

Planning Obligation by Deed of Agreement under Section 106 of the Town and Country

Planning Act 1990

relating to Erection of 2 No. units (Use Class E (G) (II) (III) Or B2 Or B8 Use) with Ancillary Development

at

Vacant Land at Alchemy Way, Knowsley Industrial Park, Kirkby, Knowsley

Planning Application 23/00456/FUL

Dated

22 April

2024

- (1) KNOWSLEY METROPOLITAN BOROUGH COUNCIL
- (2) NETWORK SPACE LAND LIMITED

TABLE OF CONTENTS

INTRODUCTION

CLAUSES

1. DEFINITIONS
2. INTERPRETATION
3. LEGAL BASIS
4. CONDITIONALITY
5. THE OWNER'S COVENANTS
6. THE COUNCIL'S COVENANTS
7. MISCELLANEOUS
8. WAIVER
9. CHANGE IN OWNERSHIP
10. VAT
11. DISPUTE PROVISIONS
12. JURISDICTION
13. DELIVERY

THE SCHEDULES

FIRST SCHEDULE Owner's Covenants with the Council

SECOND SCHEDULE Council's Covenants

SOCIAL VALUE STRATEGY

EXECUTION OF DEED

DATE

22 April

2024

PARTIES

- (1) **Knowsley Metropolitan Borough Council** of Municipal Buildings Archway Road Huyton Knowsley Merseyside L36 9YU ("**Council**")
- (2) **Network Space Land Limited** (co. reg. no. 01604509) whose registered office is at Centrix House, 26 Crow Lane East, Newton -Le- Willows, WA12 9UY ("**Owner**")

INTRODUCTION

1. The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.
2. The Owner is the owner of the remainder of a leasehold interest in the site of 999 years commencing on 1 January , 1992, and developer of the Site.
3. The Owner has submitted the Application to the Council and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
4. The Council has determined under delegated powers to grant planning permission subject to the prior completion of this Deed.
5. The parties to this Agreement agree that the planning obligations contained in this Deed are necessary to comply with the requirements of regulation 122 of the Community Infrastructure Regulations 2010 (as amended) in so far as they are acceptable in planning terms, directly related to the Development, and fairly and reasonably related in scale and kind to the Development.

NOW THIS DEED WITNESSES as follows:

OPERATIVE PART

1. DEFINITIONS

For the purposes of this Deed unless the context otherwise requires the following expressions shall have the following meanings:

- 1.1 "**Act**" means the Town and Country Planning Act 1990
- 1.2 "**Application**" means the application for full planning permission submitted to the Council for the Development and allocated reference number 23/00456/FUL
- 1.3 "**Commencement of Development**" means the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, 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 Development**" shall be construed accordingly
- 1.4 "**Committed**" means any amount which the Council has allocated for expenditure relevant to the purpose for which the sum was paid and such amount has been authorised by the relevant committee, or Council member or Council officer or has contracted to expend where such contract provides for payment contingent on the provision of works and/or services and/or supplies

- 1.5 **“Development”** means Erection of 2 No. units (Use Class E (G) (II) (III) Or B2 Or B8 Use) with ancillary office space, car parking and vehicular, pedestrian circulation with access onto alchemy way
- 1.6 **“Expert”** means an independent person appointed in accordance with the provisions of clause 12 to determine a dispute
- 1.7 **“Plan”** means the plan attached to this Deed
- 1.8 **“Planning Permission”** means the planning permission for the Development subject to conditions to be granted by the Council pursuant to the Application
- 1.9 **“s.106 Monitoring Fee”** means the sum of £572.00 (Five Hundred and Seventy-Two pounds) to be paid to the Council and applied towards the additional resource costs arising from the monitoring of the Development and the obligations arising under this Deed
- 1.10 **“Site”** means the property (including land and any buildings) against which this Deed may be enforced as shown edged red on the Plan known as *insert address including postcode Vacant Land at Alchemy Way, Knowsley Industrial Park, Kirkby, Knowsley* held under Leasehold Title No. MS607855
- 1.11 **“Social Value Contribution”** means a commuted sum of £ 14,078.00 (Fourteen Thousand and Seventy-Eight pounds) to be used by the Council towards the social value projects in accordance with the SPD which are to be provided the Council’s approved partner(s)
- 1.12 **“Social Value Strategy”** means a strategy for providing training programmes and delivering social value during construction and end use phases of the Development as required and described in the SPD and which has been submitted by the Owner in support of the Application approved by the Council as part of the Application and annexed to this Deed
- 1.13 **“SPD”** means the Council’s adopted SPD “Adding Social Value to Development: Employment and Skills” September 2018

2. **INTERPRETATION**

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 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.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any person deriving through or under that party any title interest or estate in any part of the Site and in the case of the Council the successors to its relevant statutory functions.
- 2.7 The headings and contents list are for reference only and shall not affect construction.

3. **LEGAL BASIS**

- 3.1 This Deed is made pursuant to Section 106 of the Act and Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner pursuant to the terms and conditions of this Deed.

4. **CONDITIONALITY**

This Deed shall not take effect unless and until:

- 4.1 the Council has granted the Planning Permission

5. **THE OWNER'S COVENANTS**

The Owner covenants with the Council to observe the restrictions and perform the obligations as set out in the First Schedule to this Deed..

6. **THE COUNCIL'S COVENANTS**

- 6.1 The Council covenants with the Owner to observe the restrictions and perform the obligations as set out in the Second Schedule.

7. **MISCELLANEOUS**

- 7.1 The Owner shall pay to the Council on completion of this Deed

7.1.1 the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed in the sum of £650.00; and

7.1.2 the sum of £286 in respect of the Council's administrative costs for registering the obligations contained in this Deed

- 7.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

- 7.3 This Deed shall be registrable as a local land charge by the Council.

- 7.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed 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 on behalf of the Council by the Head of Planning Services, or in the event of any restructuring of posts by the Council such successor as the Council may from time to time determine, and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.

- 7.5 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith secure the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

- 7.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

- 7.7 If the Planning Permission is quashed or revoked or otherwise withdrawn or ceases to have effect by operation of law or expires before the Development has commenced then:
a) this Deed shall (except for paragraph b) below) cease to have effect; and
b) the Council shall forthwith cancel all entries made in the Register of Local Land Charges in respect of this Deed and return to the Owner any payments made under the terms of this Agreement.

- 7.8 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after such person 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.

- 7.9 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

- 7.10 Nothing contained or implied in this Deed grants planning permission or other consent or shall prejudice or affect the rights powers duties and obligations of the Council in the exercise of its functions as a local authority and its rights powers duties and obligations under any statute

byelaw or regulation may be as fully and effectually exercised as if the Council were not a party to this Deed.

- 7.11 The planning obligations in this Deed shall not be enforceable against:
- 7.11.1 any statutory undertaker holding an estate easement or interest in the Site or part of the Site insofar as the relevant statutory undertaker is occupying the relevant part of the Site for purposes as a statutory undertaker; nor
 - 7.11.2 anyone whose only interest in the Site or any part of it is the nature of the benefit of an easement or covenant, or as the owner of the subsoil of any highway within the Site.
- 7.12 Nothing contained or implied in this Deed shall prejudice affect the rights discretions powers duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 7.13 Any notices shall be deemed to have been properly served if sent by recorded delivery to the following addresses of the relevant party as detailed in this Deed below (or such other address notified in writing to the other party from time to time):
- 7.13.1 any notices to be served upon the Owner shall be marked for the attention of Simon Eaton, Centrix House, Crow Lane East, Newton-le-Willows, WA12 9UY and
 - 7.13.2 any notices to be served upon the Council shall be marked for the attention of the Council's Head of Planning
- 7.14 if the Council agrees pursuant to application under section 73 of the Act to any variation or release of any condition contained in the Planning Permission or if any condition is varied or released following an appeal under section 78 of the Act the covenants or provisions of this Deed shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission save where the Council in their determination of such an application for the new planning permission or an inspector acting on behalf of the Secretary of State in their determination of such appeal indicate that consequential amendments are required to this Deed to reflect the impact of the section 73 application and in such circumstances a separate deed pursuant to section 106 of the Act will be required to secure relevant planning obligations relating to the new planning permission.

8. **WAIVER**

No waiver (whether expressed or implied) by the Council or Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

9. **CHANGE IN OWNERSHIP**

The Owner agrees with the Council to give 14 days' written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed 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 the area of the Site or unit of occupation purchased by reference to a plan.

10. **VAT**

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

11. **DISPUTES**

- 11.1 In the event of any dispute arising between the parties, the parties will attempt to resolve that dispute amicably including holding a meeting attended by at least one representative from each party.
- 11.2 If the parties are unable to resolve the dispute amicably pursuant to clause 11.1, one party may by serving notice on all the other parties (the **Notice**) refer the dispute to an Expert for determination.

- 11.3 The Notice must specify:
- 11.3.1 the nature basis and brief description of the dispute;
 - 11.3.2 the clause of paragraph of this Deed pursuant to which the dispute has arisen;
and
 - 11.3.3 the name and address of the proposed Expert.
- 11.4 In the event that the parties are unable to agree whom should be appointed as an Expert within 14 days after the date of the Notice then either party may request to the President of the Law Society to nominate the Expert at their joint expense.
- 11.5 The Expert shall act as an expert and not as an arbitrator and his decision will (in the absence of manifest error, error of law and/or fraud) be final and binding on the parties hereto and at whose cost shall be at his discretion or in the event that he makes no determination, such costs will be borne by the parties to the dispute in equal shares.
- 11.6 The Expert will be appointed subject to an express requirement that he reaches his decision and communicates it to the parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not later than 28 days from the date of his appointment to act.
- 11.7 The Expert will be required to give notice to each of the said parties inviting each of them to submit to him within 14 days written submissions and supporting material and will afford to each of the said parties an opportunity to make counter submissions within a further 7 days in respect of any such submission and material.
12. **JURISDICTION**
- This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the exclusive jurisdiction of the courts of England and Wales.
13. **DELIVERY**
- The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

SCHEDULE 1

Covenants with the Council

The Owner covenants with the Council as follows:

1. Prior to commencement of Development the Owner shall pay to the Council:
 - 1.1 the Social Value Contribution;
 - 1.2 s.106 Monitoring Fee
2. The Owner shall not Commence Development until the Social Value Contribution and the s.106 Monitoring Fee have been paid.

SCHEDULE 2

Council's Covenants to the Owner

The Council hereby covenants with the Owner:

1. to use all sums received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid.
2. The Council covenants with the Owner that it will pay to the Owner such amount of any payment made by the Owner to the Council under this Deed which has not been expended in accordance with the provisions of this Deed (and money shall be deemed to be expended if such sum has been Committed to be spent by the Council) within 6 (six) years of the date of receipt by the Council of such payment (any refund to be paid together with interest at Barclay's Bank PLC base rate from time to time for the period from the date of such payment to the date of refund)
3. The Council 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 Deed

SOCIAL VALUE STRATEGY

Social Value Strategy

Non-Residential Development

Date: 11 August 2022

Fusion21 ref: 16351

Developer name: Network Space

Planning ref: TBC

Site name/address: Alchemy Way, Knowsley

Social Value Strategy

It is a planning condition that Network Space. submit a social value strategy (SVS) for the development at Alchemy Way, Knowsley. On approval of this plan by KMBC it will form a compliance document and will be implemented by Network Space through its contractor/works package contractors supported by a site- specific social value delivery plan which Fusion21 will develop with the contractor (once appointed) unless otherwise agreed with KMBC.

Fusion21 have been engaged by Knowsley Metropolitan Borough Council (KMBC) for the delivery of this overarching strategy and subsequent strategies for full planning applications for the duration of the development/build.

The Section 106 agreement indicates a target for social value weeks delivery which is the overall aim, it should be noted however elements this target may require flexibility by KMBC. KMBC shall approve the SVS in accordance with the terms of the Agreement.

This SVS has been prepared in consultation with Fusion21 and in accordance with the KMBC 'Adding Social Value to Development' supplementary planning document (SPD) adopted in September 2018.

In accordance with item 4.11 of the SPD The Council would especially like to see a Social Value Strategy commit to as many of the following measures as is practicably achievable:

- Provision of apprenticeships (or trainees where apprenticeships are not possible) for Knowsley residents aged under 25, which can be from the construction or end use phases, or a combination of the two;
- Provision of employment opportunities in the end use phase and which have appropriate support to make them suitable for long-term unemployed Knowsley residents (i.e. those who have been out of work for at least two years);
- Provision to notify the Council or any other agency nominated by the Council, of job vacancies arising from both the construction and end use occupation; and
- Provision for delivery of bespoke pre-employment and skills training for Knowsley residents that will provide them with the skills to access the jobs that are being created.

Activity Profile:

Typical examples of the activities that developers, contractors and their supply chain are expected to undertake in support of the above measures include the following:

- Targeted recruitment and training requirements, ensuring that apprenticeship and other work opportunities for Knowsley residents help to alleviate unemployment;
- Targeted vacancy filling, maximising the use of employment support partners;
- Work placements for Knowsley residents designed to support education and learning;
- Participation in education initiatives, supporting the transition between school and work;
- Supporting the local supply chain, helping to develop a wider business base
- Provision of opportunities for social enterprises, which have explicit social, economic or environmental aims

Although this document records the formal strategy, the above list is not exhaustive and Fusion21 will apply a flexible approach to compliance and achieving the targets with the works package contractors in accordance with the applicable SPD.

A wide range of other local employment and training measures may also be secured through this Social Value Strategy, and further examples are provided in Appendix 1 of the SPD.

Our Strategy:

Fusion21 will use its forecasting model to determine the total number of social value weeks that will be required based on the type of project, the construction cost and its duration. (Note: this has been done and is forecast to be 125 weeks)

In order to meet the requirements of the strategy it has been agreed that:

- In consultation with Fusion21 the Contractor will develop a social value delivery plan detailing job/apprenticeship opportunities and other social value activities to be carried out. This will be shared with local services via the Fusion21 social value steering group (SVSG).
- The contractor and their subcontractors will ensure that all vacancies are referred to Fusion21 in the first instance with the aim of recruiting Knowsley residents via the SVSG; however, if vacancies cannot be filled via this route they may recruit elsewhere;
- The contractor will advise Fusion21 of their preferred local labour agency;
- The contractor/subcontractors will support short term voluntary work placements for unemployed adults and NEET's either directly or through the supply chain where safe and practicable. Candidates will not be under 16 years of age (unless KMBC are satisfied that adequate safeguarding procedures are in place) and will have completed appropriate Health and Safety training.
- The developer/contractor will engage with Fusion21 to ensure the provision for delivery of bespoke pre-employment and skills training for Knowsley residents that will provide them with the skills to access the jobs that are being created.
- The contractor will ensure that Fusion21 are provided with all necessary information to be able to monitor outcomes;

End user social value:

- At the earliest possible opportunity, the end user will (with assistance from Fusion21) complete an employment and skills matrix detailing future employment needs and required skills/qualifications. This matrix will be used by Fusion21 and the social value steering group to deliver pre-employment and other training to Knowsley residents to prepare them for upcoming opportunities
- The end user will offer guaranteed interviews to Knowsley residents who have participated in pre-employment/other training as above, however if the candidates are not suitable, they may recruit from elsewhere.

Appendix 1

Explanation Forecasted Weeks

Whilst we are unable to directly influence the type or numbers of jobs created by this development, we will forecast a baseline number of weeks for the provision of social value activities as referenced in the 'Adding Social Value to Development' SPD. The method of calculating the target number of Social Value weeks is driven by an industry approved model for predicting labour requirements according to planning class uses, which then applies regionally specific information sourced from published data by amongst others CITB Construction Skills Network Data.

This approach ensures that social value weeks targets are relevant to specific developments and allows flexibility for outcomes to be delivered which reflect the business needs of Applicants/Developers/Contractors and their supply chain so opportunities created are therefore genuine and sustainable.

This process enables a realistic expectation of outcomes. On a Development of this nature the method of construction is such that traditional trades apprenticeships may not be available within the construction programme, however we would expect to see local employment opportunities and other social value activities being delivered.

We strongly support work placement opportunities and engagement of schools/educational involvement in the development as a whole throughout the RIBA stages, to provide a range of opportunities for students linked more to the overall process of how development and construction works. We believe this will provide a better insight into the industry giving a wider range of careers knowledge which includes technical and professional roles, and encouraging young people to enter into careers in the built environment.

Our preferred method of delivering social value weeks is to have a range of delivery options that we can match opportunities to based on our construction programme, we believe from experience we can deliver meaningful outcomes.

Appendix 2

Monitoring and Reporting

A key element of the delivery of this social value strategy is successful monitoring and reporting of outcomes. To enable this, Fusion21 has employed a dedicated Social Value Coordinator to undertake this piece of work. This will be undertaken in conjunction with the contractor's Site Manager and works package contractors (supply chain).

We will monitor and report on:

- Direct achievements against the baseline target weeks of 125
- Jobs created;
- Apprenticeships created;
- Jobs protected;
- Wider social value support to the local community;
- Local economy and enterprise

We will provide monitoring on a agreed basis detailing individuals, postcodes, start date, completion date, status (employed, trainee, placement) educational activities. A final report will be submitted collating monthly reports.

A method has been implemented that will enable access to site information to record the start date, and duration of all individuals involved in activities that can be counted towards the outcomes, this will also include those individuals within the Planning Authorities agreed area who we would class as maintaining employment as a result of the intervention by Planning requirements.

PLAN

EXECUTION PAGE

THE COMMON SEAL of

**KNOWSLEY METROPOLITAN
BOROUGH COUNCIL** was hereunto
affixed in the presence of:



Authorised Signa

Seal No. 3144

Authority: 23/02

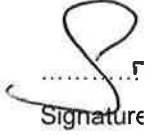
Position: SENIOR SOLICITOR

EXECUTED as a **DEED** by

NETWOI

Acting by

in the pre


Signature


Name (IN

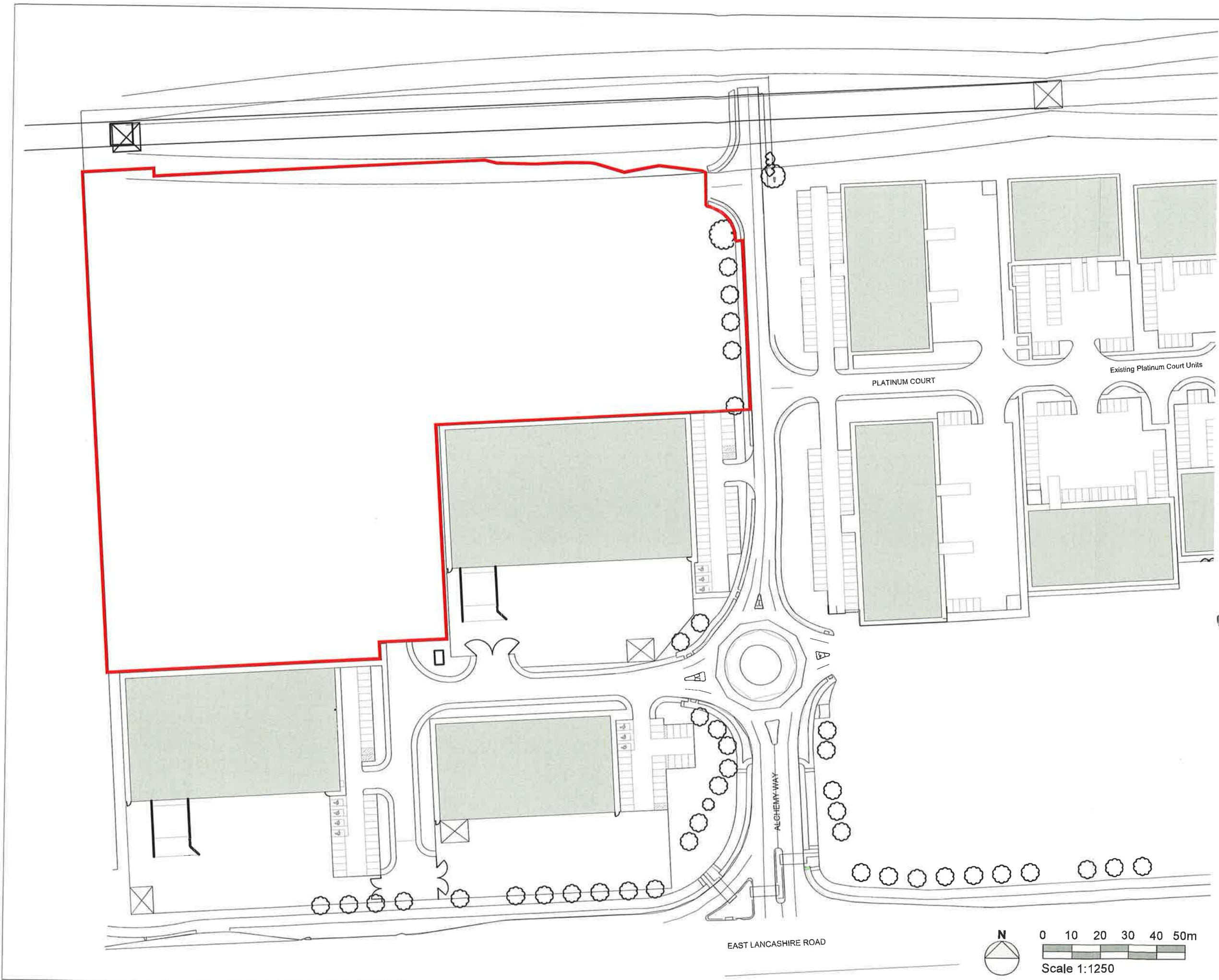
Name (IN

Address:



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NOTES AEWTP029C

- All dimensions and levels are to be checked on site.
- Any discrepancies are to be reported to the architect before any work commences.
- This drawing shall not be scaled to ascertain any dimensions. Work to figured dimensions only.
- This drawing shall not be reproduced without express written permission from AEW.
- Title overlay drawings and ownership boundaries are produced using all reasonable endeavors. AEW cannot be responsible for the accuracy or scale discrepancy of base plans supplied to them.
- All works are to be undertaken in accordance with Building Regulations and the latest British Standards.
- All proprietary materials and products are to be used strictly in accordance with the manufacturers recommendations.

CDM 2015

Client notified of duties
Principal Designer:
Unless noted below, all known hazards have been highlighted on the drawing

JFR.
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P01	01/03/23	SG	DRS
Initial issue			
REV	Date	Drawn by:	Checked by:
SG2		For Information	
drawing stage Planning			
Client			
Network Space Developments			
project			
Alchemy, Western Plot			
drawing title Location Plan			
date	Feb 2023	drawn	SG
scale	A3 1:1250	checked	DRS