

DATED 12 September 2023

THE COUNCIL OF THE CITY OF MANCHESTER

– and –

KIER TRADE CITY LLP

-and-

INVESTEC BANK PLC

AGREEMENT

**pursuant to section 106 of the Town and
Country Planning Act 1990 (as amended)
relating to Land Off Elizabeth Street, Cheetham Hill, Manchester**

City Solicitor
P O Box 532
Town Hall
Albert Square
Manchester M60 2LA
L/AF/EVD3001/4039

THIS AGREEMENT is made the day of

12 September

2023

BETWEEN:

- (1) **THE COUNCIL OF THE CITY OF MANCHESTER** of Town Hall, Albert Square, Manchester, M60 2LA (the “**Council**”),
- (2) **KIER TRADE CITY LLP** (incorporated in England and Wales with company number OC393739) whose registered office is at 2nd Floor, Optimum House, Clippers Quay, Salford, England, M50 3XP (the “**Owner**“)
- (3) **INVESTEC BANK PLC** (incorporated in England and Wales with company number 00489604) whose registered office is at 30 Gresham Street, London, England, EC2V 7QP (the “**Mortgagee**”)

BACKGROUND

- A The Council is the local planning authority for the purposes of the Act in relation to the Site and is the authority by whom the obligations hereby created are enforceable. The Revised Development will be carried out on the Application Land (of which the Site forms part). 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 the Land Registry with Title Absolute under Title Number GM512239 together with but subject to all matters contained or referred to in the Title Registers thereunder
- C The Mortgagee has a charge over the Site dated 24 June 2022 which is pending registration at the Land Registry
- D A Planning Permission was submitted and approved on 1 July 2022
- E A Revised Planning Application was submitted to the Council for planning permission to carry out the Revised Development on the Application Land in the manner set out in the plans, specifications and particulars forming part of the Revised Planning Application
- E The Council as local planning authority is satisfied that the Revised Development is such as may be approved by the Council under the Act and is minded to grant the Revised Planning Permission for the Revised Development in accordance with the Revised Planning Application but having considered the Local Plan and the Regulations is desirous of the Owner entering into this Agreement without which the Revised Planning Permission would not be granted

F The Owner has agreed to enter into this Agreement in support of the Revised Planning 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

G The planning purpose of this Agreement is to improve the amenity of land in the locality of the Site with benefit for the occupiers of the Revised Development and to mitigate the adverse impacts of the Revised Development in accordance with the development plan for the area and other material considerations The Council is satisfied that the obligations in this Agreement are;

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

(b) directly related to the Revised Development, and

(c) fairly and reasonably related in scale and kind to the Revised Development

AGREED TERMS

DEFINITIONS AND INTERPRETATION

1.1 The definitions and rules of interpretation set out in this Clause apply to this Agreement
“**Act**” the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004 and the Planning Act 2008,

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

“**Agreement**” shall mean this agreement,

“**Application Land**” means the land on which the Revised Development may be carried out pursuant to the Revised Planning Permission

“**Commencement of Development**” the date upon which the Revised 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 and **“Commence”**, **“Commencement”** and **“Commenced”** shall be construed accordingly Commencement will be deemed to have taken place whether it takes place on the Site or on the Application Land,

“Commencement Notice” means written notice given by the Owner to the Council within 14 days of Commencement stating that Commencement has taken place and specifying the date of Commencement,

“Contribution” the sum of seventy thousand pounds (£70,000) Index Linked,

“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,

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

“Index Linked” 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 the Retail Price Index and **“Index Linking”** shall be construed accordingly,

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

“Local Plan” includes the Core Strategy adopted by Manchester City Council on 11 July 2012, the extant Unitary Development Plan policies and all other relevant strategic planning documents adopted by Manchester City Council,

“Management Fee” shall mean 15% of the planning application fee which equates to thirty five pounds and ten pence (£35 10) to be used for the purpose of monitoring and reporting on the delivery of this Agreement and the Planning Obligations contained herein,

“Plan” the plan attached to the Agreement,

“Planning Obligations” shall mean the obligations of the Owner specified in Schedule 3,

“Planning Permission” means the planning permission with reference 133125/FO/2022 granted on 1 July 2022,

“Regulations” the Community Infrastructure Levy Regulations 2010,

“Retail Price Index” twelve (12) month percentage change in the All Items Retail Price Index published by the Office for National Statistics Centre and in the Monthly Digest of Statistics

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

“Revised Development” the development undertaken on the Site pursuant to the Revised Planning Permission as specified in the Revised Planning Application and “Developed” shall be construed accordingly,

“Revised Planning Application” means the application with reference 136813/JO/2023 for variation of condition 2 (specified plans), 5 (drainage strategy), 6 (ground conditions), 8 (external materials), 12 (landscaping), 15 (noise), 16 (noise management plan) and 17 (acoustic fence) attached to planning permission referenced 133125/FO/2022 to allow for minor changes to the elevational design, layout and materials and the discharge of relevant conditions, together with the removal of condition 13 (off site tree replacement),

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

“Site” the property described in Schedule 1 and shown for the purposes of identification only edged red on the Plan,

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

1 2 The Clause headings do not affect this interpretation.

1 3 Unless otherwise indicated, references to Clauses and Schedules are to Clauses of and Schedules to this Agreement and references in a Schedule to a Part or Paragraph are to a Part or Paragraph of that Schedule

1 4 References to any statute or statutory provision include reference to

1 4 1 all Acts of Parliament and all other legislation having legal effect in the United Kingdom as directly or indirectly amended, consolidated, extended, replaced or re-enacted by any subsequent legislation, and

1 4 2 any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision

1 5 Except for the provisions of Clause 9 references to the Site include any part of it

1 6 References to any party in this Agreement 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 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 Revised Planning Permission and Commencement of Development save for the provisions of Clauses, 9, 11, 15, 17 and 18 which shall have immediate effect

4 CONDITION SUBSEQUENT

If the Revised Planning Permission for the Revised 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 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 on behalf of himself 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 his part contained in this Agreement including those obligations set out in Schedule 3 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 observe and perform the obligations on its part in this Agreement including those obligations set out in the Schedule 4

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 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 within thirty (30) days of one party serving notice on the other calling for the appointment of an Expert, then an Expert shall be appointed on the application of either party to the President for the time being of the Royal Town Planning Institute

7 3 Any reference of a dispute to an Expert shall if the parties are agreed in writing be deemed to be a reference to an Expert or (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 representations and cross-representations with such supporting evidence as they shall respectively consider necessary and the Expert 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 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 & LIABILITY

9 1 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 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

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

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 For the purpose of noting this Agreement on the titles of the Owner registered under title numbers GM512239 at the Land Registry the Owner will on the date hereof provide the Council with completed Form AN1 (or any replacement of this form) together with either a cheque made payable to the Land Registry to cover the requisite fee or alternatively with the Owner's solicitor's completed Land Registry account key number details inserted in the form The Council will arrange for the AN1 (or any replacement of this form) to be registered at the Land Registry and the Owner will supply the Council with a copy of the amended registers as soon as reasonably practicable following their receipt by the Owner from the Land Registry

11 3 In the event that any requisitions are raised by the Land Registry in connection with the application for registration the Owner/Owners will ensure that such requisitions are dealt with promptly

11 4 The Council will upon receipt of a written request of the Owner's or their 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

11.5 The costs of registration and cancellation pursuant to clauses 11 3 above shall be met by the Owner if requested 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 Revised Planning Permission) granted (whether or not on appeal) after the date of this Agreement

13 THE CONTRACTS ACT

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 and

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

14 1 2 to the Owner at its registered addresses

15 FEES

15 1 The Owner shall pay forthwith to the Council its legal fees reasonably and properly incurred in preparation of this Agreement,

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 imposed upon them by the terms of this Agreement or by statute or at common law

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 MORTGAGEES

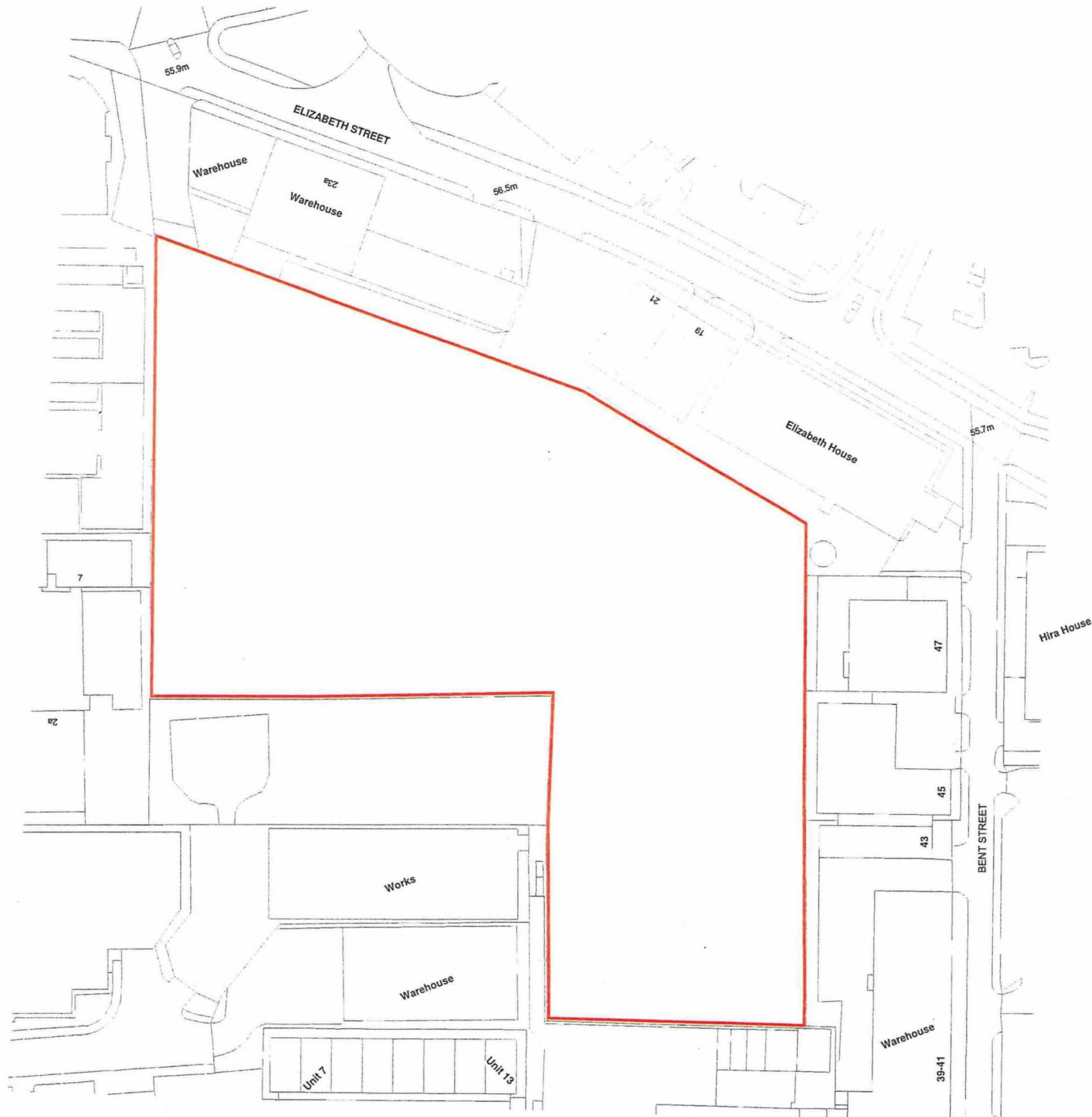
The Mortgagee will not incur any liability for any breach of the obligations contained in this Agreement unless and until it becomes a mortgagee in possession of the Site or any part of it

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

SCHEDULE 1

The Site

Land Off Elizabeth Street, Cheetham Hill, Manchester and shown for the purposes of identification only edged red on the Plan

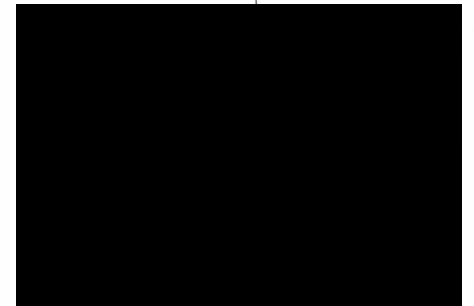


General Notes

Do not scale from this drawing. Only work to written dimensions.
All site dimensions shall be verified by the Contractor on site prior to commencing any works.
This drawing is the property of Fletcher-Rae (UK) Limited (a Fletcher-Rae) and copyright is reserved by them. The drawing is not to be copied or disclosed by or to any unauthorised persons without the prior written consent of Fletcher-Rae (UK) Limited.



Freehold Demise



P1	First Issue	20.07.23	ME	APP
Rev.	Description	Date	IS	
Scale	1 : 500 @ A1			
Status	S2 Information			
Drawn By	ME			
Checked By	-			
Date	July 2023			

Client:

Kier Property

Project:
Elizabeth Street, Cheetham Hill
Manchester

Draw Name:
Proposed Site Plan - Freehold Demise

Project No. Orig. Zone Level Type Rule Ch. Draw No. Rev
21039-FRA-XX-00-DR-A-93-0004 P1
fletcher|rae
Architects | Master Planners | Designers
Level 12, Tower 12, 18-22 Bridge Street, Manchester, M3 3BZ

T +44 (0) 161 242 1140
W www.fletcher-rae.com
E info@fletcher-rae.com



SCHEDULE 2

Draft Revised Planning Permission

Town & Country Planning Act 1990 (as amended)

Planning Permission

Applicant

Mr Henry Martin
Kier Trade City LLP
C/o Agent

Agent (if used)

Mr Brad Wiseman
Savills (UK) Limited
Belvedere
12 Booth Street
Manchester
M2 4AW

Part 1 – Particulars of the application/development

Proposal. Variation of condition 2 (specified plans), 5 (drainage strategy), 6 (ground conditions), 8 (external materials), 9 (boundary treatment), 12 (landscaping), 15 (noise), 16 (noise management plan), 17 (acoustic fence) and 23 (car parking) attached to planning permission referenced 133125/FO/2022 to allow for minor changes to the elevational design, layout and materials, alterations to drawing references and the discharge of relevant conditions, together with the removal of condition 13 (off site tree replacement).

Location: Land Off Elizabeth Street, Cheetham Hill, Manchester

Date of application: 18 May 2023

Application number: 136813/JO/2023

Part 2 – Particulars of decision

Manchester City Council gives notice that the development referred to in Part 1 has been **Approved** in accordance with the application and plans submitted subject to the condition(s) listed below (if any).

Article 35 Declaration

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. Officers have sought to resolve a number of significant issues which have arisen as a result of the consultation process relating to the density and appearance of the development and the impact on the environment to minimise the impact on the climate change. The proposal is considered to be acceptable and therefore determined within a timely manner.

Condition(s) attached to this decision

- 1) The development must be begun not later than 1 July 2025

Reason - Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990

2) The development hereby approved shall be carried out in accordance with the following drawings, received by the City Council as Local Planning Authority on 25 April 2023

21039-FRA-XX-00-DR-A-10-0001 - 'Site Location Plan';
21039-FRA-XX-XX-DR-A-10-0003 Rev P5 - 'Proposed Site Plan';
21039-FRA-XX-XX-DR-A-21-1001 Rev P2 - 'Proposed Refuse Store';
21039-FRA-01-00-DR-A-20-1001 Rev P3 - 'Unit 1 Ground Floor Plan',
21039-FRA-01-XX-DR-A-20-1004 Rev P2 - 'Unit 1 Elevations',
21039-FRA-01-ZZ-DR-A-20-1005 Rev P2 - 'Unit 1 Sections',
21039-FRA-02-00-DR-A-20-2001 Rev P2 - 'Units 2-3 Ground Floor Plan',
21039-FRA-02-RL-DR-A-20-2003 Rev P2 - 'Units 2-3 Roof Plan',
21039-FRA-02-XX-DR-A-20-2004 Rev P3 - 'Units 2-3 Elevations';
21039-FRA-04-00-DR-A-20-3001 Rev P2 - 'Units 4-8 Ground Floor Plan';
21039-FRA-04-RL-DR-A-3003 Rev P2 - 'Units 4-8 Roof Plan';
21039-FRA-04-XX-DR-A-3004 Rev P3 - 'Units 4-8 Elevations',
21039-FRA-09-00-DR-A-4001 Rev P2 - 'Unit 9 Ground Floor Plan',
21039-FRA-09-RL-DR-A-4003 Rev P2 - 'Unit 9 Roof Plan',
21039-FRA-09-XX-DR-A-20-4004 Rev P3 - 'Unit 9 Elevations',
21039-FRA-01-XX-DR-A-40-0001 Rev P1 - 'Unit 1 Materials List & Colours';
21039-FRA-02-XX-DR-A-40-0002 Rev P1 - 'Units 2-3 Materials List & Colours',
21039-FRA-04-XX-DR-A-40-0003 Rev P1 - 'Units 4-8 Materials List & Colours';
21039-FRA-09-XX-DR-A-40-0004 Rev P1 - 'Unit 9 Materials List & Colours',
21039-FRA-XX-XX-DR-A-40-0005 Rev P1 - 'Site Wide Boundary Treatment - Materials List & Colours';
21039-FRA-XX-XX-DR-A-90-0029 Rev P1 - Acoustic Fence.

Reason - To ensure that the development is carried out in accordance with the approved plans, pursuant to policies SP1 and DM1 of the Manchester Core Strategy.

3) Vegetation clearance or demolition shall only take place outside of the optimum bird nesting period (March - September inclusive) unless in accordance with the details contained within Nesting Birds Survey produced by Armitage (UK) Ltd, dated 29 May 2023 and received by the City Council as Local Planning Authority on 3 July 2023, as agreed as part of discharge of condition application referenced CDN/23/0434.

Reason - In order to protect wildlife from works that may impact on their habitats, pursuant to policy EN15 of the Manchester Core Strategy

4) a) The development hereby approved shall be implemented in accordance with the submitted Local Benefits Proposal produced by Triton, dated 26 June 2023 and received by the City Council as Local Planning Authority on 29 June 2023, as agreed as part of discharge of condition application referenced CDN/23/0434

(b) Within one month prior to construction work being completed, a detailed report which takes into account the information and outcomes about local labour recruitment shall be submitted for approval in writing by the City Council as Local Planning Authority

Reason - The applicant has demonstrated a commitment to recruiting local labour pursuant to policies SP1, EC1 and DM1 of the Manchester Core Strategy.

5) Notwithstanding the details submitted on the Flood Risk Assessment and Drainage Strategy stamped as received by the City Council, as Local Planning Authority, on the 4 March 2022, (a) the development shall not commence (excluding demolition and site clearance works) until a scheme for the drainage of surface water from that phase of the new development shall be submitted for approval in writing by the City Council as the Local Planning Authority. This shall include

- Detailed drainage layout including labelled components, levels and connectivity,
- Details of surface water attenuation that offers a reduction in surface water runoff rate to 11 l/s
- Runoff volume in the 1 in 100 year, 6 hours rainfall shall be constrained to a value as close as is reasonable practicable to the greenfield runoff volume for the same event, but never to exceed the runoff volume from the development site prior to redevelopment;
- Evidence that the drainage system has been designed (unless an area is designated to hold and/or convey water as part of the design) so that flooding does not occur during a 1 in 100 year rainfall event with allowance for 40% climate change in any part of a building;
- Assessment of overland flow routes for extreme events that is diverted away from buildings (including basements). Overland flow routes need to be designed to convey the flood water in a safe manner in the event of a blockage or exceedance of the proposed drainage system capacity including inlet structures. A layout with overland flow routes needs to be presented with appreciation of these overland flow routes with regards to the properties on site and adjacent properties off site.
- For sites where proposed development would cause unusual pollution risk to surface water, evidence of pollution control measures (preferably through SuDS) is required
- Hydraulic calculation of the proposed drainage system;
- Construction details of flow control and SuDS elements.

(b) The phase shall then be constructed in accordance with the approved details, within an agreed timescale.

Reason - To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution pursuant to policies SP1, EN14 and DM1 of the Manchester Core Strategy

6) a) The development hereby approved shall only be implemented in accordance with the details contained within the following documents

-Phase 1 & 2 Ground Investigation Report received by the City Council, as Local Planning Authority on 17 March 2022,

-Remediation Strategy produced by Curtins, dated 27 September 2022 (Ref. 080139-CUR-00-XX-RP-GE-003) received by the City Council, as Local Planning Authority on 25 April 2023.

b) When the development commences, the development shall be carried out in accordance with the agreed Remediation Strategy (as approved as part of part (a) of this planning condition) and a Completion/Verification Report shall be submitted to and approved in writing by the City Council as local planning authority before the first use of the site.

In the event that ground contamination, groundwater contamination and/or ground gas, not previously identified, are found to be present on the site at any time before the development is occupied, then no development shall take place in the identified areas until a report outlining what measures, if any, are required to remediate the land (the Revised Remediation Strategy) is submitted to and approved in writing by the City Council as local planning authority and the development shall be carried out in accordance with the Revised Remediation Strategy, which shall take precedence over any Remediation Strategy or earlier Revised Remediation Strategy

Reason - To ensure that the presence of or the potential for any contaminated land and/or groundwater is detected and appropriate remedial action is taken in the interests of public safety, pursuant to policies DM1 and EN18 of the Manchester Core Strategy

7) The development hereby approved shall only be implemented in accordance with the Construction Environmental Management Plan dated and received by the City Council as Local Planning Authority on 19 July 2023, as agreed as part of discharge of condition application referenced CDN/23/0346

Reason - To safeguard the amenities of nearby residents and highway safety, pursuant to policies SP1, EN9, EN19 and DM1 of the Manchester Core Strategy.

8) The development hereby approved shall only be implemented in accordance with following external materials

Materials List and Colour referenced 21039-FRA-09-XX-DR-A-40-004/P1, received by the City Council as Local Planning Authority on 25 April 2023

Reason - To ensure that the appearance of the development is acceptable to the City Council as Local Planning Authority, in the interests of the visual amenity of the area within which the site is located, pursuant to policies SP1 and DM1 of the Manchester Core Strategy

9) The development hereby approved shall be implemented in accordance with the boundary treatment shown on drawing referenced 21039-FRA-XX-XX-DR-A-40-0005 Rev P1 received by the City Council as Local Planning Authority on 25 April 2023. The approved details shall be implemented as part of the development and be in place prior to the first occupation of development

The boundary treatment shall be retained and maintained in situ thereafter and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification) no boundary treatment shall be erected on site, other than that shown on the approved plans

Reason - In the interest of visual amenity and security of the site pursuant to policies SP1 and DM1 of the Manchester Core Strategy

10) The development hereby approved shall be carried out in accordance with the Energy Statement & BREEAM Pre-Assessment, prepared by CHBS stamped as received by the City Council, as Local Planning Authority on 4 March 2022. The development shall achieve a 'Excellent' BREEAM target

A post construction review certificate/statement shall be submitted for approval, within a timescale that has been previously agreed in writing, to the City Council as Local Planning Authority.

Reason - In order to minimise the environmental impact of the development pursuant to policies SP1, T1-T3, EN4-EN7 and DM1 of the Manchester Core Strategy and the principles contained within The Guide to Development in Manchester SPD (2007) and the National Planning Policy Framework

11) Prior to the first occupation of the development, details of the implementation, maintenance and management of the sustainable drainage scheme shall be submitted for approval in writing by the City Council, as Local Planning Authority. For the avoidance of doubt this shall include

- Verification reporting providing photographic evidence of construction,
- Management and maintenance plan for the lifetime of the development which shall include the arrangements adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime;
- Timescale for implementation

The implementation of the management and maintenance plan shall be implemented in accordance with the timescales agreed and retained for as long as the development remains in use

Reason - To manage flooding and pollution and to ensure that a managing body is in place for the sustainable drainage system and there is funding and maintenance mechanism for the lifetime of the development pursuant to policies SP1, EN14 and DM1 of the Manchester Core Strategy

12) (a) The development hereby approved shall only be implemented in accordance with the landscaping and planting details shown on drawings referenced 4018 101/E, 4018/201/C and 4018/202/C, received by the City Council as Local Planning Authority on 31 July 2023.

(b) The approved scheme shall be implemented prior to the first use of the development. If within a period of 5 years from the date of the planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place.

Reason - To ensure that a satisfactory landscaping scheme for the development is carried out that respects the character and visual amenities of the area, in accordance with policies SP1, EN9 and DM1 of the Manchester Core Strategy

13) Notwithstanding the Noise Impact Assessment, prepared by AEC stamped as received by the City Council, as Local Planning Authority, on the 23 April 2022

(a) Prior to the first use of the development, details of any externally mounted ancillary plant, equipment and servicing shall be submitted for approval in writing by the City

Council, as Local Planning Authority For the avoidance of doubt, externally mounted plant, equipment and servicing shall be selected and/or acoustically treated in accordance with a scheme designed so as to achieve a rating level of 5 db (L_{aeq}) below the typical background (L_{a90}) level at the nearest noise sensitive location

(b) Prior to the first use of the development, a verification report will be required to validate that the work undertaken conforms to the recommendations and requirements approved as part of part (a) of this planning condition. The verification report shall include post completion testing to confirm the noise criteria has been met. In instances of non-conformity, these shall be detailed along with mitigation measures required to ensure compliance with the noise criteria. A verification report and measures shall be agreed until such a time as the development complies with part (a) of this planning condition.

Any mitigation measures shall be implemented in accordance with a timescale to be agreed with the City Council, as Local Planning Authority. Any measures shall thereafter retained and maintained in situ.

Reason - To minimise the impact of plant on the occupants of the development pursuant to policies SP1 and DM1 of the Manchester Core Strategy and saved policy DC26 of the Unitary Development Plan for the City of Manchester (1995)

14) (a) The buildings hereby approved shall be acoustically insulated in accordance with the measures detailed within the submitted Noise Management Plan produced by AEC Limited, dated 1 August 2023 and received by the City Council as Local Planning Authority on 2 August 2023.

(b) Prior to the first use of the development, a verification report will be required to validate that the work undertaken conforms to the recommendations and requirements approved as part of part (a) of this planning condition. The verification report shall include post completion testing to confirm the noise criteria has been met. In instances of non-conformity, these shall be detailed along with mitigation measures required to ensure compliance with the noise criteria. A verification report and measures shall be agreed until such a time as the development complies with part (a) of this planning condition.

Any mitigation measures shall be implemented in accordance with a timescale to be agreed with the City Council, as Local Planning Authority, and thereafter retained and maintained in situ.

Reason To ensure that there is no unacceptable noise outbreak from the development, pursuant to policies SP1, H1 and DM1 of the Manchester Core Strategy and saved policy DC26 of the Unitary Development Plan for the City of Manchester.

15) The development hereby approved shall only be implemented in accordance with the measures detailed within the submitted Noise Management Plan produced by AEC Limited, dated 1 August 2023 and received by the City Council as Local Planning Authority on 2 August 2023. The approved plan, including any agreed mitigation measures, shall be implemented prior to the first use of the development and thereafter retained and maintained for as long as the development is in use.

Reason - To minimise the impact of the deliveries on nearby residential properties pursuant to policies SP1 and DM1 of the Manchester Core Strategy and saved policy DC26 of the Unitary Development Plan for the City of Manchester

16) The development hereby approved shall only be implemented in accordance with the acoustic fence detailed on drawing referenced 21039-FRA-XX-XX-DR-A-90-0029 Rev P2, received by the City Council as Local Planning Authority on 2 August 2023. The approved acoustic fence shall be installed prior to the first use of the development hereby approved and thereafter retained and maintained in situ thereafter. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification) no acoustic fence shall be erected on site, other than that approved by this planning condition.

Reason - In the interest of visual amenity and minimising noise outbreak to surrounding of the site pursuant to policies SP1 and DM1 of the Manchester Core Strategy and saved policy DC26 of the Unitary Development Plan for the City of Manchester

17) Prior to any above ground works, details the waste management arrangements for the development shall be submitted for approval in writing by the City Council, as Local Planning Authority. The approved details shall be implemented prior to the first use of the development and thereafter retained and maintained.

Reason - To ensure adequate refuse arrangement are put in place for the residential element of the development pursuant to policies EN19 and DM1 of the Manchester Core Strategy

18) The development hereby approved shall include a building and site lighting scheme and a scheme for the illumination of external areas during the period between dusk and dawn. Full details of such a scheme shall be submitted for approval in writing by the City Council, as Local Planning Authority before the first use of the development hereby approved. The approved details shall be implemented in full prior to the first occupation of the development and shall remain in operation for so long as the development is occupied.

Reason - In the interests of amenity, crime reduction and the personal safety in order to comply with the requirements of policies SP1 and DM1 of the Manchester Core Strategy (2012)

19) If any lighting at the development hereby approved, when illuminated, causes glare or light spillage, which in the opinion of the Council as local planning authority causes detriment to adjoining and nearby existing residential properties, within 14 days of a written request, a scheme for the elimination of such glare or light spillage shall be submitted to the Council as local planning authority and once approved shall thereafter be retained in accordance with details which have received prior written approval of the City Council as Local Planning Authority.

Reason - In order to minimise the impact of the illumination of the lights on the occupiers of nearby residential accommodation, pursuant to policies SP1 and DM1 of the Manchester Core Strategy (2012).

20) The development hereby approved shall be carried out in accordance with the Crime Impact Statement (version A) prepared by Design for Security at Greater

Manchester Police, received by the City Council, as Local Planning Authority on 4 March 2022. The development shall only be carried out in accordance with these approved details. The development hereby approved shall not be occupied or used until the Council as local planning authority has acknowledged in writing that it has received written confirmation of a Secured by Design accreditation.

Reason - To reduce the risk of crime pursuant to policies SP1 and DM1 of the Manchester Core Strategy and to reflect the guidance contained in the National Planning Policy Framework

21) The development hereby approved shall be carried out in accordance with the Transport Assessment & Travel Plan, prepared by SWECO stamped as received by the City Council, as Local Planning Authority on 4 March 2022.

In this condition a Travel Plan means a document which includes.

- i) the measures proposed to be taken to reduce dependency on the private car by those working and visiting the development,
- ii) a commitment to surveying the travel patterns of staff during the first three months of the first use of the building and thereafter from time to time
- iii) mechanisms for the implementation of the measures to reduce dependency on the private car
- iv) measures for the delivery of specified travel plan services
- v) measures to monitor and review the effectiveness of the Travel Plan in achieving the objective of reducing dependency on the private car

Within six months of the first occupation of the development, a Travel Plan which takes into account the information about travel patterns gathered pursuant to item (ii) above shall be submitted for approval in writing by the City Council as Local Planning Authority. Any Travel Plan which has been approved by the City Council as Local Planning Authority shall be implemented in full at all times when the development hereby approved is in use.

Reason - To assist promoting the use of sustainable forms of travel for staff and visitors, pursuant to policies T1, T2 and DM1 of the Manchester Core Strategy.

22) Prior to the first use of the development hereby approved the car parking layout as indicated on drawing 21039-FRA-XX-XX-DR-A-10-0003 Rev P5 received by the City Council, as Local Planning Authority on 25 April 2023 shall be surfaced, demarcated and made available. The approved car parking layout shall be implemented and thereafter retained and maintained.

Reason - To ensure sufficient car parking is available for the development, pursuant to policies SP1, T1, and DM1 of the Manchester Core Strategy.

23) Prior to the first use of the development hereby approved, details of 50 cycle spaces for the development shall be submitted for approval in writing by the City Council, as Local Planning Authority.

Prior to the first use of the development, the cycle spaces shall be implemented and made available for as long as the development remains in use.

Reason - To ensure there is sufficient cycles provision at the development and the residents in order to support modal shift measures pursuant to policies SP1, T1, T2 and DM1 of the Manchester Core Strategy

24) Prior to the first use of the development hereby approved, a scheme of highway works shall be submitted for approval in writing by the City Council, as Local Planning Authority

This shall include the following:

- New vehicle access from Elizabeth Street including central refuge island with tactile paving,
- No waiting at any time traffic regulation orders to the south side of Elizabeth Street (between Bent Street and Queens Road),
- Footway to the south side of Elizabeth Street to be resurfaced and redundant access point in front of 19-21 Elizabeth Street removed and converted to footway; and
- Review and amendment to existing street lighting

The approved scheme shall be implemented and be in place prior to the first use of the development hereby approved and thereafter retained and maintained in situ for as long as the development remains in use

Reason - To ensure safe access to the development site in the interest of pedestrian and highway safety, pursuant to policies SP1, EN1 and DM1 of the Manchester Core Strategy

25) The development hereby approved shall be occupied as B2 and B8 uses with ancillary offices and trade counters only and for no other purpose of The Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order with or without modification)

Reason - For the avoidance of doubt and in order to secure a satisfactory form of development due to the particular circumstance of the application site, ensuring the vitality of the units and in the interest of residential amenity, pursuant policy DM1 of the Manchester Core Strategy.

26) Prior to the first use of the development a signage strategy development shall be submitted for approval in writing by the City Council, as Local Planning Authority. The signage strategy will include timescales for implementation. The approved strategy shall then be implemented for the development and used to inform any future advertisement applications for the building.

Reason - In the interest of visual amenity, pursuant to policies SP1 and DM1 of the Manchester Core Strategy

27) Prior to the first use of the development hereby approved, details of the number, siting and appearance bird and bat boxes at the development shall be submitted for approval in writing by the City Council, as Local Planning Authority. The approved details shall be implemented and be in place prior to the first use of the development hereby approved and shall thereafter be retained and maintained in situ

Reason - In the interest of providing habitats for birds to improve the ecological value of the application site, pursuant to policies SP1 and EN15 of the Manchester Core Strategy

28) (a) Prior to the first use of the development, details, location and specification of 7 kw electric car charging points for 21% of the car parking spaces at the development shall be submitted for approval in writing by the City Council, as Local Planning Authority. The approved details shall then be implemented and be in place prior to the first use of the development and thereafter retained and maintained in situ

(b) The number of fast charging electric car charging points for the development shall be reviewed annually as part of the travel plan requirements of condition 22 of this planning permission (commencing from the date of this permission) The survey shall be completed within 7 days of each annual review date and the results of the survey provided to the City Council within 7 days thereafter. Any additional charging points identified as part of this review shall be implemented within two months of approval of the annual agreement

Reason - In the interest of air quality pursuant to policies SP1 and EN16 of the Manchester Core Strategy

29) All tree work should be carried out by a competent contractor in accordance with British Standard BS 3998 "Recommendations for Tree Work"

Reason - In order avoid damage to trees/shrubs adjacent to and within the site which are of important amenity value to the area and in order to protect the character of the area, in accordance with policies EN9 and EN15 of the Manchester Core Strategy

30) In this condition "retained tree" means an existing tree, shrub or hedge which is to be retained within the Tree Survey and Arboricultural Impact Assessment, prepared by JCA stamped as received by the City Council, as Local Planning Authority, on the 4 March 2022, and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of the occupation of the building for its permitted use

(a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority Any topping or lopping approved shall be carried out in accordance with British Standard 5387 (Trees in relation to construction)

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

(c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority

Reason - In order avoid damage to trees/shrubs adjacent to and within the site which are of important amenity value to the area and in order to protect the character of the area, in accordance with policies EN9 and EN15 of the Manchester Core Strategy.

31) a) Three months prior to the first occupation of the development, a Local Benefit Proposal Framework that outlines the approach to local recruitment for the end use(s), shall be submitted for approval in writing by the City Council, as Local Planning Authority. The approved document shall be implemented as part of the occupation of the development.

In this condition a Local Benefit Proposal means a document which includes

- i) the measures proposed to recruit local people including apprenticeships
- ii) mechanisms for the implementation and delivery of the Local Benefit Proposal
- iii) measures to monitor and review the effectiveness of the Local Benefit Proposal in achieving the objective of recruiting and supporting local labour objectives

(b) Within 6 months of the first occupation of the development, a Local Benefit Proposal which takes into account the information and outcomes about local labour recruitment pursuant to items (i) and (ii) above shall be submitted for approval in writing by the City Council, as Local Planning Authority. Any Local Benefit Proposal approved by the City Council, as Local Planning Authority, shall be implemented in full at all times whilst the use is operation.

Reason - The applicant has demonstrated a commitment to recruiting local labour, pursuant to policies SP1, EC1 and DM1 of the Manchester Core Strategy.

32) The development hereby approved shall be carried out in accordance with the Japanese Knotweed Management Plan, received by the City Council, as Local Planning Authority on 14 June 2022.

Reason - In order to deal with the invasive non-native species at the application site pursuant to policy EN15 of the Manchester Core Strategy.

33) Prior to any above ground works, details of the retaining wall, as indicated on drawing 21039-FRA-XX-XX-DR-A-10-0003 Rev P4 received by the City Council, as Local Planning Authority on 17 June 2022. This shall include the siting, scale and appearance of the wall and appropriate sections. The retaining wall shall be undertaken in accordance with the approved details and thereafter retained and maintained in situ.

Reason - In the interest of visual amenity pursuant to policies SP1, EN1 and DM1 of the Manchester Core Strategy.

Informatives

Building Regulations 2010

This permission does not grant approval under Building Regulations.

Street Naming & Numbering Requirements

Manchester City Council is responsible for allocating street naming and numbering within Manchester for new developments or property conversions. Individuals or businesses are not permitted to allocate their own property numbers, building or street names.

If your development includes the creation of new dwellings (either new build or conversion of existing buildings), creation of new commercial properties or the

subdivision of existing properties you must ensure that you request new or changes to addresses through us so they can be officially allocated and registered in accordance with the Public Health Act 1925 Sections 17-19 & Greater Manchester Act 1981 Section 22.

Failure to do this may result in difficulties for the developer/occupier when requiring services such as connections to utilities, phone lines and postal services and may delay your development.

You can apply online at the following address:

http://www.manchester.gov.uk/info/100011/roads_parking_and_transport/1988/naming_and_numbering_of_houses_buildings_streets_and_roads/2

Mining Information

The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Please read the Standing Advice from the Coal Authority in Appendix A.

DRAFT DECISION

Date:

Notes

1. This permission refers only to that required under the Town and Country Planning Act 1990 does not include any consent or approval under any other enactment, byelaw, order or regulation.

2 If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, they may appeal to the Secretary of State in accordance with Section 78(1) of the Town and Country Planning Act 1990 within six months of the date of the notice of the decision.

The Planning Inspectorate have introduced an online appeals service that can be used to make appeals online. This service is available through the gov.uk website – www.gov.uk/appeal-planning-decision The Inspectorate will publish details of your appeal on the internet. Alternatively If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State has power to allow a longer period for the giving of a notice of appeal but they will not normally be prepared to exercise this power unless there are special circumstances that excuse the delay in giving notice of appeal.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the City Council (planning@manchester.gov.uk) and the Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

3. The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70(1) and 72(1) of the Act.

4. If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990

5. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to them. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

Appendix A



The Coal
Authority

STANDING ADVICE - DEVELOPMENT LOW RISK AREA

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

Standing Advice valid from 1st January 2023 until 31st December 2024

SCHEDULE 3

THE OWNER'S GENERAL COVENANTS

The Owner hereby covenants with the Council as follows

- 1 Not to Commence Development, nor to allow nor to permit the same, until it has complied with paragraph 2 of this Schedule
- 2 To pay to the Council on or prior to the Commencement of the Revised Development the Contribution for the provision of planting of trees on Council owned land within the 'Administrative Boundaries of Manchester in order to offset the loss of trees at the Site
- 3 To serve the Commencement Notice
- 4 To pay the Management Fee within 10 (ten) Working Days of service of the Commencement Notice pursuant to paragraph 3

SCHEDULE 4

The COUNCIL'S COVENANTS

The Council hereby covenants with the Owner as follows.

- 1 To use the Contribution for the provision of planting of trees on Council owned land within the 'Administrative Boundaries of Manchester, in order to offset the loss of trees at the Site
- 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) Working Days of receipt of the request
- 3 To issue the Revised Planning Permission within two (2) Working Days of the date hereof

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:



01121437

AUTHORISED SIGNATORY

EXECUTED AS A DEED by

KIER TRADE CITY LLP

acting by a director

DIRECTOR

Signature:

Name (in block capitals)

LEIGH THOMAS

IN THE PRESENCE OF:

Signature:

Name: (in block capitals)

ZOE VAN HESTEREN

Address:

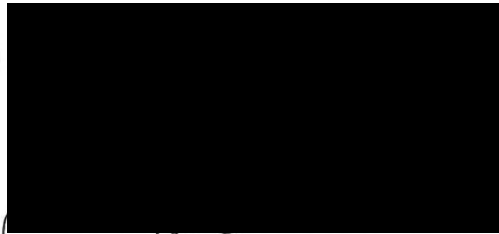
EXECUTED and DELIVERED by

INVESTEC BANK PLC

acting by its duly appointed authorised signatories under a power of attorney dated 20 May 2019 as follows:



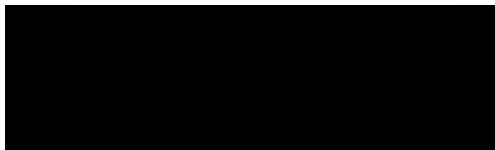
Authorised Signatory



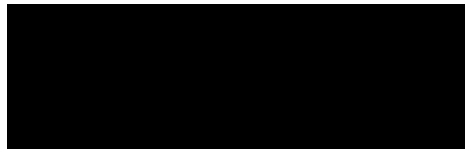
Authorised Signatory

In the presence of

In the presence of:



Witness



Witness

Full name: DOMINIC LINTON - MARSH

Address:

Occupation: Solicitor
Investec Bank plc
30 Gresham Street
London EC2V 7QP

Full name: DOMINIC LINTON - MARSH

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