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Stratford Gasworks Section 106 Agreement

London Legacy Development Corporation St William Homes LLP

Agreement pursuant to section 106 of the Town and Country Planning Act 1990, section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011 for land at Stratford Gasworks, Rick Roberts Way, London

26 th November

2024

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THIS AGREEMENT is made on

each a Party, together the Parties.

26th Naventu 2024

BETWEEN:

- (1) LONDON LEGACY DEVELOPMENT CORPORATION of Level 9 5 Endeavour Square, Stratford, London, E20 1JN (LPA); and
- (2) ST WILLIAM HOMES LLP (company number OC396332) of Berkeley House, 19 Portsmouth Road, Cobham, Surrey, KT11 1JG (Owner);

RECITALS:

- (A) The LPA exercises the functions of the local planning authority for the Development Site pursuant to the London Legacy Development (Planning Functions) Order 2012 and is the local planning authority by whom the obligations contained in this Agreement are enforceable.
- (B) The Owner acquired the freehold interest in the Development Site registered at HM Land Registry under title number EGL428093 on 15 November 2024.
- (C) Part of the Development Site is subject to a leasehold interest held by London Power Networks PLC held under Land Registry title number EGL392327 for an electricity substation.
- (D) London Power Networks PLC owns a freehold interest in parts of the sub-soil under part of the Development Site registered at Land Registry with title absolute under title number EGL542652 but whose interests do not impact the Development Site.
- (E) LLDC owns the freehold interest in parts of the Site registered at Land Registry with title absolute under title number EGL533916 namely part of the highway adjacent to the Development Site.
- (F) The Council owns the freehold interest in parts of the Site registered at Land Registry with title absolute under title number EGL546951 namely part of the highway adjacent to the Development Site.
- (G) Cadent Gas Limited owns the freehold interest in part of the Site not comprising the Development Site, known as the Pressure Reduction Station, registered at Land Registry with title absolute under title number TGL477153 however their interest does not impact the Development Site.
- (H) The Owner submitted the Planning Application to the LPA on 15 December 2023.
- (I) The LPA validated the Planning Application on 19 January 2024.
- (J) The Planning Decisions Committee of the LPA resolved to grant Planning Permission materially in the form appended to this Agreement at Appendix A, subject to entering into a deed securing necessary planning obligations, on 22 October 2024.

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- (K) The Parties agree that the obligations contained in this Agreement meet the three tests for planning obligations as set out in regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
- (L) Accordingly, the Parties have agreed to enter into this Agreement in order to secure the planning obligations contained in it pursuant to the provisions of section 106 of the 1990 Act and all other powers enabling.

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

1. **Definitions**

1.1 In this Agreement (which shall include the recitals, schedules and appendices) the following words and expressions shall have the following meanings:

1990 Act means the Town and Country Planning Act 1990 (as

amended)

Agreement means this deed made pursuant to section 106 of

the 1990 Act and other enabling powers

Anticipated Commencement

Date

means the date on which the Owner reasonably

considers in all the circumstances that the

Development will be Commenced

Anticipated Substantial Implementation Date

means the date on which the Owner reasonably considers in all the circumstances that the Development will be Substantially Implemented.

Building means each building of the Development shown

edged blue on Plan 3

Commencement means the carrying out of a material operation as

defined in section 56(4) of the 1990 Act other than (for the purposes of this Agreement only) operations

consisting of site clearance and preparation, demolition, archaeological investigations.

investigations for the purpose of assessing ground

conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and

Commence and Commenced shall be construed

accordingly

Completed means completed in all material respects such that a

certificate of practical completion in relation to building works is issued under industry standard construction contracts for the Development and Complete, Completing and Completion shall be

construed accordingly

Confirmatory Unilateral

Undertaking

means a confirmatory unilateral undertaking

substantially in the form appended to this Agreement

in Appendix B

Consent

means any approval, agreement, licence, authorisation, confirmation, certification, expression of satisfaction, consent, permission, or any other kind of authorisation and **Consents** shall be construed accordingly.

Council

means the London Borough of Newham

Decision

has the meaning given to it in clause 9.3

Development

means demolition, site clearance, remediation of the site and groundworks to facilitate redevelopment and change of use of former Stratford Gasworks for residential development, comprising 245 dwellings (Class C3 Use) and associated infrastructure; access; car and cycle parking; engineering works; new public realm/open space; partial demolition of boundary wall on Abbey Lane (a Non-Designated Heritage Asset); and works to the existing Pressure Reduction Station and gasholder voids, with the Pressure Reduction Station to be retained for use at the Site

Development Site

means the land on which the residential part of the Development will be constructed shown on the land edged and shaded green on Plan 2

Dispute

means any dispute, issue, difference or claim as between the relevant Parties in respect of any matter contained in or arising from or relating to this Agreement or the relevant Parties' obligations and rights pursuant to it (other than in respect of any matter of law)

Expert

means an independent expert appointed in accordance with the provisions of clause 10 to determine a Dispute

GLA

means the Greater London Authority

Index

means the All in Tender Price Index or if the same shall cease to be published, such alternative index agreed by the LPA and the Owner.

Interest

means interest at 4% above the base lending rate of Barclays Bank Plc from time to time.

LLDC

means the London Legacy Development Corporation in its capacity other than as the local planning authority

Notice

has the meaning given to it in clause 9.1

Occupy

means beneficial occupation for any purpose for which the Planning Permission has been granted in respect of the relevant unit, Building, structure or part of the Site but not including occupation for the

purposes of construction, security, fit out or marketing and **Occupied**, **Occupier** and **Occupation** shall be construed accordingly

Other Land

those parts of the Site that are not part of the

Development Site

Other Statutory Authority

has the meaning given to it in clause 5.5

Plan

means the plan(s) as applicable contained in Schedule 1 of this Agreement

Planning Application

means the application for planning consent submitted by the Owner to the LPA on 15 December 2023 and validated by the LPA on 19 January 2024 and assigned the application reference number 23/00457/FUL

Planning Permission

means planning permission granted pursuant to the Planning Application substantially in the form appended to this Agreement at Appendix A

Reasonable Endeavours

means that it is agreed by the Parties that the relevant Party under such an obligation will not thereby be required to take proceedings (including any appeal) in any court public inquiry or other hearing (unless specified to the contrary) but subject thereto and to other terms of this Agreement the relevant Party 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 reasonably be expected of a competent commercial developer in the context of the Development (or part of the Development).

Requisite Consents

means such grant of planning permission under the 1990 Act, Traffic Regulation Orders, Traffic Management Orders and/or other Consents under the Highways Act 1980 and/or the obtaining of Consents (statutory or otherwise) including the grant or acquisition of necessary land interests or rights as in each case are necessary for the relevant purpose

Residential Unit

means a self-contained unit of residential accommodation constructed on the Development Site pursuant to the Planning Permission

Section 106 Monitoring Cost Contribution means a financial contribution of five thousand pounds (£5,000) paid by the Owner to the LPA to monitor compliance with this Agreement

Site

means the Development Site and the Other Land described as Stratford Gasworks, Rick Roberts Way, London, E15 2GN, edged dashed red on Plan 1 **Substantial Implementation**

means Completion of the casting of the concrete of the ground floor slab of the footprint of the first

Building to be Commenced

and Substantially Implemented shall be construed

accordingly

Substantial Implementation

Target Date

means the date 36 months from but excluding the

date of grant of the Planning Permission;

TfL

means Transport for London

Utility Undertaker

means any provider of gas, electricity, energy,

water, sewage, heating, cooling or

telecommunications services occupying premises within the Site for the purposes of supplying any one or more of those services to any member of the public or any occupier of premises within the Site.

Working Day

means a day other than a Saturday or Sunday or public holiday in England or the period between 24

December and 1 January inclusive

1.2 In this Agreement:

- (a) unless otherwise indicated reference to any:
 - clause, Schedule or Appendix is to a clause of, Schedule to or Appendix to this Agreement;
 - (ii) paragraph is to a paragraph of a Schedule to this Agreement;
 - (iii) reference within a Schedule to a paragraph is to a paragraph of that Schedule;
- (b) references to any statute or statutory provision include references to:
 - (i) all Acts of Parliament and all other legislation having legal effect in the United Kingdom as enacted at the date of this Agreement;
 - (ii) any orders, regulations, instruments or other subordinate legislation made or issued under that statute or statutory provision; and
 - in each case shall include any re-enactment thereof for the time being in force and any modifications or amendments thereof for the time being in force;
- (c) headings, the table of contents and titles to the plans are for reference purposes only and are not incorporated into this Agreement and shall not be deemed to be an indication of the meaning of the parts of the Agreement to which they relate;
- (d) any notice, notification, Consent, request, statement or details to be made, given or submitted under or in connection with this Agreement shall be made or confirmed in writing and neither Party shall unreasonably withhold or delay the giving or making of the same;
- references to the LPA comprise the London Legacy Development Corporation in its capacity as local planning authority and include its successors to its functions as local planning authority;

- unless otherwise indicated references to the singular include the plural and references to the plural include the singular and words importing any gender include every gender;
- (g) unless otherwise indicated words importing persons include firms, companies, other corporate bodies or legal entities and vice versa;
- (h) any obligation, covenant, undertaking or agreement by the Parties not to do any act or thing includes an obligation, covenant, undertaking or agreement not to permit or allow the doing of that act or thing; and
- 1.3 The Interpretation Act 1978 shall apply to this Agreement.
- 1.4 If any provision of this Agreement is held to be illegal invalid or unenforceable the legality validity and enforceability of the remainder of the Agreement is (if and to the extent that it may properly and lawfully be construed as such) to be unaffected.
- 1.5 Where in this Agreement any matter is referred to dispute resolution under clause 9 the findings of the Expert shall (save in relation to manifest error) be final and binding on the Parties and such findings shall be deemed to constitute the required approval or other Consent for the purposes of this Agreement.
- 1.6 Where in this Agreement the fulfilment of an obligation, covenant or undertaking on the part of the Owner is subject to the obtaining or securing a Consent the Owner shall endeavour in good faith (but without being required to pay any financial consideration other than professional costs relating to the drafting, negotiating and completion of such Consent) to secure or obtain the Consents.

2. Effect of this Agreement

- 2.1 This Agreement is made pursuant to section 106 of the 1990 Act and (insofar as this Agreement does not contain planning obligations), sections 1, 201(1) and (2), 205 and 206 of the Localism Act 2011 and all other powers so enabling.
- 2.2 So far as the obligations, covenants and undertakings in this Agreement are given by or to the LPA then the same are entered into pursuant to the relevant powers referred to in clause 2.1 and such obligations, covenants and undertakings shall be enforceable by or against the LPA.
- 2.3 The Owner covenants that its interests in the Development Site shall be bound in accordance with the terms of this Agreement.
- 2.4 Subject to clause 2.7, the Parties agree that the terms of this Agreement shall be enforceable by the LPA against the Owner and the covenants given by the LPA to the Owner shall be enforceable by Owner.
- 2.5 The obligations contained within this Agreement shall not be binding upon nor enforceable against:
 - (a) a Utility Undertaker insofar as and to the extent that the relevant Utility
 Undertaker is occupying the relevant part of the Development Site in its capacity
 as a Utility Undertaker; or
 - (b) individual occupiers of the Residential Units or their mortgagees.
- 2.6 Save to the extent that the same would be lawful nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the LPA of any of its statutory powers functions or discretions.

- 2.7 No person shall be liable for any breach of any of the obligations, covenants and undertakings or other provisions of this Agreement after parting with its interest in the Development Site or its interest in respect of that part of the Development Site on which the breach occurs but without prejudice to liability for any subsisting breach arising before parting with that interest.
- 2.8 Subject to clause 2.5(b), no obligation in this Agreement shall be binding on or enforceable against any chargee or mortgagee from time to time who shall have the benefit of a charge or mortgage of or on any part or parts of the Development Site or any receiver appointed by such chargee or mortgagee or any person deriving title through such chargee, mortgagee, receiver unless and until such chargee, mortgagee, receiver or person has entered into possession of the Development Site or part thereof to which such obligation relates.
- 2.9 The LPA shall request registration of this Agreement as a local land charge by the Council or its respective statutory successor in function.
- 2.10 This Agreement and the obligations, covenants and undertakings which it contains shall lapse and be extinguished automatically if (and from the date that) the Planning Permission lapses without the Development being Commenced or is otherwise quashed, revoked, withdrawn or (without the consent of the Owner) modified.
- 2.11 Subject to clause 2.12, other than the Planning Permission nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission granted (whether or not on appeal) after the date of this Agreement.
- 2.12 If the LPA agrees pursuant to an application under section 73 of the 1990 Act to any variation or release of any condition contained in the Planning Permission or if any such condition is varied or released following an appeal under section 78 of the 1990 Act the covenants or provisions of this Agreement shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission save where the LPA in their determination of such an application for the new planning permission indicate that consequential amendments are required to this Agreement to reflect the impact of the section 73 application and in such circumstances a separate deed pursuant to section 106 of the 1990 Act will be required to secure relevant planning obligations relating to the new planning permission.

3. Conditionality

The provisions of this Agreement shall (apart from this clause 3, and clause 4(b), 4(d), and 4(e), clauses 6-13 (inclusive), 16, 17, and 18, which shall have effect from the date of this Agreement) not take effect until the Development has been Commenced.

4. Covenants with the LPA

The Owner on behalf of itself and its successors in title to the Development Site covenants with the LPA that it shall:

- (a) perform and comply with, and shall procure performance of and compliance with, each and every one of the obligations, covenants and undertakings on the part of the Owner contained in this Agreement;
- (b) notify the LPA of the Anticipated Commencement Date prior to the actual Commencement of Development and such notice shall only be given where there is a genuine prospect of the Development being Commenced within 21 days of the notice and the notice shall confirm that this is the case;

- (c) notify the LPA of the Anticipated Substantial Implementation Date prior to the actual date when Substantial Implementation occurs and such notice shall only be given where there is a genuine prospect of the Development being Substantially Implemented within 21 days of the notice and the notice shall confirm this is the case;
- (d) pay to the LPA the Section 106 Monitoring Cost Contribution prior to Commencement of Development;
- (e) not Commence or allow the Commencement of the Development prior to payment of the Section 106 Monitoring Cost Contribution;
- (f) enter into the Confirmatory Unilateral Undertaking as soon as reasonably practicable following registration by the Land Registry of the Owner's freehold interest in the Development Site and prior to any Development taking place beyond Substantial Implementation;
- (g) not to carry out any Development beyond Substantial Implementation unless and until the Confirmatory Unilateral Undertaking has been entered into by the Owner and provided to the LPA and the LPA has confirmed in writing that this is satisfactory.

5. The LPA's covenants with the Owner

- 5.1 The LPA covenants with the Owner that it shall procure performance of and compliance with each and every one of the obligations, covenants and undertakings on the part of the LPA contained in this Agreement.
- 5.2 Subject to clause 5.5, the LPA covenants with the Owner that it shall use all sums received from the Owner under the terms of this Agreement for the purposes specified in this Agreement for which they are paid.
- 5.3 The LPA shall provide to the Owner such evidence, as the Owner shall reasonably require in order to confirm the expenditure of the sums paid by the Owner under this Agreement.
- 5.4 The LPA covenants with the Owner that it will pay to the Owner (or the person who made the payment if not the Owner) such amount of any payment made by the Owner to the LPA under this Agreement which has not been expended or committed in accordance with the provisions of this Agreement within 5 years of the date of receipt by the LPA of such payment together with interest.
- 5.5 Where any payment is made by the Owner to the LPA pursuant to the terms of this Agreement the LPA may, where it is not the authority with the statutory duty or functions to expend such monies and/or in the interests of administrative efficiency, pay such monies to the competent authority which has the statutory duty to discharge the functions for which the monies were paid (Other Statutory Authority) and upon payment of monies to such Other Statutory Authority the LPA's requirement to comply with clauses 5.2 to 5.4 shall cease to apply in respect of those monies.
- 5.6 Prior to payment of monies to an Other Statutory Authority pursuant to clause 5.5 the LPA shall secure assurances from the Other Statutory Authority that the monies shall be applied by that Other Statutory Authority for the purposes for which they have been paid.

6. Notices

- Any notice or other written communication to be served upon a Party or given by one Party to any other under the terms of this Agreement shall be deemed to have been validly served or given if delivered by hand or sent by first class post or sent by recorded delivery post to the Party upon whom it is to be served or to whom it is to be given and shall conclusively be deemed to have been received on:
 - (a) if delivered by hand, the next Working Day after the day of delivery; and
 - (b) if sent by first class post or recorded delivery post, the day two Working Days after the date of posting.
- 6.2 The address for any notice or other written communication shall be within the United Kingdom only and shall be as specified below or such other address as shall be specified by the Party upon whom the notice is to be served to the other Parties by not less than five Working Days' notice:

LPA

Director of Planning Policy and Decisions, London Legacy Development Corporation, Planning Policy and Decisions Team, Level 9, 5 Endeavour Square, London E20 1JN

For the attention of: Anthony Hollingsworth

Council

Director of Planning and Development, London Borough of Newham, Newham Dockside, 1000 Dockside Road, London, E16 2QU

For the attention of: Jane Custance

Owner

St William Homes LLP, Berkeley House, 15b St George Wharf, London, SW8 2LE

For the attention of: the Managing Director

Any notice or other written communication to be given by the LPA shall be deemed valid and effectual if on its face it is signed on behalf of the LPA by an officer or duly authorised signatory.

Satisfaction of the provisions of this Agreement

- 7.1 Where in the opinion of the Owner any obligation, covenant, undertaking or other provision on the part of the Owner contained in this Agreement has been satisfied wholly or in part, the Owner shall be entitled to apply to the LPA for a notification to that effect, and where the relevant obligation, covenant, undertaking or other provision has been satisfied (wholly or in part) the LPA shall as soon as reasonably practicable issue a notification to such effect.
- 7.2 Where in the opinion of the LPA, any obligation, covenant, undertaking or other provision on the part of the LPA contained in this Agreement has been satisfied wholly or in part, the LPA shall be entitled to apply to the Owner for a notification to that effect, and where the relevant obligation, covenant, undertaking or other provision has been satisfied (wholly or in part) the Owner shall as soon as reasonably practicable issue a notification to such effect.

8. Verification and enforcement

The Owner shall permit the LPA and its authorised employees agents surveyors and other representatives to enter upon the Development Site and any Buildings erected thereon pursuant to the Development at reasonable times and upon reasonable prior notice of at least 10 Working Days (except in the case of emergency) for the purpose of verifying whether or not the obligations contained in this Agreement are being performed and complied with PROVIDED THAT the LPA shall make good any damage caused by the LPA and its authorised employees, agents, surveyors and other representatives during the carrying out of such verification.

9. Dispute resolution

- 9.1 One Party may by serving notice on the other relevant Party or Parties to the Dispute (the Notice) refer a Dispute to an Expert for determination and references to the Parties in this clause means the relevant parties to the Dispute.
- 9.2 The Notice must specify:
 - (a) the nature, basis and brief description of the Dispute;
 - (b) the clause or paragraph of a schedule or appendix pursuant to which the Dispute has arisen; and
 - (c) the proposed Expert.
- 9.3 The Expert shall act as an expert and not as an arbitrator and their decision (the **Decision**) will (in the absence of manifest error) be final and binding on the Parties hereto and at whose cost shall be at their discretion or in the event that they make no determination, such costs will be borne by the Parties to the Dispute in equal shares.
- 9.4 The Expert will be appointed subject to an express requirement that they reach their decision and communicate it to the Parties within the minimum practicable timescale allowing for the nature and complexity of the Dispute and in any event not more than 20 Working Days from the date of their appointment to act.
- 9.5 The Expert will be required to give notice to each of the said Parties inviting each of them to submit to the Expert within 10 Working Days written submissions and supporting material and will afford to each of the said Parties an opportunity to make counter submissions within a further five Working Days in respect of any such submission and material.
- 9.6 Where the Parties to the Dispute are unable to agree whom should be appointed as the Expert within 10 Working Days after the date of the Notice then either Party may request that the following nominate the Expert at their joint expense:
 - if such dispute shall relate to matters concerning the construction, interpretation and/or the application of this Agreement, the Chairman of the Bar Council to nominate the Expert;
 - (b) if such dispute shall relate to matters requiring a specialist chartered surveyor, the President of the Royal Institute of Chartered Surveyors to nominate the Expert;
 - (c) if such dispute shall relate to matters requiring a specialist chartered civil engineer or specialist transport adviser, the President of the Institution of Civil Engineers to nominate the Expert;

- (d) if such dispute shall relate to matters requiring a specialist chartered accountant, the President of the Institute of Chartered Accountants in England and Wales to nominate the Expert; and
- (e) in all other cases, the President of the Law Society to nominate the Expert.

10. No waiver

No waiver (whether express or implied) by a Party of any breach or default by another Party in performing or complying with any of the obligations, covenants or undertakings contained in this Agreement shall constitute a continuing waiver and no such waiver shall prevent that Party from enforcing any of the said obligations, covenants or undertakings or from acting upon any subsequent breach or default in respect thereof.

11. Duty to act reasonably and in good faith

The Parties agree with one another to act reasonably and in good faith in the fulfilment of this Agreement.

12. Exclusion of Contracts (Rights Of Third Parties) Act 1999

The Parties to this Agreement do not intend that any term of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

13. The LPA's costsThe Owner agrees that it will on completion of the Agreement pay the LPA's reasonable and proper external legal costs incurred in the negotiation and completion of this Agreement.

14. Financial contributions and indexation

- 14.1 Where, pursuant to this Agreement, a payment or financial contribution is to be made, such payment or financial contribution shall be paid in accordance with the triggers and provisions for payment set out in and in accordance with all relevant provisions of this Agreement.
- 14.2 All payments or financial contributions to be paid pursuant to this Agreement will be increased by reference to the amount of the quarterly increase in the Index from the date of this Agreement until the date such sums are paid (unless otherwise stated in this Agreement).
- 14.3 Where any sum or value is referred to in this Agreement (but is not the subject of payment) such sum or value shall be increased by the increase of the Index from the date the payment or financial contribution was agreed until the date the sum or value falls to be considered or applied.

15. Interest

If any payment due to be paid by a Party under this Agreement is paid late Interest will be payable from the date payment is due to the date of payment.

16. Approvals and consents

Where the agreement, approval, consent or expression of satisfaction is required from the LPA under the terms of this Agreement such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given in writing.

17. Jurisdiction and legal effect

This Agreement shall be governed by and interpreted in accordance with the law of England and the Parties submit to the Courts of England and Wales.

18. Execution

- 18.1 The Parties have executed this Agreement as a deed and it is delivered on the date set out at the front of this Agreement.
- 18.2 This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one deed.

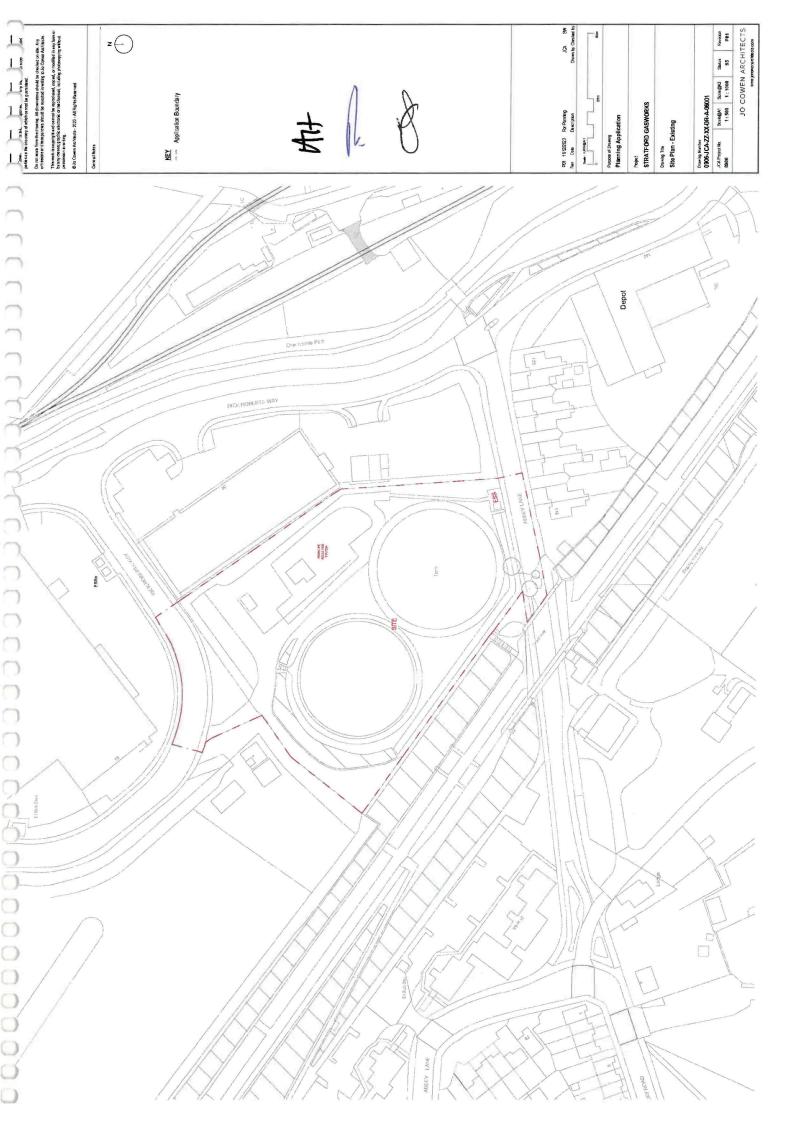
EXECUTED AS A DEED by the Parties on the date which first appears in this Agreement.

Schedule 1

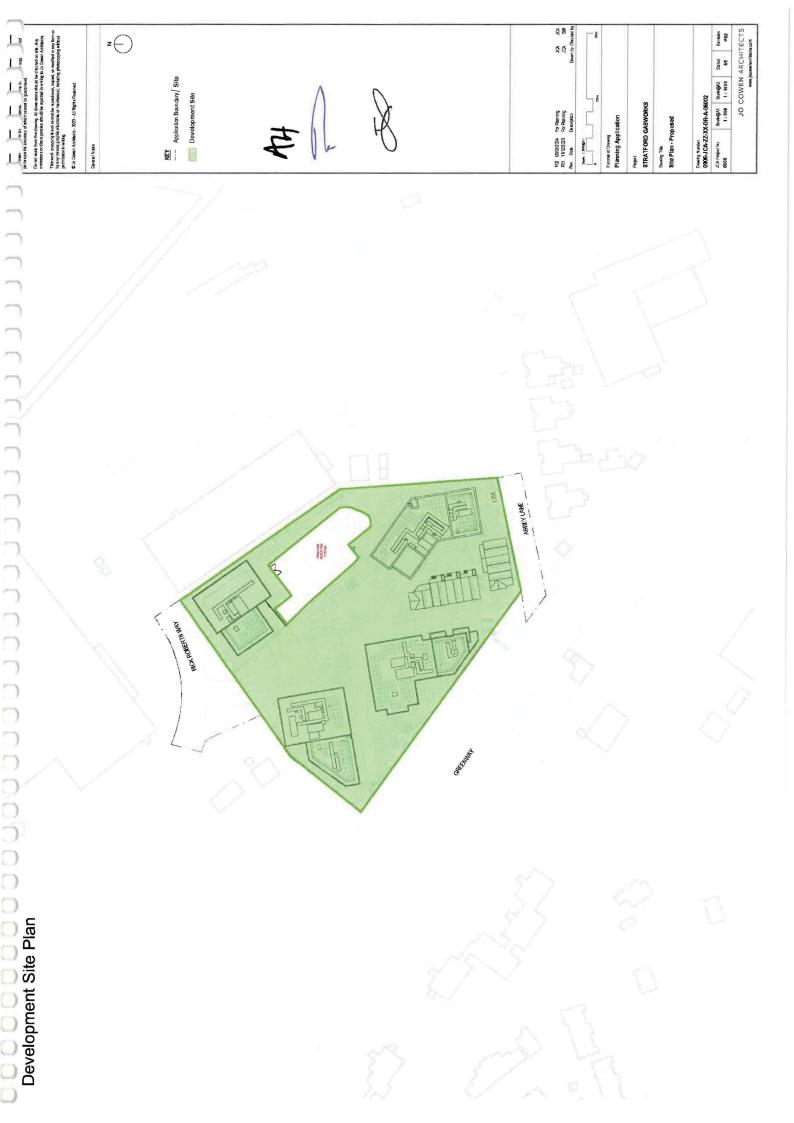
Plans

- 1. Site Plan
- 2. Development Site Plan
- 3. Building Plan
- 4. Greenway Plan
- 5. Greenway Ramp Land Plan
- 6. Greenway Steps Land Plan
- 7. Abbey Lane Access Works Plan
- 8. Blue Badge Car Parking Spaces Plan
- 9. Public Realm Works Plan
- 10. Rick Roberts Way Improvement Works Plan
- 11. Resident Facilities Plan
- 12. Wheelchair User Dwellings Plan
- 13. Affordable Housing Plan

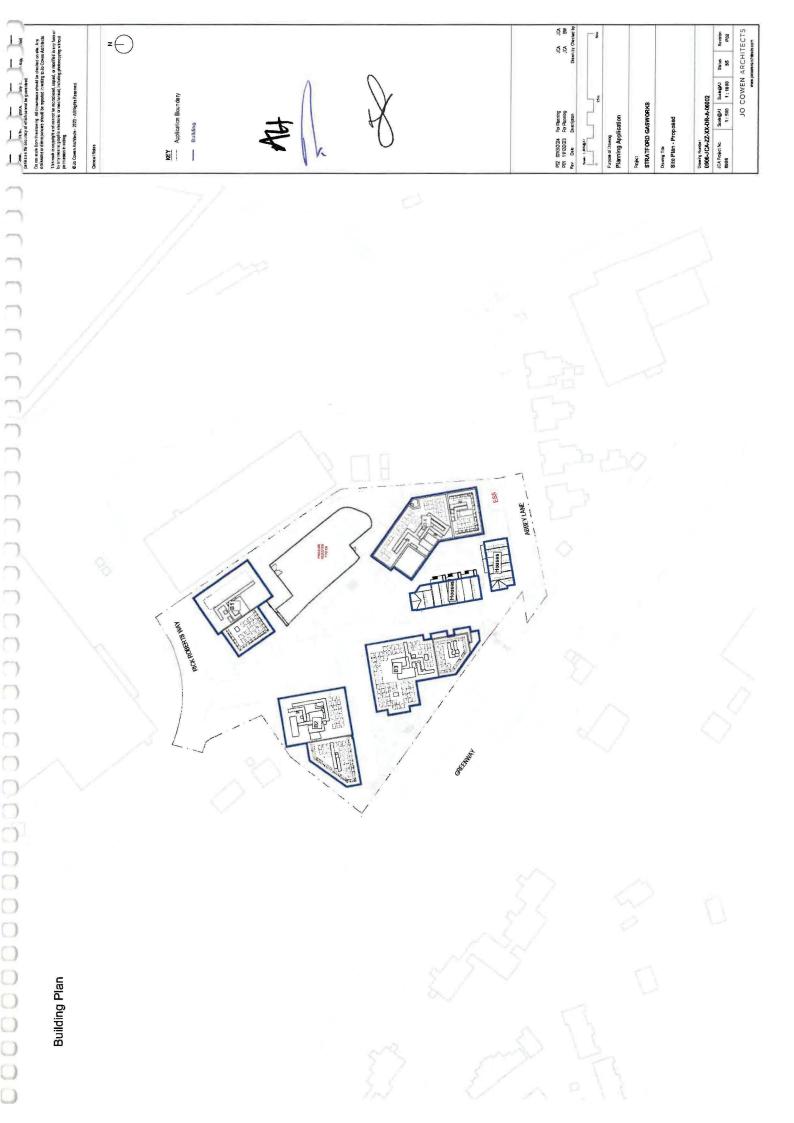
Plan 1 - Site Plan



Plan 2 - Development Site Plan



Plan 3 - Building Plan



Plan 4 - Greenway Plan