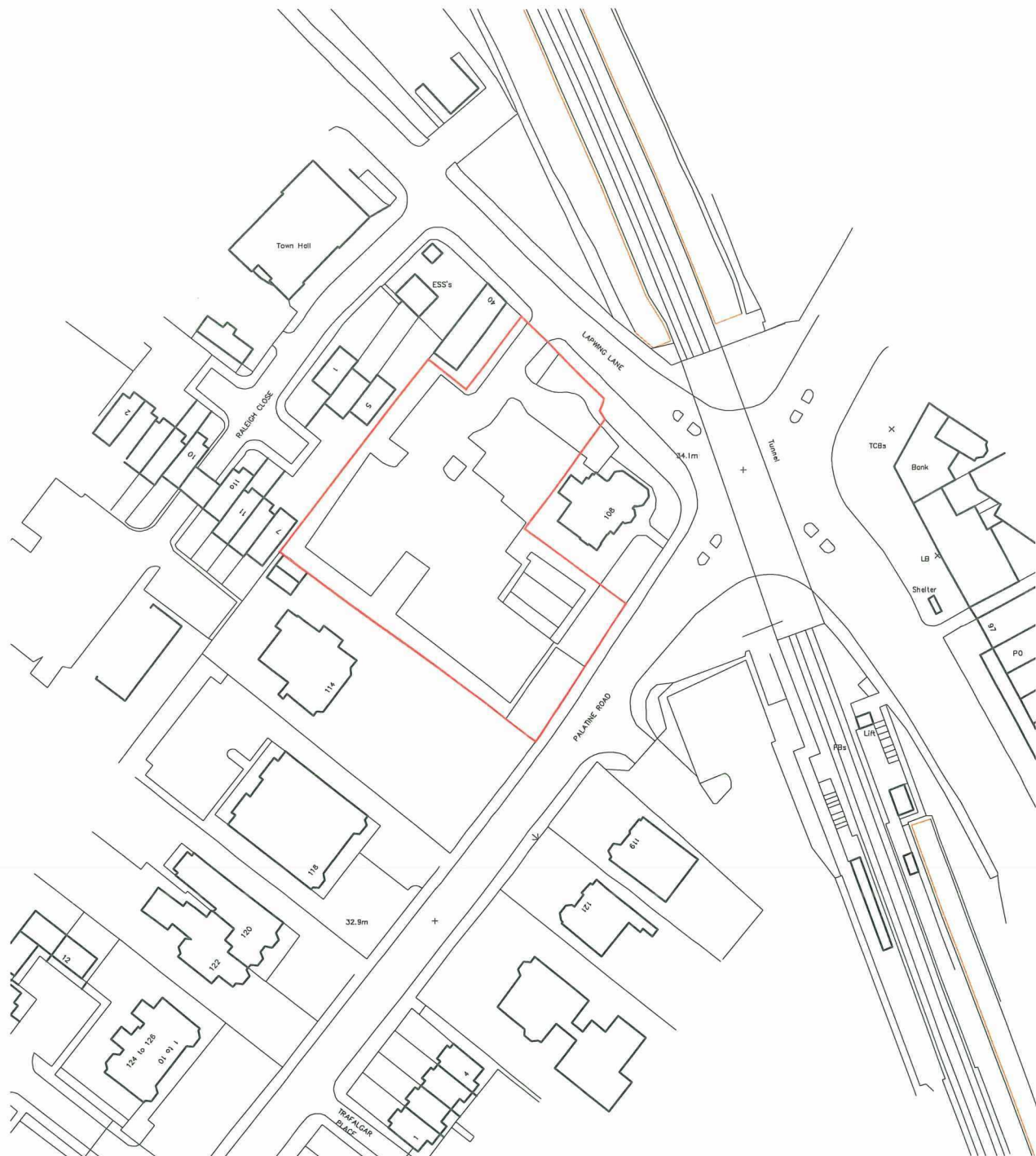
SCHEDULE 3

The Site

Land at Wren House, 108 Palatine Road, Manchester, M20 3ZA and shown for the purposes of identification only edged red on the Plan

REVISIONS

Rev. Date By



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planningissues
TOWN PLANNING AND ARCHITECTURE

Nick Wood
Design Manager
Churchill House * Unit 5A Olympic Park
Woolston Grange Avenue
Bitchwood * Warrington * WA2 0YL
Tel: 01425 462100
E-mail: design@planningissues.co.uk

Client

Churchill
Retirement Living

Project Title
Proposed Retirement Living Apartments
Lapwing Lane
DIDSBURY
M20 3ZA

Drawing Title

Location Plan
PLANNING

Scale 1:1250 @ A3 Date DEC 2023
Drawn BE Checked NW
Drawing No. Rev.

50013DB/PL01



Scale 1:1250

NORTH



Signed as a deed by)

CHURCHILL LIVING LIMITED)

acting by:)

.....
.....
.....

Director

Director/Secretary

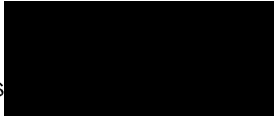
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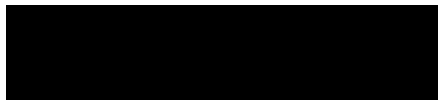
**ANCHORBRIDGE DEVELOPMENTS)
LIMITED**

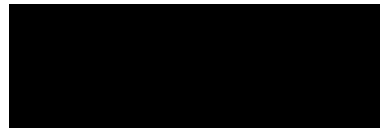
acting by director Richard Robinson in
the presence of - ()

Witness sign 

Witness print *ANTHONY HILTON*

Witness address 



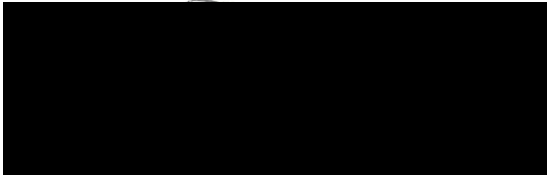


Richard Robinson

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



01126131