

Dated

07TH MARCH

2024

(1) THE COUNCIL OF THE CITY OF MANCHESTER

and

(2) DAPPA HOMES LIMITED

and

(3) DAVID CRANE, PATRICK GLEAVE and ALEC BRITLAND as TRUSTEES OF
THE WHITE HOUSE CLUB

Agreement

pursuant to section 106 and 106A of the
Town and Country Planning Act 1990 (as amended)
relating to Land at
the former White House Club,
193 Middleton Road,
Manchester (M8 4JZ)

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

L/JGH/PLA001/03946

This Agreement is made the 07th day of March 2024

BETWEEN

- (1) **THE COUNCIL OF THE CITY OF MANCHESTER** of Town Hall, Albert Square, Manchester M60 2LA (the “**Council**”),
- (2) **DAPPA HOMES LIMITED** incorporated and registered in England and Wales with company number 04965809 whose registered office is at York House Bridgenorth Avenue, Urmston, Manchester, England, M41 9PA (the “**Owner**”) and
- (3) **DAVID CRANE, PATRICK GLEAVE and ALEC BRITLAND as TRUSTEES OF THE WHITE HOUSE CLUB** all care of Bermans Exchange Station Tithebarn Street Liverpool L2 2QP as trustees of The White House Club (the “**Mortgagee**”), and

Introduction

- (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 the obligations hereby created are enforceable. The Development will be carried out on the Site. The Site is situated within the Administrative Boundary of Manchester and this planning obligation is enforceable by the Council.
- (B) The Owner is the freehold owner of the Site registered at the Land Registry with Title Absolute under Title Number MAN430038 together with but subject to all matters contained or referred to in the Title Registers thereunder.
- (C) The Owner was granted the Hybrid Planning Permission in respect of the Site (and the Adjacent Site) on 23rd February 2021 under reference 115468/OO/2017 for development comprising (i) the erection of part two storey, part three storey social club with associated car parking, landscaping, public realm and other associated works prior to the demolition of the existing social club and bowling green (the “**Full Element**”) on the Adjacent Site, and (ii) the erection of 74 residential dwellinghouses (with all matters reserved except for access) (the “**Outline Element**”) on the Site (the “**First Planning Permission**”). Associated with the First Planning Permission is an agreement

also dated 23rd February 2021 under Section 106 of the Act (the “**First Planning Agreement**”) Development of the Full Element has been completed on the Adjacent Site and the part of the Sports Facilities Contribution (as defined in the First Planning Agreement) in respect of the Adjacent Site and due under the First Planning Agreement has been paid pursuant to that agreement The Owner has submitted the Application for full planning permission as a replacement for the Outline Element of the First Planning Permission.

- (D) The Owner does not have any intention to implement the outline element of the Hybrid Planning Permission in respect of the Site and as such the planning obligations in the First Planning Agreement will not be triggered The Development envisaged by the Planning Permission which the Council has resolved to grant subject to completion of this Agreement will be implemented at the Site instead, with the Development thereafter to be constructed and sold by the Owner
- (E) The Council resolved on *07TH MARCH 2024* that it was minded to grant the Planning Permission subject to the completion of this Agreement
- (F) The Council has also determined that certain site-specific obligations should be provided in order to mitigate the impact of the Development, including a contribution towards the provision or improvement of sports facilities within the vicinity of the Development
- (G) 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 Boundary of Manchester The Owner has agreed to make provision for Affordable Housing in the manner hereinafter appearing The Council is satisfied that the obligations in this Agreement 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

(H) The Owner has 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

(I) The Council has determined that in order to comply with the Core Strategy the Development should provide 20% on-site Affordable Housing or an equivalent financial contribution towards Affordable Housing within the Administrative Boundary of Manchester or a combination of both (the **Affordable Housing Policy Requirement**) However the Owner has stated that there are viability issues affecting the development of the Site and has submitted to the Council documentation in support of this contention The Council has accepted that at the date of this Agreement without a reduction in the Affordable Housing Policy Requirement the implementation of the Development is not viable The Council has agreed to accept the provision of 8% (eight percent) or 6 (six) Affordable Rent Units on-site as an Initial Affordable Housing Contribution in lieu of the full policy requirement on the basis of the information contained in the documentation relating to viability submitted by the Owner to the Council, and subject to the provisions of this Agreement or the payment of an equivalent financial contribution. The Owner has agreed to enter into the planning obligations contained herein requiring them to provide 8% (eight percent) or 6 (six) Affordable Rent Units on-site as an Initial Affordable Housing Contribution or an equivalent financial contribution and in accordance with the provisions of this Agreement to submit a Viability Appraisal and (if required) pay any Viability Payment found to be due in accordance with the provisions contained in this Agreement

(J) The Mortgagee is the chargee of part of the Site under a Legal Charge dated 01 November 2023 registered as entries 5 and 6 in the Charges Register of title MAN430038

Agreed terms

1 Definitions and interpretations

1.1 In this Agreement the following terms have the following meanings unless inconsistent with the context

“Act” means 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,

“Adjacent Site” means the land described at paragraph 2 in Schedule 1 and shown for the purposes of identification only edged with a blue dashed line on the Plan,

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

“Administrative Boundary of Manchester” means all the wards that together comprise the City of Manchester,

“Affordable Housing” means 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 £1,878,456 (One million eight hundred and seventy eight thousand four hundred and fifty six pounds) being the sum equivalent to the cost to the Owner of providing the number, size and type of Affordable Housing on the Site as would be required under policy H8 of the Core Strategy which policy requires that 20% of the Dwellings should be provided as Affordable Housing,

“Affordable Housing Plan” means the plan at the Appendix 1 which identifies the location of the Affordable Housing Units with blue cross-hatching, and is marked “Proposed Plans – A1- A24” with drawing number 4050/160 Rev A,

“Affordable Housing Statement” means the written statement detailing the provision of Affordable Housing Units in accordance with the Initial Affordable Housing Contribution at Appendix 2,

“Affordable Housing Unit” means a Dwelling designated as Affordable Housing in the Affordable Housing Statement and Affordable Housing Plan and which are to be constructed according to at least the quality and design standards of the Regulator. The Affordable Housing Units shall be designed, constructed and completed to at least the same standard as the Market Housing Units. **“Affordable Housing Units”** shall be construed as referring to the 6 (six) Dwellings designated as Affordable Housing in the Affordable Housing Statement,

“Affordable Rent” means subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable) and which in any event will not exceed the LHA and is capable of increase by Consumer Price Index plus 1% in any year in accordance with the prevailing Homes England guidance and **“Affordable Rented”**, **“Affordable Rented Unit”** and **“Affordable Rented Units”** shall be construed accordingly,

“Agreement” shall mean this agreement,

“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,

“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” means the application for planning permission to which the Council gave the reference 131045/FO/2021,

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

“Benchmark Land Value” means £1,480,000 (one million four hundred and eighty thousand pounds),

“Broad Rental Market Area” means the area where a person could reasonably be expected to live taking into account access to facilities and services,

“Calculation Date” means the date when Completion of Construction of 75% of the Dwellings has occurred,

“Chargee” any mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a **Receiver**)) of the whole or any part of the Affordable Housing Units,

“Chartered Surveyor” means a professional expert who is a chartered member of the Royal Institution of Chartered Surveyors with a minimum of ten years post qualification experience,

“Commencement of Development” means 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 the agreement be deemed not to be material operations,

“Completion of Construction” the date upon which a valid certificate of completion shall have been issued in respect of the completion of construction of the Development as referred to in the Schedule 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 Owner that the said completion of construction is to be deemed to

have taken place for the purposes of this Agreement and **“Completed”** and **“Completion”** shall be construed accordingly,

“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 points 1. and 2 off 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” means the development undertaken on the Site pursuant to the Planning Permission and substantially comprising the erection of a three storey building to for 24 apartments (Use Class C3a) together with erection of 50, two storey dwellinghouses (Use Class C3a) with associated external works, car parking, landscaping and other associated works,

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

“Disposal” means 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

(a) 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**" and "**Disposals**" shall be construed accordingly

"**Dwelling**" means 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,

"**Expert**" means a professional expert in town planning, who is a Chartered Member of the Royal Town Planning Institute with a minimum of ten years post qualification experience,

"**Evidence**" means evidence showing that

- (a) the area of land on which all of those Dwellings on the Site which are to be Affordable Housing (including the Affordable Housing Units to be secured under this Agreement) is in the ownership and in the possession of a Registered Provider,
- (b) the Affordable Housing (including the Affordable Housing Units) have been Practically Completed, and
- (c) written confirmation provided by or on behalf of that Registered Provider which sets out
 - i the total number of Dwellings on the Site which will be Affordable Housing,
 - ii. the tenure of the proposed Affordable Housing to be constructed on the Site, and
 - iii the locations of the Affordable Housing by reference to a plan.

"**First Planning Agreement**" an agreement under Section 106 of the Act dated the 23rd February 2021 made between (1) the Council of the City of Manchester and (2) Roy Broomhead, David Crane, Patrick Gleave and Alec Britland as Trustees of The White House Club and (3) Dappa Homes Limited in respect of the Site and the Adjacent Site to secure planning obligations in favour of the Council in respect of the Hybrid Planning Application,

"**First Planning Permission**" the Hybrid Planning Permission granted on 23rd February 2021 under reference 115468/OO/2017 for development comprising

(i) the erection of part two storey, part three storey social club with associated car parking, landscaping, public realm and other associated works prior to the demolition of the existing social club and bowling green (the **"Full Element"**), on the Adjacent Site and (ii) the erection of 74 residential dwellinghouses (with all matters reserved except for access) (the **"Outline Element"**) on the Site,

"Final Viability Appraisal" or **"FVA"** the Viability Appraisal once it includes as part of the Viability Appraisal 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 Viability Appraisal in order to assist the Council with carrying out the Viability Review,

"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 Owner 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 gross developed value 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 subject to contract their advertised price as detailed in advertisements made as part of any sales and marketing strategy in respect of them and if more than one price for a Dwelling has been advertised shall mean the price as advertised in the advertisements issued closest to the Preparation Date,
- (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 the 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 **SAVE THAT** where the Dwelling concerned is Disposed Of as an Affordable Housing Unit then this Proviso shall not apply 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 Homes England 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,

“Homes England” or **“HE”** means the body that funds and regulates Affordable Housing Providers and such expression shall include successors to the functions and powers of Homes England,

“Hybrid Planning Application” the hybrid application reference 115468/OO/2017 for detailed planning permission in respect of the Adjacent Site and outline planning permission in respect of the Site,

“Hybrid Planning Permission” the hybrid planning permission granted pursuant to the Hybrid Planning Application,

“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,

“Initial Affordable Housing Contribution” the provision of 8% (eight percent) or 6 (six) Affordable Rent Units on-site the monetary value of which for the purposes of the Viability Appraisal and any financial contribution in lieu of on-site provision in accordance with paragraph 3.3 of Schedule 2 shall be set at £813,185 (eight hundred and thirteen thousand one hundred and eighty-five pounds),

“Interest” means at 4% 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,

“Local Housing Allowance” the rates determined by the Valuation Office Agency used to calculate housing benefit for tenants renting from private landlords, such rates being based on private market rents being paid by tenants in the Broad Rental Market Area and **“LHA”** shall be construed accordingly,

“Management Fee” shall mean 15% of the planning application fee which equates to £3,925.65 (three thousand nine hundred and twenty five pounds and sixty five pence) to be used for the purpose of management and monitoring of this Agreement and the Planning Obligations contained herein,

“Market Housing Units” that part of the Development which is general market housing for sale on the open market and which is not an Affordable Housing Unit,

“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 £1,878,456 (One million eight hundred and seventy eight thousand four hundred and fifty six pounds) which equates to the Affordable Housing Contribution,

“NPPF” means the National Planning Policy Framework (**NPPF**) first published on 27 March 2012 and last updated on 5 September 2023 (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,

“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,

“Plan” means the plan attached to this Agreement marked “Proposed Site Plan” with drawing number 4050/101 Rev T,

“Planning Obligations” shall mean the obligations of the Owner specified in the Schedules,

“Planning Permission” means the planning permission granted pursuant to the Application as may be amended by any nonmaterial amendment,

“Practical Completion” means the issue of a certificate of practical completion by the Owner's architect (or in the event that the Development or any part is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party's architect) certifying the completion of any part of the Development so that such part can be used for the purpose and operate in the manner for which it was designed and **“Practically Complete”** and **“Practically Completed”** shall be construed accordingly,

“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 Owner 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 Owner 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 Owner 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 20% (twenty percent) of the GDV or in respect of a Pre Sale when the Gross Margin is equivalent to 15% (fifteen percent) of the GDV,

"Protected Tenant" means any tenant who

- (a) has exercised the Right to Acquire pursuant to the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any equivalent contractual right including the preserved right to buy) in respect of a particular Affordable Housing Unit,
- (b) has exercised any statutory Right to Buy (or any equivalent contractual right including the preserved right to buy) in respect of a particular Affordable Housing Unit,
- (c) has entered into a Shared Ownership Lease with a Registered Provider (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the Registered Provider) in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Registered Provider all the remaining equity so that the tenant owns the entire Affordable Housing Unit,

"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,

"Registered Provider" or RP means either a registered social landlord as defined in the Part 1 Housing Act 1996 who is registered with the Regulator pursuant to section 3 Housing Act 1996 and has not been removed from that register pursuant to section 4 Housing Act 1996 or a provider of social housing as defined in section 80 Housing and Regeneration Act 2008 who is registered with the Affordable Housing Regulator pursuant to section 111 Housing and Regeneration Act 2008 and has not been removed from the register,

“Regulator” means the body known as the Regulation Committee of Homes England, also known as the Regulator of Social Housing, or any successor organisation or body which regulates Registered Providers,

“RICS” means the Royal Institution of Chartered Surveyors,

“Right to Acquire” the right of a tenant to acquire the Affordable Housing Unit of which they are a tenant provided under section 180 of the and governed by the Housing Act 1985 and modified by the Housing (Right to Acquire) Regulations 1997 as the same may be modified or as contained in any replacement of the same,

“Right to Buy” the right of a tenant to buy the Affordable Housing Unit of which they are a tenant provided

(a) under the Housing Act 2005 and under the Housing and Planning Act 2016 as the same may be modified or as contained in any replacement of the same, or

(a) any equivalent contractual right including the preserved right to buy,

(b) any extension of the Right to Buy to tenants of Registered Providers either through a voluntary scheme brought in by a Registered Provider or by government legislation as the same may be modified or contained in any replacement of the same,

“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,

“Site” means the land described at paragraph 1 in Schedule 1 and shown for the purposes of identification only edged with a red dashed line on the Plan,

“Sports Facilities Contribution” the sum of £100,960 50 (one hundred thousand nine-hundred and sixty pounds and fifty pence) towards the provision or improvement of sports facilities within the vicinity of the Development,

“Stakeholder” shall mean the City Treasurer and her authorised officers,

“Stakeholder Account” shall mean the account held by the Council’s City Treasurer and her authorised officers at Barclays Bank plc in which monies paid under the Planning Obligations are held,

“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 2 of this Agreement. The format of the Viability Appraisal shall take the form of the Viability Report detailed in Schedule 4 and **“VA”** shall be construed accordingly. The VA shall be accompanied by any documentation 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. 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” means the reasonable and proper costs incurred by the Council in obtaining independent advice on the Viability Appraisal provided that the Viability Assessment Fee shall not exceed £12,000 (twelve thousand pounds),

“Viability Payment” means a payment required to be made by the Owner to the Council if the Viability Appraisal shows that the Profit Level as assessed will be achieved and will be 50% of the amount by which the Gross Margin exceeds the Profit Level PROVIDED THAT the Viability Payment shall be required to be no more than the amount that is needed in order to equal the Maximum Contribution after taking into account the Initial Affordable Housing Contribution. For the avoidance of doubt any Inflation Increase calculated to be due is not counted towards the amount needed in order to equal the Maximum Contribution. The Viability Payment, if any is required, together with any Inflation Increase, will be payable within the timescale set out in the provisions contained in Schedule 2,

“Viability Report” the form in Schedule 4 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 4,

“Viability Review” a review to determine whether the Development can support a payment of or towards the Maximum Contribution after taking into account the on-site Affordable Housing provided as part of the Initial Affordable Housing Contribution,

“Working Day” means any day except Saturday Sunday or a bank holiday or the period between 20 December and the next following 3 January 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 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 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 **Planning Obligation**

This Agreement is made pursuant to section 106 and 106A 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 shall be enforceable by the Council acting under the powers contained in section 106 or such other enabling powers against the Owner

3 **Condition precedent**

This Agreement is conditional upon the grant of the Planning Permission.

4 **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 the Owner or any of them) 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

5 **The Owner's covenants**

The Owner consent to their interests in the Site being bound by this Agreement and on behalf of themselves and any person deriving title to any part of the Site from the Owner hereafter hereby covenants 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 2 and hereby agrees

that the Site shall be permanently subject to the obligations, restrictions and provisions specified herein, such obligations being planning obligations for the purpose of section 106 of the Act

6 The Council's covenants

The Council hereby covenants with the Owner to issue the Planning Permission within 3 (three) Working Days of the date hereof and to observe and perform the obligations on its part in this Agreement including those obligations set out in the Schedule 3.

7 Dispute resolution

7.1 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 Owner otherwise agree be referred to an Expert, save that disputes in relation to the Viability Appraisal may be referred to a Chartered Surveyor, to be appointed by agreement between the Council and the Owner

7.2 If the Council and the Owner are unable to agree on the appointment of an Expert or Chartered Surveyor within 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 either party to the President for the time being of the Royal Town Planning Institute or the Royal Institution of Chartered Surveyors as applicable

7.3 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

7.4 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.

8 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.

9 Change in Ownership and Liability

9.1 The Owner agrees with the Council to give the Council immediate written notice of any change in ownership of any of their interests in the Site 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) the area of the Site or unit of occupation purchased by reference to a plan.

9.2 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 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.

9.3 The Owner and the Mortgagee warrant that no person other than the Owner and the Mortgagee have a legal or equitable interest in the Site and the Owner hereby indemnifies the Council in respect of any loss that arises should there be any breach of this warranty.

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

11 **Local land charge**

This Agreement is a local land charge and shall be registered as such by the Council.

12 **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.

13 **The Contracts (Rights of Third Parties) Act 1999**

Save as provided in respect of the successors in title to the 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.

14 **Communication**

14 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

14 1 1 to the Council and addressed to the Director at the Council's address first above written,

14 1 2 to the Owner at their registered office addresses

15 **Fees**

15 1 The Owner shall pay to the Council on the date of this Agreement

15 1 1 its legal fees reasonably and properly incurred in preparation of this Agreement,
and

15 1 2 the Management Fee

15 2 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 accepted by them by the terms of this Agreement or by statute or at common law

15 3 In the event that a Viability Appraisal is required in accordance with the provisions of this Agreement, following submission of the Viability Appraisal the Owner shall pay to the Council the related Viability Assessment Fee within 10 (ten) Working Days of receipt from the Council of an invoice detailing the amount

16 **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.

17 **Jurisdiction**

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

18 **Completion**

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

19 **Agreements and declarations**

It is hereby agreed and declared that this Agreement shall not be enforceable against

19 1 any owner, occupier, tenant or chargee of any individual Dwelling or the successors in title of any such person or mortgagee or any person deriving title therefrom,

- 19 2 any Protected Tenant or their mortgagee or chargee or any successor in title to such Protected Tenant or their mortgagee or chargee,
- 19 3 any statutory undertaker or other person who acquires any part of the Site or an interest in it for the purposes of the supply of electricity, gas, water, drainage, telecommunication services or public transport services,
- 19 4 the relevant highway authority to whom any part of the Site is disposed of for the purposes of adoption of any roads and/or footpaths and/or cycle ways to be constructed on the Site

20 **Inflation Increase**

The Inflation Increase payable under the Planning Obligations shall be calculated on the date upon which the amounts due under the Planning Obligations are paid as follows

A, using the formula $A = B \times (C / D)$ provided that (C / D) shall always be greater than or equal to 1, is the sum payable

- (1) on the date as determined by the application of Paragraph 2 of Schedule 2, and
(2) on the date as determined by the application of Paragraph 5.2 of the Schedule 2,

and B, C and D are defined as

B in respect of (1) above is the Sports Facilities Contribution, and in respect of (2) above is the Viability Payment

C is in respect of (1) above Inflation as shown in the relevant index published last before the date as determined by the application of Paragraph 2 of Schedule 2, and in respect of (2) above Inflation as shown in the relevant index published last before the date as determined by the application of Paragraph 5 2 of Schedule 2

D is Inflation for the month in which this Agreement is dated, and
the Inflation Increase will be equal to A minus B

21 **Council Powers**

Nothing herein contained or implied shall prejudice or affect the rights, powers, duties and obligations of the Council in exercise of its functions as a local authority and the rights, powers, duties and obligations of the Council under all public and private statutes, byelaws, orders and regulations may be fully and effectually

exercised in relation to the Site or any part thereof and any works executed thereon as if this Agreement had not been executed by the Council and in particular nothing in this Agreement shall restrict the Council and any other authority from exercising powers of compulsory purchase in respect of any part of the Site

22 Payment Receipts

In respect of any sums payable by the Owner to the Council under the Planning Obligations, the Council covenants with the Owner

- 22 1 to pay such sums into the Stakeholder Account and hold such sums therein until the withdrawal of such sums as may be required for the purposes specified in the Planning Obligations
- 22 2 to use such sums withdrawn from the Stakeholder Account solely and exclusively for the purposes specified in the Planning Obligations
- 22 3 to repay to the Owner (here meaning the party or parties who shall have actually paid such sum) such amount of the sums which have not been expended excluding any such sums in respect of which though not yet expended the Council has contractually committed to expend in accordance with the provisions of this Agreement within 10 (ten) years of the Commencement Date or date of receipt by the Council of such payment (and where payment is made by instalments the date of receipt shall be deemed to be the date upon which the last instalment is received), whichever is the later, together with interest at the Bank of England base rate from time to time from the date of expiration of this ten year period (the "retention period") to the date of refund
- 22.4 Upon receipt by the Council of a written request from any of the Owner received within the final year of the retention period to provide a written statement summarising what the sums received have been spent on and detailing any sums remaining unexpended within 21 days of the Councils receipt of such a request provided that the number of such requests shall not exceed four.

23 Viability

- 23 1 At any point after the date hereof but before the Calculation Date the Owner may provide the Evidence to the Council and
 - 23.1 1 if the Evidence demonstrates that less than 20% of the Dwellings are to be Affordable Housing, the Owner will be required to carry out a Viability Appraisal in accordance with the clause 23 2 to 23 7 of this Agreement,

23.1.2 If the Evidence demonstrates that 20% or more of the Dwellings are to be Affordable Housing, the Owner will not be required to carry out a Viability Appraisal and the Council shall provide written confirmation to the Owner pursuant to paragraph 5.4 of Schedule 3 and the requirements of the following provisions of this agreement will be waived so as to dispense with the requirement to carry out Viability Appraisal, Viability Review and make a Viability Payment

23.1.2.1 clause 23.2 to clause 23.7, and

23.1.2.2 the whole of Schedule 4, and

23.1.2.3 , paragraph 4 and paragraph 5 of schedule 2.

23.2 For the purpose of ascertaining the Profit Level the Viability Appraisal 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 GDV (e.g. 15% (fifteen percent) for a Pre Sale Gross Margin and 20% (twenty percent) in all other cases).

23.3 The 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

23.4 When it has received the Viability Appraisal the Council will provide the Owner with a written acknowledgement of service within 10 (ten) Working Days of their receipt.

23.5 In the event that the Council (acting reasonably) considers that the Owner has not complied with or not fully complied with the provisions of Paragraph 5.1 and/or 5.2 of Schedule 3 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 Viability Appraisal 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

23.6 In the event that the Council shall have served a notice on the Owner pursuant to paragraph 5.3.2 of Schedule 3 the Owner and the Council shall use reasonable endeavours to reach agreement in respect of the Viability Appraisal, but if the Owner and the Council shall have failed to agree within 40 (forty) Working Days of

the notice served by the Council pursuant to paragraph 5 3 2 of Schedule 3 (or such extended period agreed in writing by the parties), then the matter in dispute shall be referred 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 the matter in dispute and a written determination of the correct Viability Appraisal, which the parties agree will be final and binding upon them

23 7 The Viability Appraisal not by way of limitation shall include and confirm the GDV and the Costs and the matters referred to in this clause 23.1 and 23.2

23 8 In the event that the requirements of

23 8 1 this clause 23, and

23 8 2 the whole of Schedule 4, and

23 8 3 paragraph 4 and paragraph 5 of schedule 2

are waived in accordance with clause 23.1 2 the obligations in those provisions shall cease and determine absolutely and shall no longer bind the Site or be enforceable by the Council Such waiver shall enure for the benefit of the Owner, the Owner's successors in title, any mortgagees or chargees and any other persons with an interest in the Site from time to time

24 **Mortgagee Consent**

24 1 The Mortgagee acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in this Deed and that the security of the mortgage over the Site shall take effect subject to this Deed PROVIDED THAT the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Site in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

25. **Variations to the First Planning Agreement**

25.1 Save as varied by this clause 25, the First Planning Agreement shall remain in full force and effect

25.2 The parties hereto hereby agree that upon Commencement of Development the obligations in the First Planning Agreement in respect of the Outline Element affecting the Site shall cease to apply

26 Mortgagee Liability

26 1 The parties to this Agreement hereby agree and acknowledge that notwithstanding any other term, condition or provision (express or implied) of this Agreement, the liability of the Mortgagee and all or any of its trustees under or arising out of this Agreement for any act, omission or otherwise shall not be personal and shall be limited to the available assets as held solely in its capacity as trustee for the White House Club from time to time

This Agreement has been executed as a deed by the parties and is delivered and takes effect on the date stated at the beginning of it

Schedule 1

The Site and the Adjacent Site

1 The Site Land to the rear of the former White House Club, 193 Middleton Road, Manchester (M8 4JZ), shown for the purposes of identification only edged with a red dashed line on the Plan

2 The Adjacent Site Land at the former White House Club, 193 Middleton Road, Manchester (M8 4JZ), shown for the purposes of identification only edged with a blue dashed line on the Plan

All dimensions are to be checked on site, any discrepancies are to be reported to the Architect before work commences. Do not scale from this drawing.

This drawing is to be read in conjunction with all relevant consultants and specialist drawings / documents, any discrepancies are to be reported to the Architect before the affected work commences.

All structural components shown are indicative only. Details / calculations of structural members are to be provided by the Structural Engineer.

This drawing is copyright.

F	Issued for Planning	12/01/2017
G	Updated in line with LPA validation comments	21/01/2018
H	Red line boundary updated	05/02/2018
J	Redrawn	26/09/2018
K	General Amendments	07/12/2018
M	Club car parking amendments	14/02/2019
N	Club site stores included	01/04/2019
P	Club site store included	01/04/2019
R	Redrawn	18/11/2020
S	Redrawn	18/03/2021
T	Redrawn	19/05/2021



G Grays
Architecture
Limited

Tel : 0161 848 7263
e-mail: mail@graysarchitecture.co.uk

Northwood House (N1)
Greenwood Business Centre,
Manchester, M15 4QH

Client:

Dappa Homes Ltd

Project:
Whitehouse Club, Middleton, Crumpsall,
M8 4JZ

Drawing Title:
Proposed Site Plan

Scale: 1:500 @ A1 Date: January 2017

Drawing No: 4050 / 101 Revision: T

Schedule 2

The Owner's general covenants

The Owner hereby covenants with the Council as follows

1 Notices

1 1 To notify the Council in writing within 5 (five) Working Days of

1 1 1 Commencement of Development,

1.1 2 the date first Occupation has occurred,

1 2 3 the Calculation Date

2 Contribution

2.1 To pay the Sports Facilities Contribution together with any Inflation Increase on or before the Commencement of Development

3 Affordable Housing

3 1 The Owner shall carry out the Development in accordance with the Affordable Housing Statement and the Affordable Housing Plan

3.2 From the date of Practical Completion of the Affordable Housing Units they shall not be used other than for Affordable Housing

3 3 In the event the Affordable Housing Units are not acquired by an RP and the Affordable Housing not delivered in accordance with the Affordable Housing Statement then the Owner shall pay to the Council the monetary value of the Initial Affordable Housing Contribution in lieu of the on-site provision of Affordable Housing on Occupation of 75% (seventy-five per cent) of the Market Housing Units on the Site.

3 4 Not to Occupy allow or permit to be Occupied more than 75% of the Market Housing Units until all of the Affordable Housing Units have been constructed in accordance with the Planning Permission and made ready for residential occupation and have been Occupied and written notification of that Occupation

has been received by the Council or the Owner has paid the Initial Affordable Housing Contribution as set out in paragraph 3.3 of this Schedule 2

4 Viability Review

4.1 Within 10 (ten) Working Days of the Calculation Date the Owner shall provide the Council with a copy of the Viability Appraisal, so that the Council can carry out a Viability Review.

4.2 If the Council should make a request pursuant to the provisions contained in Paragraph 5.1 and/or 5.2 of Schedule 3 then within 10 (ten) Working Days of the date of that request to provide the Council with written copies of the documentation or amended or supplementary documentation, whichever is applicable, as requested

5 Viability Payment

5.1 In the event that the Viability Appraisal is agreed by the Council or determined pursuant to the provisions contained in clause 23.6 and the information contained therein shows that in accordance with the provisions of this Agreement a Viability Payment is due then the Owner shall pay to the Council the Viability Payment together with any Inflation Increase in accordance with paragraph 5.2 of this Schedule 2.

5.2 The Viability Payment together with any Inflation Increase shall be paid by the Owner to the Council within 20 (twenty) Working Days of the agreement by the Council of the Viability Appraisal or if applicable shall be paid within 20 (twenty) Working Days of the Viability Appraisal being determined pursuant to the provisions contained in Clause 23.6.

5.3 In the event that

5.3.1 the information contained in the Viability Appraisal (as agreed by the Council or determined pursuant to the provisions of clause 23.6) shows that a Viability Payment is not due, or

5.3.2 the requirement to carry out a Viability Appraisal is waived in accordance with clause 23.1.2

then it is agreed by the Council that the obligations in

5.3.2.1 clause 23.2 to clause 23.7, and

5.3.2.2 paragraph 4 and this paragraph 5 of this Schedule 2, and

5.3.3.3 the whole of Schedule 4

shall cease and determine absolutely and shall no longer bind the Site or be enforceable by the Council. This determination shall enure for the benefit of the Owner, the Owner's successors in title, any mortgagees or chargees and any other persons with an interest in the Site from time to time. The Council shall confirm the same in writing within 5 (five) Working Days of a written request

6 Mortgagee Exclusion

6.1 The obligations contained at paragraph 3 of Schedule 2 of this Agreement shall not be binding on a Chargee or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT

6.1.1 such Chargee shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units to another Registered Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses, and

6.1.2 if such disposal has not completed within the three month period, the Chargee shall be entitled to dispose of the Affordable Housing Units free from the obligations contained in Schedule 2 of this Agreement which provisions shall determine absolutely

6.2 The obligations contained at paragraph 3 in Schedule 2 of this Agreement shall not be binding on any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor and any person

deriving title from that purchaser or any successor in title thereto and their respective mortgagees and chargees

7 First Planning Agreement

- 7 1 The Owner warrants that it has not implemented the Outline Element of the Hybrid Planning Permission granted in respect of the Site (subject to reserved matters save for access) and covenants with the Council not to implement the Outline Element of the Hybrid Planning Permission in respect of the Site

Schedule 3

The Council's covenants

The Council hereby covenants with the Owner as follows

- 1 To use
 - 1 1 the Sports Facilities Contribution towards the provision or improvement of sports facilities within the vicinity of the Development ,
 - 1 2 any Initial Affordable Housing Contribution received pursuant to paragraph 3 3 of Schedule 2 towards the provision of Affordable Housing within the Administrative Boundary of Manchester,
 - 1 3 any Viability Payment received towards the provision of Affordable Housing within the Administrative Boundary of Manchester, and
 - 1 4 any Viability Assessment Fee towards the review of any Viability Appraisal submitted under this Agreementand for no other purpose
- 2 At the written request of the Owner 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 (twenty) Working Days of receipt of the request,
- 3 that the Council shall provide written details of any expenditure incurred by the Council using the Sports Facilities Contribution and any Viability Payment received within 20 (twenty) Working Days of a written request to do so from the party/person who paid the Viability Payment to the Council,
4. that at the written request of the Owner the Council shall repay to the person who first paid such monies any balance of the Sports Facilities Contribution and 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 the Sports

Facilities Contribution and any Viability Payment received or in the case of monies allocated to maintenance 20 (twenty) years from such date or dates together with all interest accrued thereon,

5 that

5.1 within 10 (ten) Working Days of its receipt of the Viability Appraisal (or such extended period agreed in writing by the parties) the Council shall (acting reasonably) give written notice to the Owner detailing any further documentation that the Owner must provide in writing to the Council before the Viability Appraisal 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 3 (or such extended period agreed in writing by the parties) the Council shall give written notice to the Owner either confirming it accepts that the Viability Appraisal is in FVA form or requesting amended or supplementary documentation to enable it carry out its review of the Viability Appraisal,

5.3 Once the Council has accepted that the Viability Appraisal is in FVA form it will notify the Owner 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 Owner 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.

5.4 within 10 (ten) Working Days of its receipt of Evidence which demonstrates that the requirement to carry out a Viability Appraisal is waived in accordance with clause 23 1.2 the Council shall provide written confirmation that the provisions of

5.4.1 clause 23 2 to clause 23 7, and

5.4.2 the whole of Schedule 4, and

5.4.3 paragraph 4 and paragraph 5 of schedule 2

have ceased and determined absolutely and no longer bind the Site and are no longer enforceable by the Council

- 5 5 In consideration of the covenant in paragraph 7 of Schedule 2 the Council warrants that any and all planning obligations secured by the First Planning Agreement in respect of the Outline Element which remain to be discharged at the date hereof shall no longer bind the Site and the Council covenants with each of the Owner and the Mortgagee not to seek to enforce compliance of such obligations against either of them. This covenant shall enure for the benefit of the Owner any mortgagees or chargees and any other persons with an interest in the Site from time to time.

Schedule 4

Viability template

Land at the former White House Club, 193 Middleton Road, 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 20% (twenty percent) of GDV of the Market Value	£
Profit Level – based upon 15% (fifteen percent) of GDV of Pre Sale Element	£
All in build cost - [Includes - House Build (Superstructure), Plot Costs (Incl. Substructure), Infrastructure, Overheads and Prelims]	£
Schedule of abnormalities TBA	£
Contingency on build costs and abnormalities TBA	£
Professional fees on build costs and abnormalities TBA	£
Sales and Marketing Costs TBA	£
Agreed planning stage Section 106 Initial Affordable Housing Contribution - sum equivalent to the value of the 8% (eight percent) or 6 (six) Affordable Rent Units on-site	£813,185
Finance cost of TBA	£
Agreed Land Value (the Lower of (1) Benchmark Land Value set at Planning Consent Stage of £1,480,000 (one million four hundred and eighty thousand	£

pounds) or (2) Actual Land Value - to be evidenced)	
Agreed Stamp Duty	£
Agreed Site Legal & Agents Fees @ 1% of Land Value	£
Total Costs	£
Surplus = NDV – Costs	£
Viability Payment	£

NB – The Viability Payment Cannot Exceed the Maximum Contribution less the Initial Affordable Housing Contribution of £813,185

Appendix 1
Affordable Housing Plan

All dimensions are to be checked on site, any discrepancies are to be reported to the Architect before work commences. Do not scale from this drawing.
This drawing is to be read in conjunction with all relevant consultants and specialists drawings / documents, any discrepancies are to be reported to the Architect before the affected work commences.
All structural components shown are indicative only. Details / calculations of structural members are to be provided by the Structural Engineer.
This drawing is copyright.

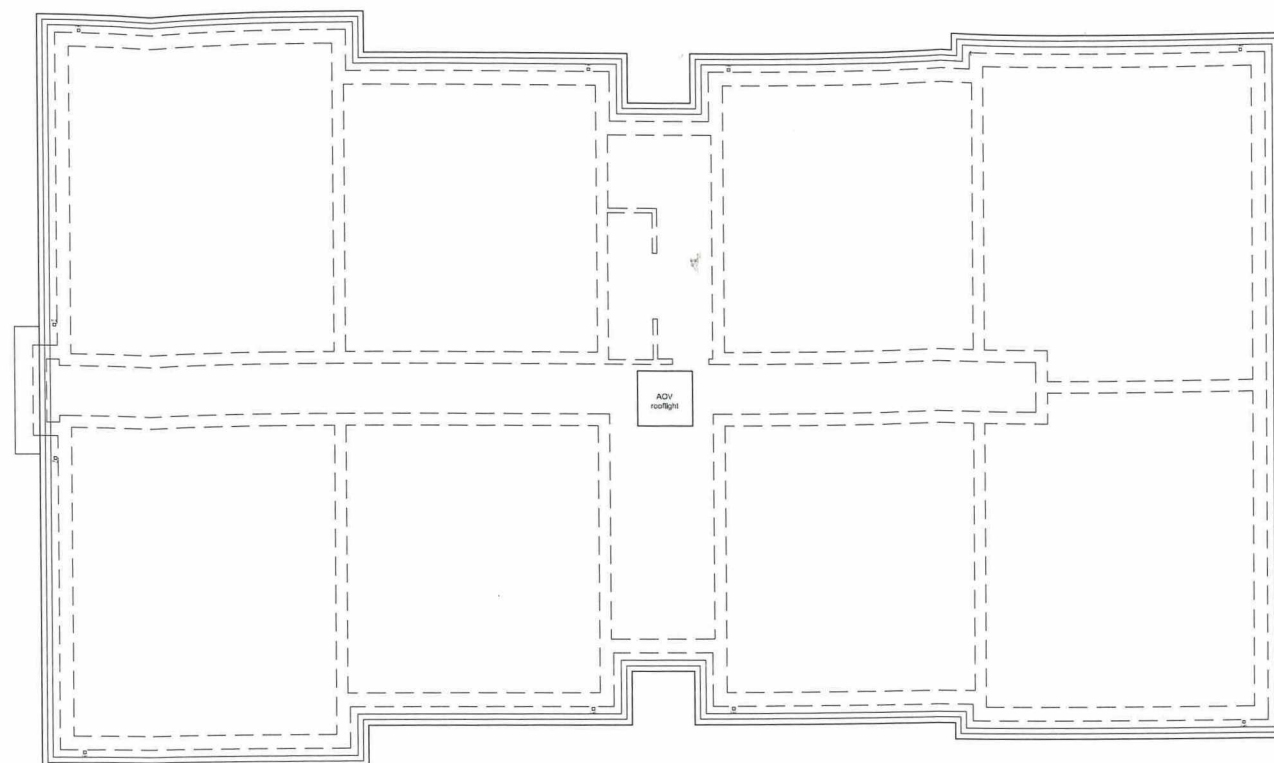
A Redrawn

19/05/2021

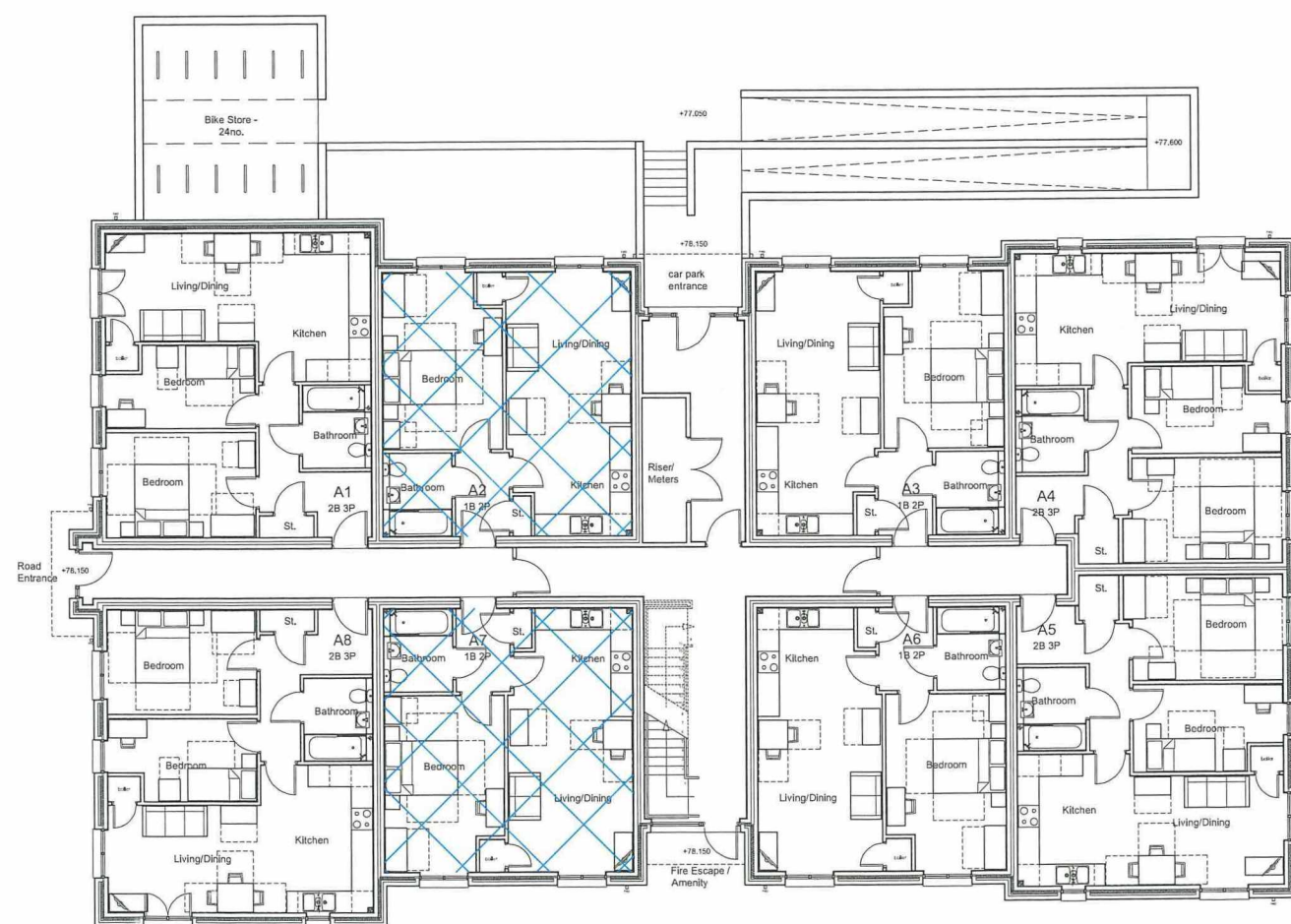
Key:
Indicating Affordable Units -
A2, A7, A10, A15, A18, A23



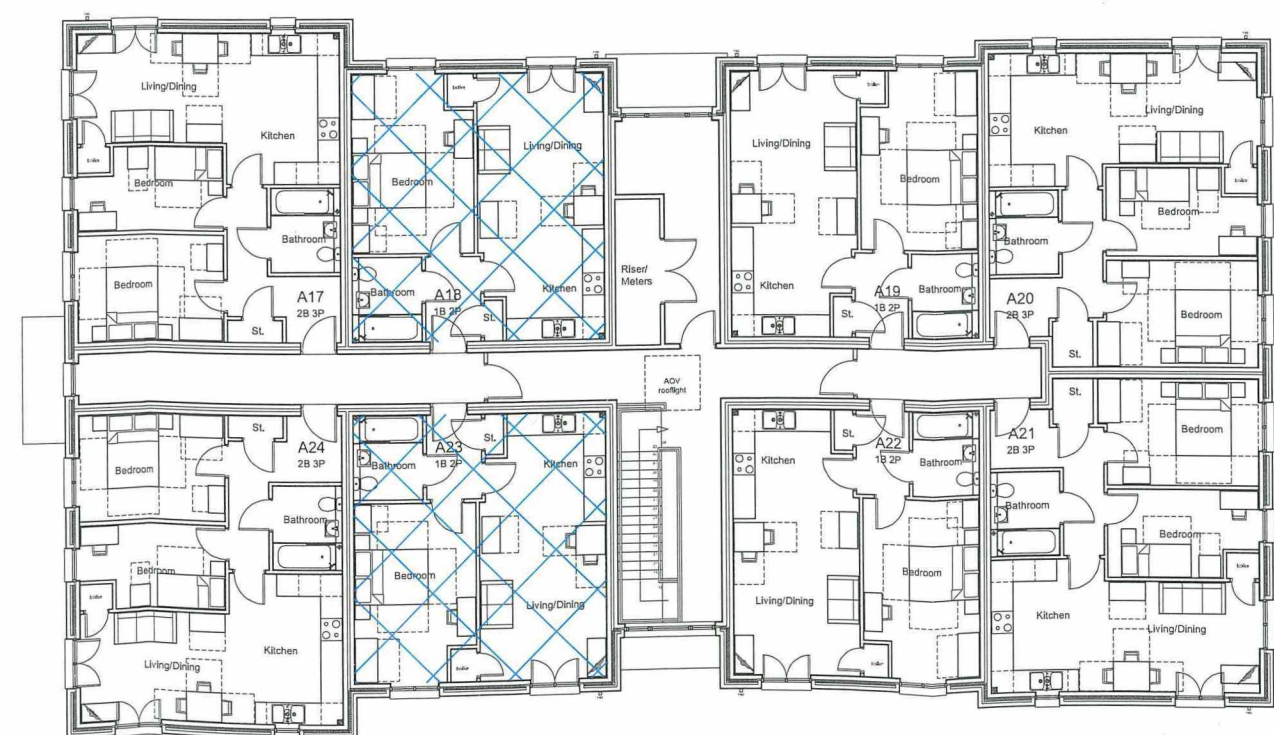
First Floor Plan
Plots A9, A12, A13 & A16 - 2B 3P - 61sqm
Plots A10, A11, A14 & A15 - 1B 2P - 50sqm



Roof Plan



Ground Floor Plan
Plots A1, A4, A5 & A8 - 2B 3P - 61sqm
Plots A2, A3, A6 & A7 - 1B 2P - 50sqm



Second Floor Plan
Plots A17, A20, A21 & A24 - 2B 3P - 61sqm
Plots A18, A19, A22 & A23 - 1B 2P - 50sqm

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Architecture
Limited

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e-mail: mail@graysarchitecture.co.uk

Park 287, Office 1, Chaddock Lane
Bashley, Worsley,
Manchester, M28 1DU

Client:
Dappa homes

Project:
Whitehouse Club, Middleton Road, Crumpsall,
M8 4JZ

Drawing Title:
Proposed Plans - A1 - A24

Scale:
1:100 @ A1

Date:
March 2020

Drawing No:
4050/160

Revised:
A

Appendix 2

The Affordable Housing Statement



**Irwell Valley Homes
The Soapworks
First Floor
Colgate Lane
Salford
M5 3LZ**

For the attention of:

Manchester City Council

Land at the former White House Club, 193 Middleton Road

Affordable Housing Statement

Date: 2nd February 2024

Dear Sir/Madam

The 6 apartments will be delivered under the Section 106 agreement at the site known as The Whitehouse Club in Crumpsall, Manchester. The apartments will be delivered as affordable housing and available to let at an 'Affordable Rent' tenure.

The proposed housing mix is as follows:

Number	House Type	No of Beds	Size	Tenure
6	1 bed apartment	1b2p	51m2	Affordable Rent

Our Affordable Rent Model enables prospective customers to rent a property at a discounted rate (80% of the local Market Rent) and it is part of Irwell Valley Homes' parameters that the rents will be inclusive of service charges.

The Regulator of Social Housing's Rent Standard guidance states that the market rent should be based on a valuation in accordance with a method recognised by the Royal Institute of Chartered Surveyors (RICS) at the time the tenancy is granted. All the Affordable Rent properties will be subject to 100% nomination rights from Manchester City Council for first lets, which shall be in accordance with its allocations policy, with all subsequent lets by Irwell Valley Homes to be through the Manchester Move system.

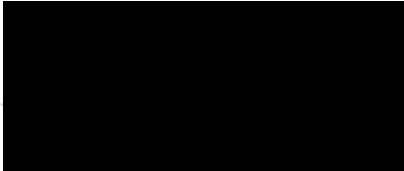
Irwell Valley Homes have committed to delivering 6 apartments under the Section 106 Agreement. These units will not be subject to Homes England grant funding as they are to be discounted to 60% of the OMV. All homes will be provided as Affordable Rent to the customer.

Yours faithfully,

Bethany Hunt
Development Project Manager
Irwell Valley Homes

01123227

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:

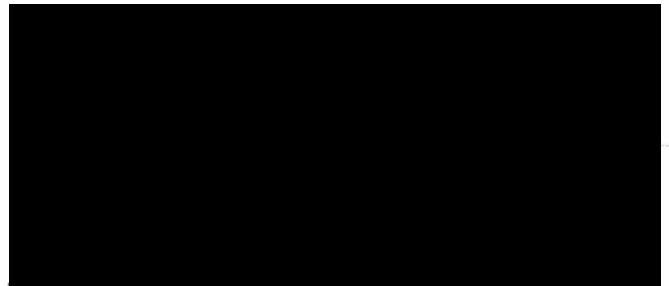


AUTHORISED SIGNATORY

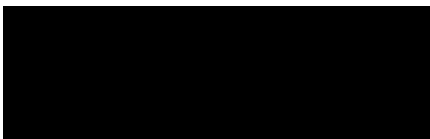
Signed as a Deed by)

DAPPA HOMES LIMITED)

Acting by a Director in the presence of a)
witness



Witness signature:



Name:



Address:



Occupation: Commercial Manager

Signed as a Deed by

)

DAVID CRANE

)

in the presence of a witness

)

Witness signature:

.....

Name:

Address

Occupation:

STEWARD

Signed as a Deed by

PATRICK GLEAVE

in the presence of a witness

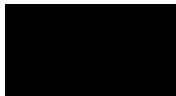
)

)

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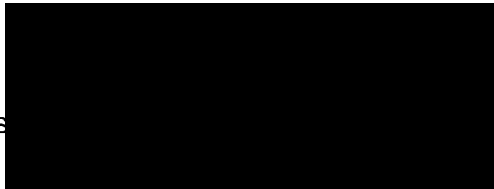
Witness signature



Name

Address

Occupation **STEWARD**



Signed as a Deed by)

ALEC BRITLAND)

in the presence of a witness)

Witness signature

Name BERMANS
3rd Floor
Address 1 King Street
Manchester
Occupation M2 6AW

Solicitor