

DATED 25/03/2024

THE COUNCIL OF THE CITY OF MANCHESTER

– and –

KADANS SCIENCE PARTNER 8 UK LIMITED

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AGREEMENT

**pursuant to section 106 of the Town and
Country Planning Act 1990 (as amended)
relating to land bounded by Upper Brook Street, Cottenham Street &
Kincardine Road Manchester M13 9TD**

=====

City Solicitor
P O Box 532
Town Hall
Albert Square
Manchester M60 2LA
L/AAD/PLA001/84048

THIS AGREEMENT is made the 21st, day of November

2021

BETWEEN:

- (1) **THE COUNCIL OF THE CITY OF MANCHESTER** of Town Hall, Albert Square, Manchester, M60 2LA (“the Council”)
- (2) **KADANS SCIENCE PARTNER 8 UK LIMITED** (incorporated and registered in England and Wales with company number 13534919) whose registered office is at 1 St James Court, Whitefriars, Norwich, Norfolk, NR3 1RU (“the Owner”)

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 Development will be carried out on the Site. The Site is situated within the Administrative Boundaries of Manchester and this planning obligation is enforceable by the Council.
- B The Council is also the freehold owner of the Sci-Tech Land registered at the Land Registry with title absolute under title number GM899087 together with but subject to all matters contained or referred to in the title registers thereunder, but is not entering into the Agreement as a landowner.
- C The Owner is the leasehold owner of the Sci-Tech Land pursuant to a lease from the Council to the Owner dated
- D The Application was submitted to the Council for planning permission to carry out the Development in the manner set out in the plans, specifications and particulars forming part of the Application.
- E. The Council as local planning authority was satisfied that the Development is such as may be approved by the Council under the Act and granted planning permission for the Development in accordance with the Application but having considered the Local Plan and the Regulations was desirous of the Owner entering into this Agreement to secure the appointment of the Architect as the lead architect in respect of the Development on the Sci-Tech Land and entered an agreement under Section 111 Local Government Act and section 1 of the Localism Act dated between the Council and the Owner which prevented Commencement on the Sci-Tech land until this Agreement was entered into.
- F 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
- G 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

AGREED TERMS

1 DEFINITIONS AND INTERPRETATION

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

"Act" the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004 and the Planning Act 2008,

"Administrative Boundaries of Manchester" all the wards that together comprise the city of Manchester,

"Agreement" shall mean this agreement,

"Application" the application to which the Council gave the reference 137399/FO/2023 for planning permission for the erection of a 6 to 9 storey building for Sci-Tech use (Use Class E (g)(ii)) and 265sqm of a cafe/bar (Use Class E (b)), and a 9 to 23 storey building for Purpose Built Student Accommodation (PBSA) (Use Sui Generis), comprising 737 bedrooms and 293sqm of community use (Use Class F2 (b)) and 80sqm of commercial floorspace (Use Class E), alongside new public realm, access, parking, and associated works following demolition of existing buildings,

"Architect" means Sheppard Robson of City Tower, Piccadilly Plaza, Manchester M1 4BT,

"Best Endeavours" means that it is agreed by the parties hereto that the party under such an obligation will be bound to attempt to fulfil the relevant obligation by the expenditure of such effort and/or sums of money and the engagement of such professional or other advisers as in all the circumstances may be reasonable to expect in the case of the Owner of a competent commercial developer and landowner in the context of the Development,

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

"Completion of Construction" the date upon which a valid certificate of completion shall have been issued in respect of the Sci-Tech Building for the purposes of the Building Act 1984 and the Building Regulations 2010 or any amendment or replacement of the same 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,

"Development" the development to be undertaken on the Site pursuant to the Planning Permission,

"Expert" a solicitor or barrister with a minimum of ten (10) years post-qualification experience,

"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 the Council on 11 July 2012, the extant Unitary Development Plan policies and all other relevant strategic planning documents adopted by Manchester City Council;

"Plan 1" the plan attached to this Agreement in part 1 of Schedule 1,

"Plan 2" the plan attached to this Agreement in part 2 of Schedule 1,

"Plan 3" means the plan attached to this Agreement in part 3 of Schedule 1,

"Planning Permission" the planning permission granted pursuant to the Application and as may be amended by any non-material amendment,

"Regulations" the Community Infrastructure Levy Regulations 2010,

"RICS" the Royal Institution of Chartered Surveyors,

"Sci-Tech Building" the building to be constructed on the Sci-Tech Land in accordance with the Planning Permission to form laboratory and office space with ground floor commercial use including meeting suites,

"Sci-Tech Land" means the land registered at the Land Registry with title absolute under title number GM899087 and as shown edged red on Plan 2,

"Site" the property comprising the Sci-Tech Land and the Student Accommodation Land and adjoining public highway and described in part 1 of Schedule 1 and shown for the purposes of identification only edged red on Plan 1,

"Student Accommodation Land" means the land registered at the Land Registry with title absolute under title number GM448437 and as shown edged red on Plan 3,

"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 respect of the Site or relevant part thereof. 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 and any parties deriving title to them in respect of the Sci-Tech Land

3 CONDITION PRECEDENT

3.1 This Agreement is conditional upon the Commencement of Development on the Sci-Tech Land save for

3 1 1 the provisions of Clauses 8, 10, 14, 16, 17 and 18 which shall have immediate effect, and

4 CONDITION SUBSEQUENT

If the Planning Permission for the Development has not been implemented prior to its expiry 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

5 1 The Owner on behalf of themselves and any person deriving title to any part of the Sci-Tech Land from the Owner hereafter hereby covenants with the Council so as to bind the Sci-Tech Land 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 Sci-Tech Land 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 unless and until the same are discharged pursuant to section 106A of the Act

6 DISPUTE RESOLUTION

6 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

6 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

6 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 (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

6 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

7 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

8 CHANGE IN OWNERSHIP & LIABILITY

8 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 Sci-Tech Land occurring before all the obligations on the Owner

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 Sci-Tech Land) the area of the Sci-Tech Land or unit of occupation purchased by reference to a plan BUT FOR THE AVOIDANCE OF DOUBT the Owner does not need to notify the Council in respect of any leases or licences entered into with individual occupiers of the Sci-Tech Land

8 2 No person shall be liable for any breach, non performance and non observance of the covenants, obligations and restrictions contained in this Agreement after it shall have parted with its entire interest in the Site (or relevant part of 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 (or relevant part of the Site)

8 3 The covenants and obligations under this Agreement shall not be binding on nor enforceable against any statutory undertaker or utility service provider which acquires any part of the Site or an interest in it for the purposes of its statutory undertaking or utility service nor any successor in title to or person deriving title from, or any mortgagee or receiver to any such person

9 COUNCIL'S CONSENT OR APPROVAL

9.1 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

9 2 Where variations or modifications are expressed in this Agreement to be subject to approval or agreement in writing that need not require a deed of modification under section 106A of the Act

10 LOCAL LAND CHARGE

10 1 This Agreement is a Local Land Charge and shall be registered as such by the Council

10 2 The Council will upon receipt of a written request of the Owner or their respective 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 and relevant notices in the register of local land charges

10 3 The costs of registration and cancellation pursuant to clause 10 2 above shall be met by the Owner if requested by the Council.

11 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)) before or after the date of this Agreement

12 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

13 COMMUNICATION

13 1 Any notice or document to be served on or sent pursuant to this Agreement shall either be delivered personally, sent by recorded delivery service

13 1 1 to the Council and addressed to the City Solicitor at the Council's address first above written

13 1 2 to the Owner at their last known addresses

14 FEES

14 1 The Owner shall pay forthwith to the Council its legal fees reasonably and properly incurred in preparation of this Agreement

14 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.

15 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

16. JURISDICTION

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

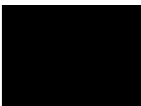
17 COMPLETION

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

18 MORTGAGEES

Any future mortgagee or chargee of the Sci-Tech Land will not incur any liability for any breach of the obligations contained in this Agreement unless and until they become a mortgagee in possession of the Sci-Tech Land in which case the obligations can be enforced against such mortgagee or chargee in possession insofar as the obligations relate to that part of the Sci-Tech Land in which they are mortgagee in possession

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

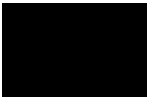


SCHEDULE 1

Part 1 – The Site

Land bounded by Upper Brook Street, Cottenham Street & Kincardine Road Manchester M13 9TD and shown for the purposes of identification only edged red on Plan 1 attached hereto.

Plan 1



© COPYRIGHT
The copyright in this drawing is vested in Sheppard Robson and no license or assignment of any kind has been, or is, granted to any third party whether by provision of copies or originals or otherwise unless agreed in writing.

DO NOT SCALE FROM THIS DRAWING
The contractor shall check and verify all dimensions on site and report any discrepancies in writing to Sheppard Robson before proceeding work

FOR ELECTRONIC DATA ISSUE
Electronic Data / drawings are issued as "read only" and should not be interrogated for measurement. All dimensions and levels should read, only from those values stated in text on the drawing.

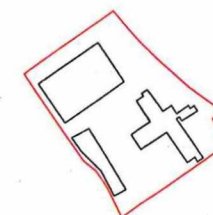
Legend
— Planning Application Boundary



0 12.5 25 37.5 50 62.5
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REV.	DATE	AMENDMENT
P01	06/06/2023	Issued For 'Planning'

KEYPLAN



CLIENT

McLAREN **KADANS**
PROPERTY Science Partner

SHEPPARD ROBSON

77 Parkway Camden Town London NW1 7PU
T: +44 (0)20 7504 1700 E: enquiries@sheppardrobson.com

PROJECT
Upper Brook Street Masterplan - McLaren/Kadans

SCALE@A1	DATE	ORIGINATOR	CHECKED	AUTHORISED
1: 1250	06/06/2023	JK	ET	RG

Location Plan



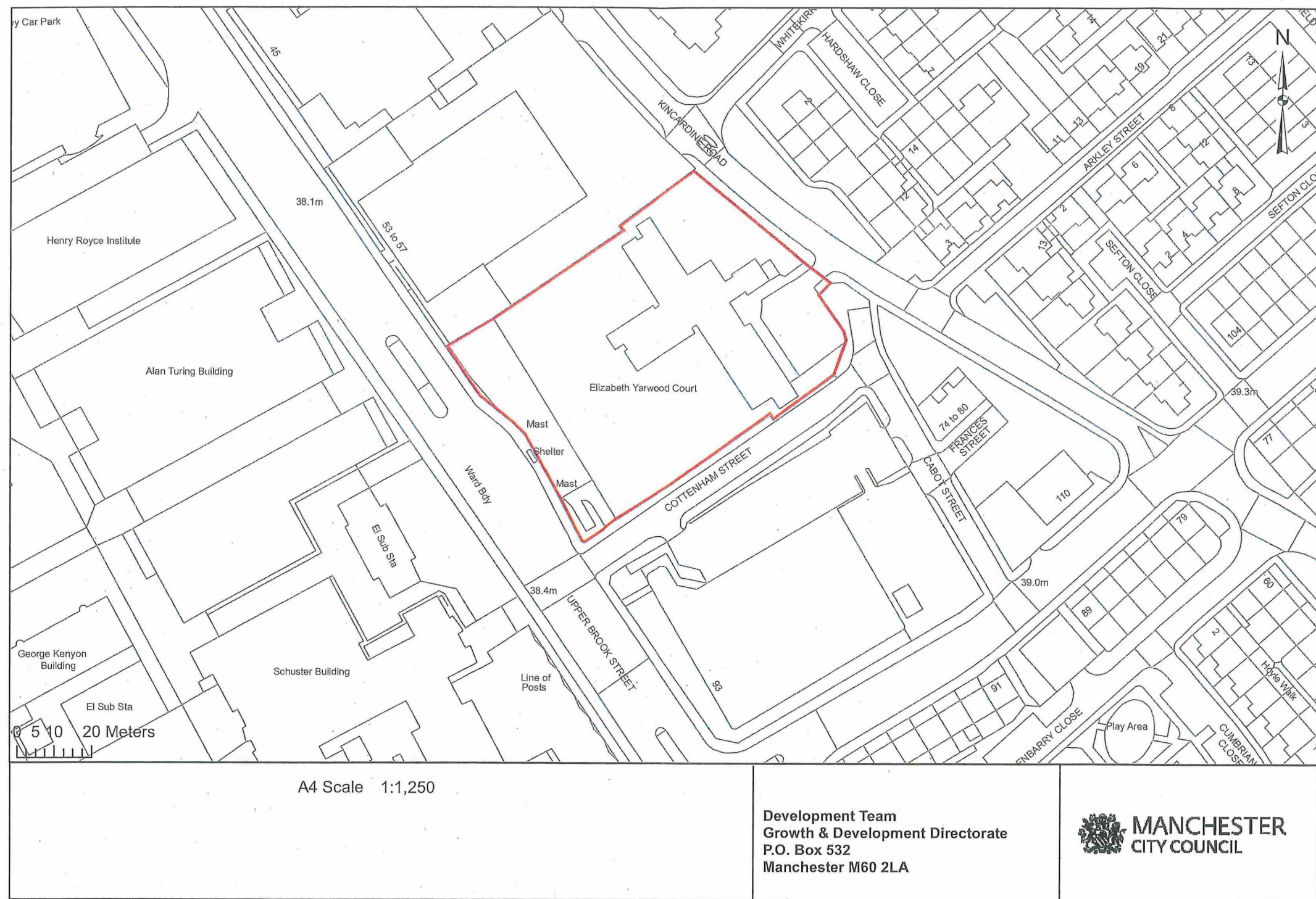
Stage 2

STATUS	PURPOSE FOR ISSUE	SR NO.
S2	Planning	6601_7025
DRAWING NO.		REV.
UBS -SRA-ZZ-00-DR-A-02-000		P01

Part 2 – the Sci-Tech Land

Plan 2



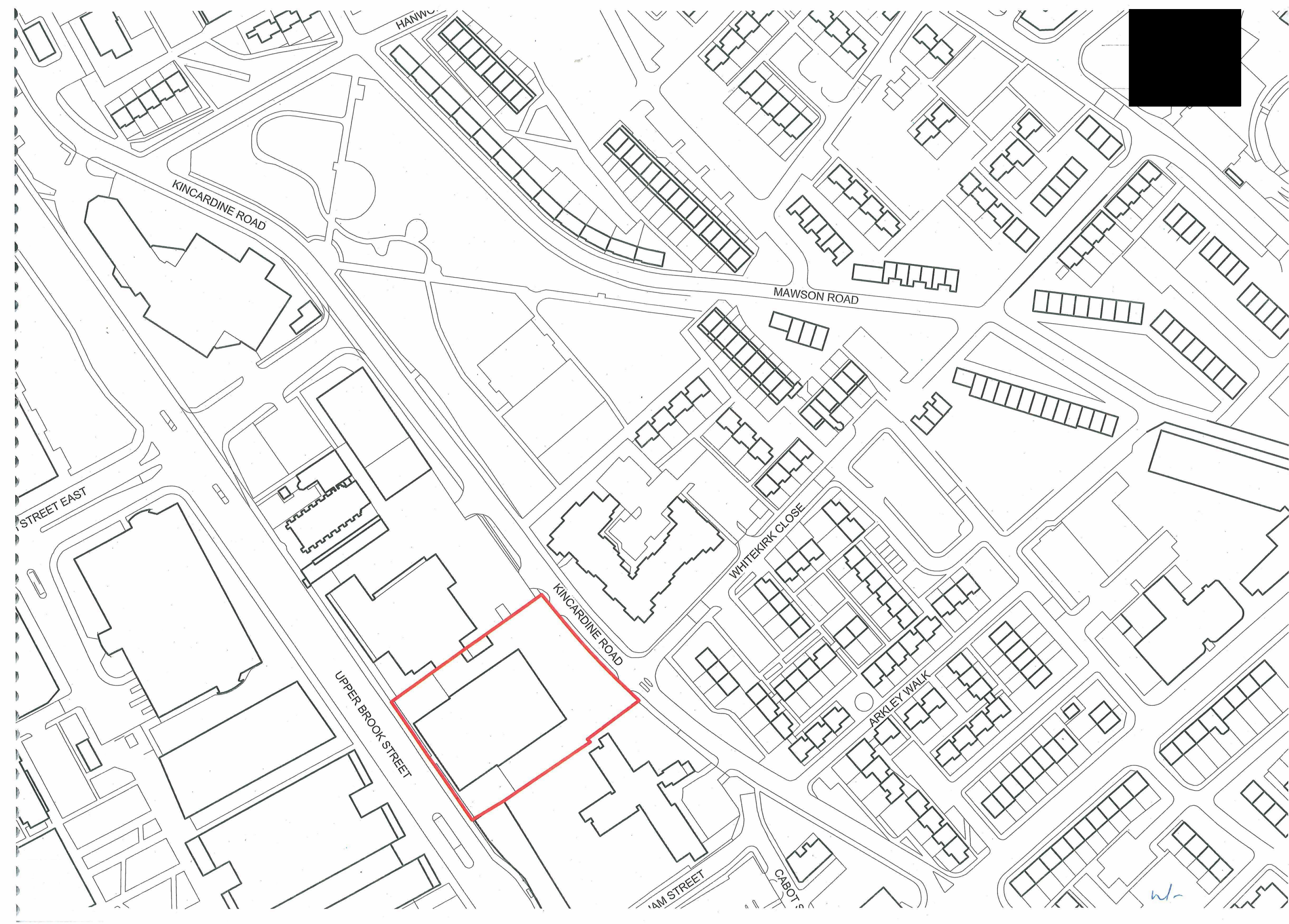


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Part 3 – the Student Accommodation Land

Plan 3





KINCARDINE ROAD

MAWSON ROAD

STREET EAST

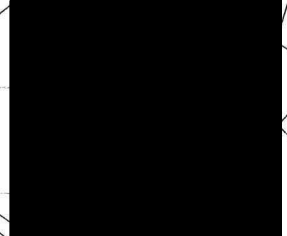
KINCARDINE ROAD

WHITEKIRK CLOSE

ARKLEY WALK

UPPER BROOK STREET

CABOT STREET



W/L

SCHEDULE 2

THE OWNER'S COVENANTS

The Owner hereby covenants with the Council as follows

- 1 To notify the Council in writing with 5 (five) Working Days of Commencement of Development on the Sci-Tech Land
- 2 To use Best Endeavours to continue to employ the Architect as the lead architect in respect of the Development on the Sci-Tech Land throughout the construction period of such part of the Development until Completion of the Sci-Tech Building PROVIDED THAT the Architect remains willing and able to fulfil such role in relation to the Development of the Sci-Tech Building and such employment is capable of being secured on reasonable commercial terms and timescales
- 3 Should the Architect not be appointed or not continue to be appointed in accordance with paragraph 2 of Schedule 2 above the Owner shall immediately notify the Council of this fact and shall use Best Endeavours to appoint as soon as reasonably practicable a replacement architect of a similar calibre and reputation in respect of the Development on the Sci-Tech Land throughout the construction period of such part of the Development until Completion of the Sci-Tech Building and shall notify the Council of the identity of the replacement architect within 5 (five) Working Days thereafter

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:



01126299

AUTHORISED SIGNATORY



EXECUTED AS A DEED by
KADANS SCIENCE PARTNER 8
UK LIMITED

acting by James Sheppard as a
director of KADANS SCIENCE
PARTNER 8 UK LIMITED in the
presence of:

[Redacted signature area]

Director

Witness' signature:

[Redacted signature area]

Witness' name (in BLOCK
CAPITALS):

WILLIAM FOGDEN

Witness' address:

[Redacted address area]

Witness' occupation:

[Redacted occupation area]

[Redacted area]