

Great Jackson Street Plots D.

Points to respond to relevant to the viability/ planning application for the above scheme (Development Team):

Permitted Profit Level

3.4 The S106 seeks to secure a re-assessment of the viability of the development on the completion of construction of 75% of each phase of the development. The viability of the scheme is apparently to be tested against a defined "Permitted Profit Level", which is:

- "(a) In the case of a Forward Fund agreed before the Completion of Piling Works 12% of total Costs;
- (b) In the case of a Forward Fund agreed after the Completion of Piling Works 15% of total Costs;
- (c) In the case of a Forward Sale agreed before the Completion of Piling Works 15% of GDV;
- (d) In the case of a Forward Sale agreed after the Completion of Piling Works 18% of GDV;
- (e) In the case of Open Market Sales 20% of GDV;"

3.5 We have objected previously to the viability evidence prepared by Roger Hannah (on behalf of Renaker), Renaker's own submissions and also those of Savills (who reviewed the Roger Hannah and Renaker work, on behalf of the Council). We do not seek to repeat those objections here but highlight that these have not been resolved. We would highlight though that the Savills report does include, what GJSEL's viability consultant would regard as a non-standard disclaimer. It states that the report "does not constitute a formal valuation, appraisal or recommendation" and, in respect of the estimates and conclusions, "their accuracy is in no way guaranteed". We note that this disclaimer was not drawn to the attention of members. Indeed, members were reassured in the officer's report that Renaker's viability assessment had been reviewed "by an independent assessor", who had "concluded that the delivery of affordable housing would not be viable". Members should have been advised that the Council are not able to rely on the work of Savills, and that this therefore materially undercuts the weight that can be placed on its findings. **Response: We are advised by Savills this is their standard disclaimer to include in a report assessing financial viability in planning. Savills are obligated by their professional body (Royal Institute of Chartered Surveyors ("RICS")) to follow a specific set of mandatory requirements when producing an FVA. These requirements are set out in Assessing Viability in Planning under the National Planning Policy Framework ("NPPF") (1st edition March 2021). It sets out the mandatory requirements that should be adhered to when Financial Viability Assessments (FVAs) are carried out, and should provide assurance to members that the Savills report can be relied upon for the purposes of decision making in the planning process.**

3.6 We note the Roger Hannah report suggested that the minimum profit margin for private sale apartments should be 18%. Roger Hannah do not provide any assessment of the appropriate profit level for a forward fund, forward sale or any other structure for the development. Further, they do not consider what the appropriate profit level would be depending on when any deal is agreed. Savills adopt the same target margin within its appraisal.

3.7 It is therefore inexplicable as to why the S106 allows for a profit margin of 20% on an open market sale scheme. This methodology would, of course, simply permit the applicant to receive a higher profit return than that which (on both the applicant and the Council's approach) is necessary, without beginning to address its obligations in respect of the development plan before any apparent surplus was generated¹ and than was otherwise deemed appropriate by either Renaker or the Council's advisor. **Response: As noted in the 'Developer's Return' section of the Savills report (page 18), Roger Hannah have adopted a 'minimum target margin' of 18% on the residential**

GDV. Savills also state in their report *‘From our knowledge and experience of the development land market, it is usual for residential developers in the North West region to seek a profit margin of 15-20% on GDV’* and go on to say *‘Based on current market conditions it is likely that a developer would target a higher profit margin to reflect the increased sales risk, market uncertainty as well as reflecting the complexity and height/scale of the proposed development. Therefore, we consider the approach by Roger Hannah to be reasonable and have adopted the same target margin within our appraisal.’* Whilst we endeavour to use the profit levels in the FVA reports as a baseline, it is not unusual for the s106 agreement profit level to differ from the profit level adopted in the report (which is considered by Roger Hannah and Savills be the minimum target profit) through negotiation, based on profit levels adopted in other s106 agreements for open market sale residential schemes, and which are also reflective of local market evidence. A return of 20% on GDV is considered acceptable for residential schemes in central Manchester and is within the acceptable range and in line with the PPG (15-20%).

3.8 For the avoidance of doubt, we note that the only funding/sale route tested by Renaker and the Council was open market sale. The NPPF/PPG requires that the Viability in Planning process is transparent, with information made available for public consideration. It is incumbent on the Council to provide the information that supports these new “permitted profit levels” so that there is an opportunity to understand the basis for them and to make representations. If no work has been undertaken to support these figures, then this should also be confirmed albeit it will further confirm the absence of any evidential or logical basis for what is proposed, as well as the further illogicality in purporting to rely upon the ability for the scheme to be delivered based on the viability materials to date if such viability materials are intended to be credible. . **Both the Roger Hannah and Savills reviews are undertaken on the basis of an open market sales scheme. The additional levels of profit introduced protect the Council against other potential methods of sale, which the developer is entitled to pursue after obtaining planning consent, and which may have lower associated risk profiles. If the sales method differs from open market sale, then this will be assessed at the late-stage review, based on actual sales and cost evidence, and the appropriate level of profit which will reflect the actual method of sale. Preferred methods of disposal may change over time as market conditions change.**

Calculation of Surplus

3.9 The suggested formula is to consider the profit as a proportion of gross development value (GDV). If the surplus is created by an increase in value, which would ordinarily be a reasonable assumption, then the applicant will benefit from at least 20% of any surplus generated (i.e. by the amount of any increase in value). **The acceptable level of return for open market sales is considered as a proportion of GDV. This approach is the same at the planning stage review and the late-stage review. Therefore, if GDV increases, it is also acknowledged the acceptable level of return (as a monetary value) also increases as a proportion of the GDV. This is a standard and consistent approach for open market sale schemes.**

3.10 The methodology set out goes on to confirm that the applicant will in fact benefit from 50% of any surplus generated, with only the remainder going towards affordable housing. The result would be that only a maximum of 40% of any surplus generated would go to the provision of much needed affordable housing. This is neither reasonable nor logical. **It is a common approach for any overage/additional surplus to be split equally between the LPA and developer, this incentivises the Developer to maximise value.**

Assessing viability in planning under the National Planning Policy Framework 2019 (1st edition, March 2021) Paragraph 3.11.8 states ‘The advantage of a formulaic approach is that the review will be more straightforward and involve only limited updating of information. It is usually based

on a formula, with the LPA taking a proportion of surplus over and above the original estimates agreed by decision takers at the application stage.'

At paragraph 3.11.9 'If a full review is undertaken, fixing certain inputs and incorporating these into the s.106 agreement may streamline the FVA process at review.'

At paragraph 3.11.12 'For reviews that take place towards the end of the development programme, the review provisions could set out how any surplus revenue can be split between the developer and LPA once the threshold level of viability has been reached, to ensure that a developer remains incentivised to maximise the value from a scheme.'

3.11 All of the above needs to be understood in the context of the Council already accepting that the profit generated by the applicant (without affordable housing) does not meet the 18% profit on GDV, let alone the figure of 20% profit on GDV set out in the S106.

3.12 We note that Roger Hannah concluded that a profit margin of 7.21% on GDV would be generated from delivering the development, a monetary sum of £24.2m (with 0% affordable housing). For the scheme to achieve a profit margin of 20% it would need to improve in performance by £67.2m (this is to achieve 20%, if that improvement is based on value increase). In relation to any surplus generated over this amount, the applicant is now being permitted to take 50% without any justification. For the scheme to generate the amount required for policy compliance (circa £33.2m), profits would need to improve by circa 480% from the current Roger Hannah argued position. It should have been made clear to members how unlikely it is that a policy-compliant affordable housing contribution will be made in order for them to make any proper assessment of the planning application and additionally the gift of 50% of any surplus to the applicant of the type identified above should clearly have been drawn to members' attention with any purported justification for that gift being provided...

3.13 It stands to reason that the profit on GDV hurdle level in the S106 should not be at 20%. It should be at the level that Renaker state they will in fact deliver the development. This is clearly set out in the Roger Hannah financial viability appraisal (FVA). It states Renaker are prepared to deliver the development at a profit on GDV level of 7.21%. The fact that Savills in their FVA conclude that the profit level on GDV would actually be 9.39% should not affect that either, as we understand Renaker has not accepted the findings of the Savills work. The agreement reached between parties was that the development was unviable irrespective of contributions to affordable housing. **The Councils accepts the findings and conclusions of the Savills report, concluding 'on balance we agree with Roger Hannah that no affordable housing can be delivered based on current market conditions'. Savills conclusion with regards to profit levels, is also included within the conclusions of their report 'Roger Hannah have adopted a minimum target developer's profit margin of 18% on residential GDV and 15% on commercial GDV. We consider this to be a reasonable level of return'..... 'We have also run a development appraisal including a fixed land cost (BLV) to assess the developers profit. This results in a profit on GDV of 9.39%, below the target profit level of 17.9%. We are confident Savills have prepared their report in line with RICS guidance and PPG, adopting standardised inputs and a consistent market approach, utilising local market evidence to determine GDV, costs and the minimum target profit level.**

3.14 This takes us back to the earlier point made regarding the statement in the S106 that contributions towards affordable housing would render the Development unviable. Renaker state, through the Roger Hannah FVA, that a profit on GDV level of 7.21% is sufficient for them to undertake the development but claim if any affordable housing contributions were levied the scheme would become undeliverable/unviable. If these two statements are taken together then the only logical and legitimate conclusion can be that, should any profit be made above 7.21% on GDV this will necessarily be a surplus beyond that required to secure delivery of the scheme.

The Council accepts the conclusions of the Savills report, which concludes the level of return is below what Savills consider to be a minimum target level of return. We are confident Savills have conducted their review in line with RICS Guidance and PPG and we accept their advice on acceptable levels of profit.

*3.15 It is then important to determine how the surplus is now to be apportioned. As stated previously, if the surplus is generated from an increase in value, the financial methodology outlined would permit the applicant to secure 20% of the enhanced value at source. That would then leave 80% of the surplus which is apparently now to be shared equally between the Council and Renaker, which would leave the Council with only 40% of the surplus and gift the remainder of the surplus to the applicant. We cannot see any rational, let alone policy, reason why the Council would accept this arrangement, but it is clear that the Committee has not been informed about this arrangement at all and we fail to see how the Committee (if this matter had been drawn to its attention) would ever countenance it. The applicant has stated they would deliver the development for a profit on GDV of 7.21%. There is simply no reasonable basis on which the Council could then permit the lion's share of surplus be paid to Renaker, favouring an increase in private sector profit over much needed affordable housing contributions. There has been absolutely no justification by the Council for this approach and no consideration of this fundamental issue by the Committee. **As above, I believe the Council has taken a standard/ consistent approach on both levels of return and the share of additional surplus.***

Compliance with PPG

3.16 The PPG is very clear how review mechanisms should be utilised in both plan making and decision taking. It is stated that:

*"Where contributions are reduced below the requirements set out in policies to provide flexibility in the early stages of a development, there should be a clear agreement of how policy compliance can be achieved over time. As the potential risk to developers is already accounted for in the assumptions for developer return in viability assessment, realisation of risk does not in itself necessitate further viability assessment or trigger a review mechanism. Review mechanisms are not a tool to protect a return to the developer, but to strengthen local authorities' ability to seek compliance with relevant policies over the lifetime of the project.²" **As per RICS guidance paragraphs above, this shouldn't disincentivise the developer from maximising value.***

*3.17 The final sentence of this paragraph in the PPG is a clear statement regarding the financial methodology that accompany review mechanisms. By contrast the approach now being taken by the Council in the S106 is to create a method which will be used as a tool to protect return to the developer and by its very nature weakens the Council's ability to seek compliance with relevant policies. This is contrary to national planning policy. **As above, the Council have taken a consistent approach followed RICS guidance.***

4 Renaker Schemes

Introduction

4.1 As the Council is aware, GJSEL has very serious objections to the approach of Renaker in continually failing to deliver any affordable housing at its development sites in Manchester.

4.2 It is striking that the planning officer sought to reassure members of the Council's planning committee that planning permission should be granted, on the basis that "the applicant has delivered schemes in this area, and elsewhere, in similar challenging financial circumstances".

4.3 If the planning officer considered that Renaker's track-record was relevant to the decision members were about to take, then the full picture should have been provided to prevent members being misled.

4.4 GJSEL is aware that Renaker (or corporate vehicles controlled by the ultimate owner of Renaker), in carrying out various schemes in Manchester, have in fact benefitted from hundreds of millions of pounds of public money, in the form of loans from Greater Manchester Combined Authority (**GMCA**).

4.5 A notable pattern has emerged of: (i) Renaker (or Renaker-related entities) submitting schemes to the relevant local planning authority contending that the scheme has a very low profit margin and therefore should not be required to deliver affordable housing; and (ii) Renaker (or related entities) then seeking loans from GMCA (as lender), presumably on the basis that the same scheme has sufficient margin to be provided with loans.

4.6 We also understand that GJSEL has identified that Renaker's contracting arm undertake these developments, and that profits routed through the contracting business may not be factored into the viability assessment. This is a point the Council must interrogate to ensure the robustness of the viability appraisal.

4.7 GJSEL are also represented by Vardags Limited, who wrote to the Chief Executive of the Council on 28 October 2024, to set out its concerns over the loans made to Renaker Build Limited (and associated companies owned or controlled by Daren Whitaker) by GMCA. We attach this letter and draw the Council's attention to the concerns raised therein. Noting the quote from the former CEO of the GMCA on page 2 that "We [i.e. GMCA] have not turned down a single viable scheme". The content of this letter should be drawn to the attention of the planning committee as it is clearly material to their consideration of the Application.

4.8 The issue of the loans that have been made to Renaker by GMCA was recently considered by the Competition Appeal Tribunal. While the tribunal were not asked to make a ruling on the viability of the Application, they did comment on the differing approach of the FVAs submitted during the planning application process and then the information that was provided for the purposes of obtaining loans from GMCA. The judgment noted that:

"The FVAs were submitted to Manchester City Council to obtain a waiver of any requirement that 20% of the developments should be allocated for affordable housing on the basis that such a requirement would make the projects unviable. The waivers were given by Manchester City Council, as it was lawfully entitled to do so, which had the effect of improving profitability. FVAs were general and prepared for a different purpose. More specific and up to date information was relied upon for the purposes of the 2024 Renaker Loans. There were solid grounds to conclude that the developments were both viable and profitable, and this would have been reinforced by the Red Book reports."

4.9 This highlights that "more specific and up to date information" has demonstrated that, for the purposes of obtaining the loans, the relevant schemes were "both viable and profitable". This highlights the importance of reassessing the position of the Application now, to ensure that the maximum level of affordable housing is secured as part of the Application.

Trinity and Contour

4.10 We highlight the developments at "Trinity" (approximately 0.5 miles from Great Jackson Street) and "Contour" (plot F Great Jackson Street) as excellent comparables to the Application. Both schemes have been designed by the same architect, promoted by the same organisation (Renaker), and will be delivered by the same contractor.

4.11 FVAs were submitted for both Trinity and Contour to argue that no affordable housing should be delivered.

4.12 The November 2021 Financial Viability Assessment ("FVAs") for Trinity produced by Renaker maintained, based on their own input figures, that if you inputted the purchase price of the land in the appraisal that the profit on GDV generated (i.e. the residual) would be 12.04% (or £89,300,343 as a capital sum).

4.13 Renaker stated in its conclusion – "It is recognised as an industry standard that a development of such scale and risk profile should produce a development margin of 18.00-20.00%". By way of sensitivity analysis, Renaker included the level of profit that would be required to reach the "industry standard" of 18-20%, which, as capital sums, were £133,512,529 and £148,347,254 respectively. As this is a profit on value metric it is clear and obvious. The difference in monetary terms between 12.04% and 18% is £44,212,185 based on a GDV of £741,736,271. Therefore, there would need to be an improvement of £44,212,185 in the appraisal output to achieve Renaker's minimum profit requirement to make the scheme viable.

4.14 The October 2021 FVA for Contour, produced by Renaker, maintained that, based on their own input figures, if you inputted the purchase price of the land in the appraisal the profit on GDV generated (i.e. the residual) would be 10.98% (or £40,694,511 as a capital sum).

4.15 They state in their conclusion – "It is recognised as an industry standard that a development of such scale and risk profile should produce a development margin of 18.00-20.00%". By way of sensitivity analysis, they include the level of profit that would be required to reach the "industry standard" 18-20%, which, as capital sums, are £66,688,146 and £74,097,940 respectively. The difference in monetary terms between 10.98% and 18% is £25,993,635, based on a GDV of £370,489,701. Therefore, there would need to be an improvement of £25,993,635 in the appraisal output to achieve Renaker's minimum profit requirement to make the scheme viable **Response: Savills are required to follow RICS Guidance and PPG to review viability for the purpose of planning. Their assessment of GDV is based on sales evidence from a range of open market sale residential schemes (not just developer specific). The construction costs within the Roger Hannah report are produced by cost consultants Edward Shipway. Savills appointed G&T as an independent cost consultant to review the costs produced by Edward Shipway, based on their knowledge of the local construction market. Savills adopt other standardised development cost inputs, based on their knowledge of the local market, and in line with RICS Guidance and PPG. Savills and the Council are not party to any information submitted to the GMCA for the purpose of a loan application and is not considered relevant to the consideration of this particular scheme/ planning application. It is also worth noting that at the late-stage review, actual sales values and costs will be evidenced and reviewed.**

The Application and Plots C/E

4.16 In summer 2023 Renaker submitted the Application and also a planning application for part of Plot C and Plot E, Great Jackson St (**Plots C/E**), relying on a self-authored viability argument to justify not having to provide any affordable housing as part of the scheme. These viability submissions were made at the same time that Renaker began to or was in the process of making an application to the GMCA for approximately £140m of loans in respect of Trinity and Contour.

4.17 If Renaker are being consistent with their appraisal inputs for tower developments, their appraisals for the loan applications and the various FVAs will have included the same or, at the very least, similar input figures. The input figures contained in the FVAs for Plots C/E and the Application resulted in a conclusion by Renaker that both schemes were demonstrably unviable, irrespective of contributions.

4.18 Prior to early 2024 (summer 2023), Renaker submitted, as part of their planning applications for Plots C/E and the Application, their own FVAs rather than appointing a third party to produce an

FVA. However, in early 2024, Renaker deviated from this practice and appointed Roger Hannah to produce an updated FVA for both schemes.

4.19 As noted, Roger Hannah concluded that both projects were now even more unviable than they had been the previous year when Renaker had carried out their own assessment. This conclusion coincided with the submission of Trinity and Contour to GMCA for loan approval.

4.20 It also important to comment that in January 2024, the Council uploaded to their planning portal confirmation that the Renaker development at Crown Street Phase 1 (ref: 119806/FO/2018), a residential tower development, had undertaken the reappraisal payment calculation. Renaker confirmed, a position accepted by the Council, that the development at Crown Street Phase 1 had not achieved any surplus and thus no affordable housing contributions would be forthcoming.

4.21 We note that Roger Hannah will be obligated by their professional body (Royal Institute of Chartered Surveyors ("RICS")) to follow a specific set of requirements when producing an FVA. These requirements are set out in the Assessing Viability in Planning under the National Planning Policy Framework ("NPPF") (1st edition March 2021).

4.22 Roger Hannah, in the FVA for the Application, as noted above, found that it would only achieve a profit margin of 7.21%. This output assumes no affordable housing. For Plots C/E, Roger Hannah identified a profit margin of 8.63% in the FVA. This again assumed no affordable housing.

Market Conditions

4.23 Roger Hannah provide an explanation for why, in their professional opinion, profit margins of circa 18%-20% on value would be required to make the schemes viable:

"Market conditions have changed markedly over the last 18 months - 2 years, including increasing interest rates, increasing costs of living, reduced affordability, and high levels of inflation. This has affected values and rates of sale, general consumer confidence, and increased general development risk. The scale of the proposed scheme is inherently risky because the level of capital outlay required to develop the scheme is significant, and the scale of the building means the build is complex. There is a lengthy build period to complete the scheme before any value is received by the developer, and the developer is exposed to potential changes to the market over the build period.

We are therefore of the view in the case of a scheme of the scale and complexity proposed, and based on current market conditions, that the minimum target margin should be 20% on GDV. That said, we accept that this is at the higher end of the range set out in paragraph 018 of the PPG and we have adopted a minimum target margin of 18% on GDV in this instance."

4.24 They go on to say the following:

"We understand that Renaker are willing to take a commercial view and are committed to the delivery of the scheme. This is based on their experience of delivering schemes of this complexity and quality within the city centre. This is of course inherently risky, which is reflected in the viability appraisal results. As a developer it is their prerogative to take a commercial view on this, and their track record of delivery would suggest that this scheme can be completed.

4.25 Roger Hannah state that Renaker are prepared to proceed in the full knowledge that the scheme is inherently risky and unviable. It is the developer's prerogative to take a commercial view.

4.26 Taken at face value the Roger Hannah market commentary states that market conditions have deteriorated over the past 18 months to 2 years. If so, this would necessarily impact both Trinity and Contour. It would be reasonable to assume that any development appraisal produced to assess the Spring 2024 position for Trinity and Contour would show a significantly worsening outcome.

4.27 From the Renaker FVA's dated November 2021 both Trinity and Contour were considered by Renaker to be unviable. All the evidence publicly presented by Renaker and their appointed chartered surveyors (Roger Hannah) post November 2021 is that market conditions have deteriorated. It thus stands to reason, that by spring 2024 when Renaker's loan application was presented to the GMCA Board for approval that the scheme being presented must have remained unviable.

Conclusion

4.28 We assume GMCA would and could not fund unviable schemes. The position for Trinity and Contour therefore appears to be:

4.28.1 Trinity and Contour were regarded as unviable when the planning applications were submitted and determined.

4.28.2 Market conditions have deteriorated further since Roger Hannah produced the FVAs for both schemes in November 2021.

4.28.3 Notwithstanding all this, loan applications were however successfully made in 2024, for a combined sum of up to c.£140m.

4.28.4 The loan applications clearly could not have been approved for an unviable scheme. Therefore, it must be assumed that the viability of the schemes must have been found to have significantly improved between 2021 and 2024, in spite of the worsening marketing conditions.

4.29 The successful application for GMCA funding on two development sites in such close proximity to the Site at the very least calls into question the reliability of the viability evidence prepared by Roger Hannah, and reviewed by Savills on which the Council is now acting in determining these applications. In short, if Contour and Trinity are being viably delivered and securing public loans, it is impossible to understand how Application and Plot D to be in such a different position. At the very least, this is obviously a matter that requires investigation by the Council in testing the viability position including, for example, requiring production of the viability assessments and any different approach they adopt for schemes like Contour and Trinity.

4.30 It is also clearly important that these issues are immediately drawn to the attention of members, given their stated concerns about the absence of any delivery of affordable housing from these schemes and the obvious questions that remain unanswered as to how schemes are being delivered in practice by Renaker using public loans which must be predicated on the schemes being viable. We think it is also important for members to understand that the inclusion of a review mechanism in the S106 for Application and Plot D is no way a confirmation/guarantee of future affordable housing delivery/contributions, as evidenced by Crown Street Phase 1.

[Not sure we need a response to any of 4.16 – 4.30 as the points made seem to relate to separate schemes (Trinity and Contour) and GMCA Loan application/ agreement which the Council is not privy to.]