

DATED 15th November 2024

THE COUNCIL OF THE CITY OF MANCHESTER

- and -

PHOENIX IRONWORKS DEVELOPMENTS LTD

DEED OF VARIATION

**pursuant to section 106 and section 106A of the Town and
Country Planning Act 1990 (as amended)
relating to Land bounded by Naval Street to the north, Poland Street to the
east, Jersey Street to the south and Radium Street to the west, Manchester**

City Solicitor
P O Box 532
Town Hall
Albert Square
Manchester M60 2LA
L/BH/PLA001/84033

THIS DEED is made the 15th day of November 2024

BETWEEN:

- (1) **THE COUNCIL OF THE CITY OF MANCHESTER** of Town Hall, Albert Square, Manchester, M60 2LA (the “**Council**”);
- (2) **PHOENIX IRONWORKS DEVELOPMENTS LTD** (incorporated in England with company number 13228772) whose registered office is at Unit 5 Royal Mills, Redhill Street, Manchester, M4 5BA (the “**Owner**”)

BACKGROUND

- A On 27 August 2024 leasehold interests in different parts of the Development Site and together comprising the whole of the Development Site were granted to the Owner by the Council by three leases made between the Council (1) and the Owner (2) each for a term of 999 years (nine hundred and ninety nine years) from 27 August 2024
- B An application to register the leasehold interests referenced in paragraph A above (the “**Owner’s Equitable Estates**”) has been submitted by the Owner to the Land Registry and is pending registration
- C On 12 December 2023 the Council and the Owner entered into the Original Agreement
- D Pursuant to Schedule 3 of the Original Agreement, the Owner agreed to enter into this Deed in order to bind the Owner’s Equitable Estates to the provisions of the Original Agreement
- E The parties have agreed to vary the terms of the Original Agreement as set out in this Deed
- F This Deed is made under section 106A and section 106 of the Act and is supplemental to the Original Agreement

AGREED TERMS

DEFINITIONS AND INTERPRETATION

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

"Original Agreement" means the agreement made under section 106 of the Act dated 12 December 2023 and made between (1) the Council and (2) the Owner.

- 1 2 Unless the context otherwise requires, all words and phrases defined in the Original Agreement shall have the same meaning in this Deed
- 1.3 The Clause headings do not affect this interpretation
- 1 4 Unless otherwise indicated, references to Clauses are to Clauses of this Deed
- 1.5 References to any statute or statutory provision include reference to
- (a) 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
 - (b) any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision
- 1 6 References to any party in this Deed include the successors in title of that party In addition, references to the Council 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 Owner 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 Deed 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 STATUTORY PROVISION

This Deed is made pursuant to the provisions of sections 106 and 106A of the Act, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers.

3 VARIATIONS TO THE ORIGINAL AGREEMENT

- 3.1 The parties hereby agree that with effect from the date of this Deed the Original Agreement shall be varied as follows:
- (a) Recitals A and B of the Original Agreement are replaced by Recitals A and B of this Deed.
 - (b) Recital H within the Original Agreement is removed.
 - (c) The definition of "Development Site" is amended to read:

"the property described in Schedule 1 and shown for the purposes of identification only edged red on the Owner's Equitable Estates Plans and shall be the land against which this Agreement may be enforced;"
 - (d) Plan 1 within Annex 1 of the Original Agreement shall be replaced by the three plans referred to in the new definition of "Owner's Equitable Estates Plans" detailed herein;
 - (e) The definitions of "Plan 1" and "Plan 2" are removed and are replaced by a new definition of "Owner's Equitable Estates Plans" as follows:

" **Owner's Equitable Estates Plans** the three plans attached to this Agreement within Annex 1 which together show edged red the Development Site;" The three plans referred to in the new definition of "Owner's Equitable Estates Plans are attached as appendices to this Deed.

- (f) In the definition of "Reasonably and Properly Incurred" the words "and the adjacent land" are removed
- (g) The definition of "Site" is removed and references to the "Site" are replaced by references to the "Development Site"
- (h) The description of the "Site" in Schedule 1 is removed and Annex 2 is removed
- (i) In Schedule 1 the reference to "Plan 2" in the description of the "Development Site" is replaced by a reference to "the Owner's Equitable Estates Plans".

3.2 In all other respects the Original Agreement (as varied by this Deed) shall remain in full force and effect

4 COVENANTS TO THE COUNCIL

- 4.1 The Owner covenants to observe and perform the covenants, restrictions and obligations contained in the Original Agreement as varied by this Deed
- 4.2 The Owner consents to this Deed and hereby acknowledges that its interests in the Development Site upon the Owner's Equitable Estate attaining registered legal title to the Owner's Equitable Estate will be bound by the planning obligations in the Original Agreement as varied by this Deed
- 4.3 The Owner will use all reasonable endeavours to deal with all Land Registry requisitions in relation to the Owner's Equitable Estate to enable the Owner's Equitable Estate to be registered with legal title at the Land Registry
- 4.4 The Owner covenants not to withdraw their application for registration of the Owner's Equitable Interest in the Development Site
- 4.5 The Owner will supply the Council with a copy of the completion of registration documentation within 5 Working Days of receipt from the Land Registry

5 LOCAL LAND CHARGE

This Deed shall be registered as a local land charge

6 COUNCIL'S COSTS

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

7 THIRD PARTY RIGHTS

A person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

8 GOVERNING LAW

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales

9 RESTRICTION ON TITLE

The Owner covenants with the Council that.

- 9.1 prior to or upon completion of this Deed it shall provide the Council with a letter of consent signed by the Owner in a form of wording provided by the Council authorising the Council to register a restriction in standard form L at the Land Registry in respect of their interests in the Development 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 by Manchester City Council, Town Hall, Albert Square, Manchester, M60 2LA confirming that the provisions of paragraph 7 of Schedule 3 of a Section 106 Agreement dated 12 December 2023 made between (1) The Council of the City of Manchester and (2) Phoenix Ironworks Developments Ltd (as varied) have been complied with or that they do not apply to the disposition "

- 9.2 Prior to or upon completion of this Deed the Owner will provide the Council with a cheque to cover the cost of registering the form RX1 at the Land Registry
- 9.3 The Council covenants with the Owner to as soon as reasonably practicable remove the restriction
- (a) affecting any Build to Rent Dwelling once any Clawback that becomes payable in respect of that Build to Rent Dwelling has been paid (or determination that no Clawback is due),
 - (b) once the Clawback Period has ended provided any Clawback payments due, if any, have been paid to the Council, and
 - (c) once the Maximum Contribution by means of any Clawback and/or Viability Payment has been paid

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

0125629

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 PHOENIX IRONWORKS DEVELOPMENTS LTD

acting by a director

DIRECTOR



Signature:

Name: (in block capitals)

MARTIN EDELMAN

IN THE PRESENCE OF

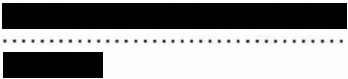


Signature:

Name (in block capitals)

PATI RISI

Address

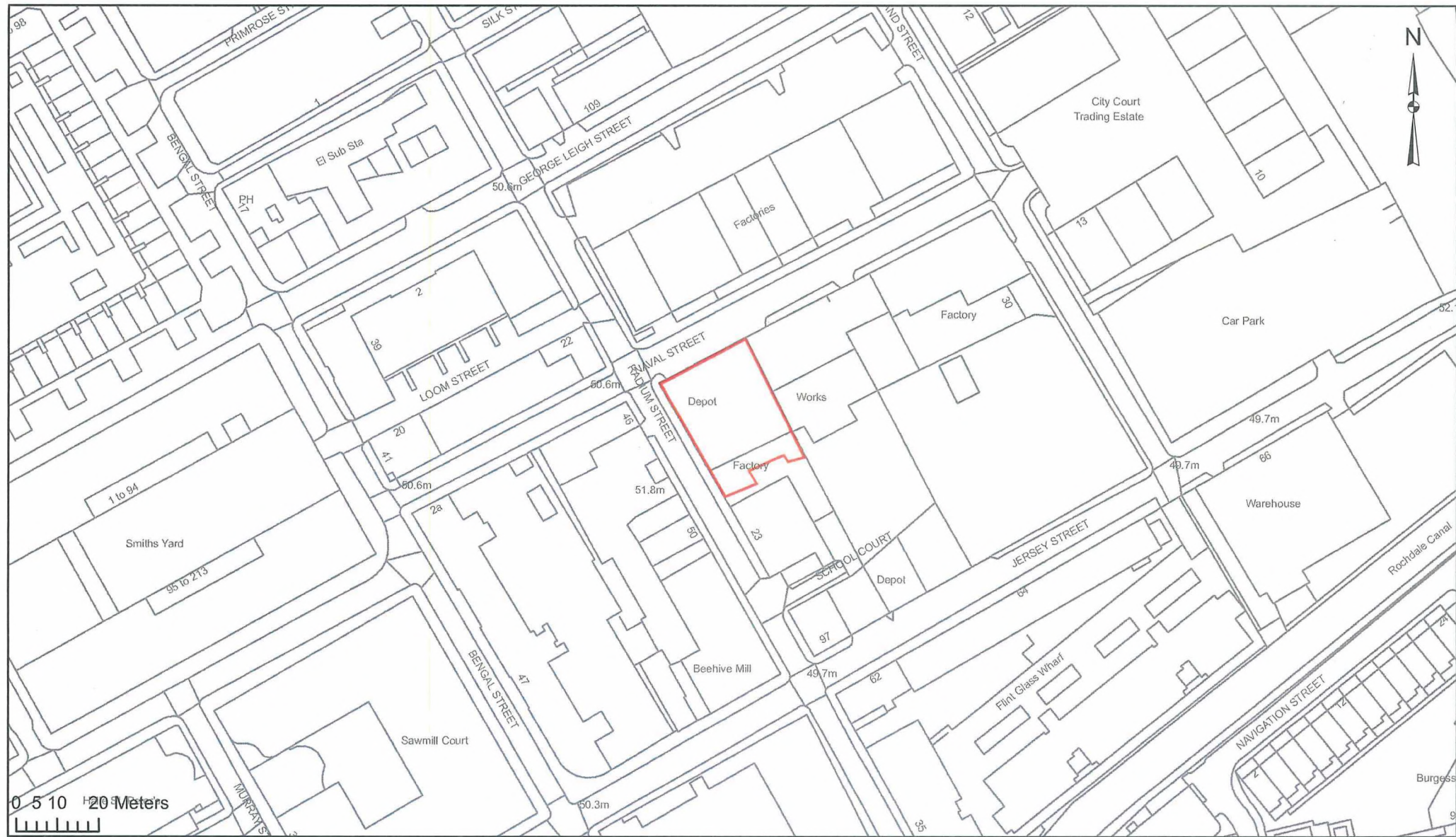


Occupation

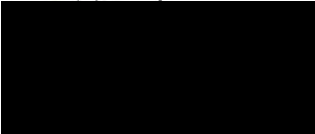
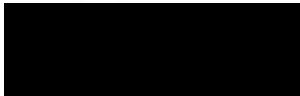
EXECUTIVE ASSISTANT

Appendices

Owner's Equitable Estates Plans



A4 Scale 1:1,250

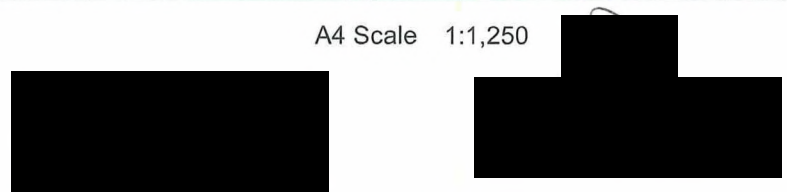


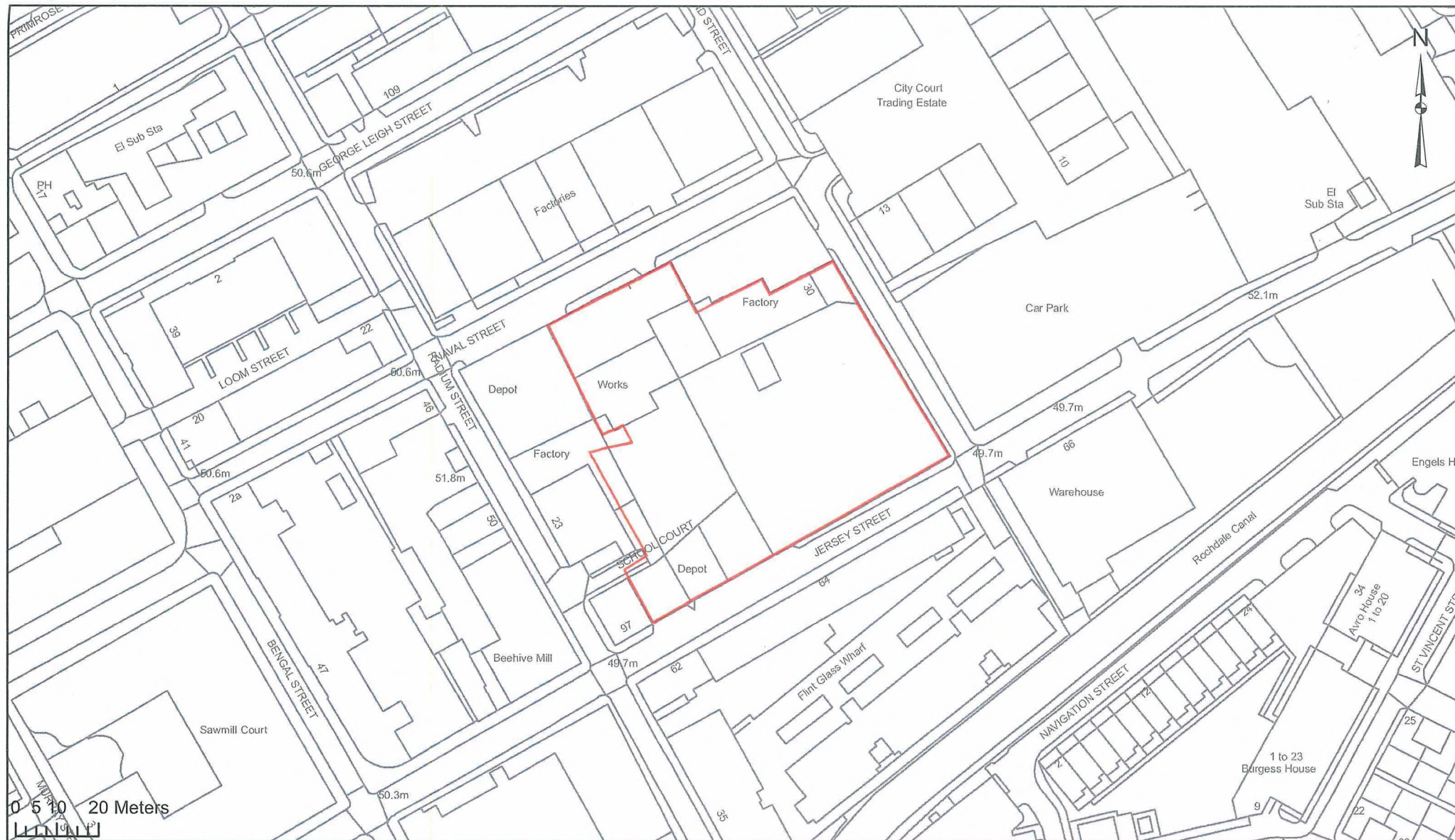
Development & Investment Estate Service
Growth & Development Directorate
P.O. Box 532
Manchester M60 2LA



MANCHESTER
CITY COUNCIL



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