

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

Planning Act 1990

relating to land adjacent to Moss Green Close, Liverpool Road, Huyton, Knowsley

Dated *20 September* 2022

- (1) Knowsley Metropolitan Borough Council
- (2) Derek Roger Craven
- (3) Charles Joseph Craven

Planning Application Number: 21/00640/FUL

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EXECUTION OF DEED

DATE

20 September 2022

PARTIES

- (1) KNOWSLEY METROPOLITAN BOROUGH COUNCIL of Municipal Buildings
Archway Road Huyton Knowsley Merseyside L36 9YU ("Council")
- (2) Derek Roger Craven of Craven Lodge, 14 Broad Green Road, Liverpool, L13
5SG ("Owner One")
- (3) Charles Joseph Craven of Craven Lodge, 14 Broad Green Road, Liverpool, L13
5SG ("Owner Two")

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 Owners are the freehold owners of the Site.
- 3 The Application has been submitted to the Council by Livv Housing Group and Built Group Limited and the Owners have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
- 4 The Council has decided by way of delegated authority to grant planning permission subject to the prior completion of this Deed.
- 5 The parties to this Deed agree that the planning obligations contained in this Deed are necessary to comply with the requirements of regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

"Act"	the Town and Country Planning Act 1990.
"Application"	the application for full planning permission submitted to the Council for the Development and allocated reference number 21/00640/FUL.
"Commencement of Development"	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.

"Committed"

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.

"Development"

the Development of the Site for the erection of 10 No Two Storey semi-detached Dwellings and other associated works as set out in the Application.

"Dwelling"

any dwelling (including a house, flat or maisonette) to be constructed pursuant to the Planning Permission.

"Index"

All Items Index of Retail Prices issued by the Office for National Statistics.

"Indexation Date"

means the date immediately preceding the date hereof when the last firm figure was published for the Index unless expressly stated otherwise in this Deed

"Index Linked"

means the contribution is to be adjusted by reference to the amount of any increase in the applicable Index over the period from the Indexation Date to the last, firm figure published for the Index for the month immediately prior to payment of the relevant contribution to the Council (or where the Owners are required by this Deed to apply a specified sum or make a specified sum available for a specified purpose the date of application of such sum for the specified

	purpose) and " Indexation " shall be construed accordingly.
"Interest"	interest at 4% (four per cent) above the base lending rate of Barclays Bank PLC from time to time.
"Occupation" and "Occupied"	occupation for the purposes permitted by the Planning Permission but not including temporary occupation by personnel engaged in construction, fitting out or decoration or temporary occupation for marketing or display or in relation to security operations and "Occupy" shall be construed accordingly.
"Owners"	Owner One and Owner Two.
"Plan"	the plan attached to this Deed.
"Planning Permission"	the planning permission subject to conditions to be granted by the Council pursuant to the Application as set out in the Fourth Schedule.
"Site"	the land against which this Deed may be enforced as shown edged red on the Plan and described in the First Schedule.

2 CONSTRUCTION OF THIS DEED

- 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 severally 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 title through or under that party and in the case of the Council the successors to its respective 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, 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 Owners 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 Owners.
- 3.3 To the extent that any of the covenants, restrictions and requirements contained in this Deed are not planning obligations within the meaning of the Act, they are entered into pursuant to the powers contained in Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers which may be relevant for the purpose of giving validity hereto and /or facilitating the enforcement of the obligations contained herein against the Owners and with the intent of binding the Owners to observe and perform the obligations as contained in this Deed.

4 CONDITIONALITY

This Deed is conditional upon:

- (i) the grant of the Planning Permission

save for the provisions of Clauses 1, 2, 3, 4, 7, 9, 13, 14 and 15 which shall come into effect immediately upon completion of this Deed.

5 THE OWNERS' COVENANTS

- 5.1 The Owners covenant with the Council as set out in the Second Schedule.
- 5.2 The Owners hereby warrant and confirm that apart from the parties hereto there are no other persons with a legal estate equitable or beneficial interest in the rents and profits or proceeds of sale of the Site or any part thereof.

6 THE COUNCIL'S COVENANTS

- 6.1 The Council covenants with the Owners as set out in the Third Schedule.

7 MISCELLANEOUS

- 7.1 The Owners shall pay to the Council on completion of this Deed
- 7.1.1 the reasonable and proper legal costs of the Council incurred in the negotiation, preparation and execution of this Deed; and
- 7.1.2 the sum of £260.00 in respect of the Council's initial fee for registering the obligations contained within 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 Owners 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.
- 7.5 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith effect 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 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owners) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 7.8 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.9 This Deed shall not be enforceable against
- 7.9.1 save for paragraph 4 of Part 2 of the Second Schedule but nevertheless subject always to paragraph 7 of Part 2 of the Second Schedule owner-occupiers or tenants of the Dwellings constructed pursuant to the Planning Permission their lender nor against those deriving title from them; or
- 7.9.2 any statutory undertaker or utility provider holding an estate easement or interest in the Site or part thereof insofar as the relevant statutory undertaker or utility provider is occupying the relevant part of the Site for its purposes as a statutory undertaker or utility provider nor against plant equipment conduits or structures located within the Site for its operational purposes.
- 7.10 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.
- 7.11 Nothing contained or implied in this Deed shall prejudice or 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.
- 7.12 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 as detailed in this Deed or such other address notified in writing to the other party from time to time.
- 7.13 If the Council agrees pursuant to an 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 the Secretary of State or Inspector 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 the Owners 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 the Owners from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

9 CHANGE IN OWNERSHIP

9.1 The Owners agree with the Council to give the Council immediate 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 PROVIDED THAT the Owners will not be obliged under this clause to give written notice to the Council of any disposals of one or more individual Dwellings.

9.2 The Owners will notify the Council 10 (ten) working days prior to the anticipated date of each of the following:

- the Commencement of the Development;
- the first Occupation of the Dwellings; and
- the first Occupation of 50% of the Dwellings.

10 INDEXATION

Any sum referred to in Second Schedule shall be Index Linked and where the Owners are required by this Deed to apply a specified sum or make a specified sum available for a specified purpose such sum shall also be Index Linked.

11 INTEREST

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

12 VAT

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

13 DISPUTE PROVISIONS

13.1 In the event of any dispute or difference arising between the parties to this Deed in respect of any matter contained in this Deed (other than a dispute or difference relating to a matter of law or concerning the meaning or construction of this Deed) such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an

agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

- 13.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 13.1 or as to the appropriateness of the professional body then such question may be referred by either party to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.
- 13.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received any file or written representation.
- 13.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten working days.
- 13.5 The provisions of this clause shall not affect the ability of the Council or the Owners to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Deed and consequential and interim orders and relief.

15 JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales in relation to any disputes between the parties arising out of or related to this Deed.

16 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.

FIRST SCHEDULE

Details of the Owners' Title, and description of the Site

Details of the Owners' Title

All that land known as: Land at the back of Huyton House, Liverpool Road, Huyton, Liverpool registered under title number MS509551 shown edged red on the attached Plan

Description of the Site

Land adjacent to Moss Green Close, Liverpool Road, Huyton, Knowsley

SECOND SCHEDULE

The Owners' Covenants with the Council

Part 1

OFF SITE PUBLIC OPEN SPACE

Interpretation

1. In this Schedule words and phrases shall have the following meanings:

"Allotment Contribution" shall mean the sum of £482.80 (four hundred and eighty two pounds and eighty pence) payable to the Council as a contribution towards infrastructure works at Cuper Crescent Allotment, Huyton, including building repairs and path repairs

"Amenity Greenspace Contribution" shall mean the sum of £2838.80 (two thousand eight hundred and thirty eight pounds and eighty pence) payable to the Council as a contribution towards the amenity space at South Alt Green Way in Huyton including bulb planting and / or infrastructure works including path repairs

"Children and Young People Contribution" shall mean the sum of £6228.00 (six thousand two hundred and twenty eight pounds) payable to the Council as a contribution towards surface and play equipment renewal in the Jubilee Park play area.

"Outdoor Sports Provision Contribution" shall mean the sum of £6557.20 (six thousand five hundred and fifty seven pounds and twenty pence) payable to the Council as a contribution towards the Jubilee Park Sports Hub Project including improvements to the playing pitches and supporting facilities.

"Parks and Countryside Contribution" shall mean the sum of £9083.00 (nine thousand and eighty three pounds) payable to the Council as a contribution towards path infrastructure renewal including the resurfacing of the path network located in Jubilee Park Green.

"Public Open Space Off Site Contribution" shall mean the sum of £25,189.80 (twenty five thousand one hundred and eighty nine pounds and eighty pence) comprising the Allotment Contribution, Amenity Greenspace Contribution, Children and Young People Contribution, Outdoor Sports Provision Contribution and Parks and Countryside Contribution.

Covenant

2. The Owners covenant with the Council as follows –
- 2.1 To pay the Public Open Space Off Site Contribution prior to first Occupation of a Dwelling on the Development; and
- 2.2 Not to Occupy or permit Occupation of any of the Dwellings on the Development until the Public Open Space Off Site Contribution has been paid to the Council pursuant to paragraph 2.1 above.

PART 2

AFFORDABLE HOUSING

In this schedule the following shall have the following meanings:

"Affordable Housing" means affordable housing as described and defined in annex 2 of the NPPF or any planning policy guidance notes or circulars which may supersede it.

"Affordable Housing Provision" means ten per cent (10%) of the total number of Dwellings to be provided as Affordable Housing in accordance with the Affordable Housing Scheme. In calculating the number of dwellings any figure of 0.5 or above shall be rounded up and any figure of less than 0.5 shall be rounded down.

"Affordable Housing Scheme" means the scheme to be agreed under paragraph 1 of Part 2 of this Second Schedule of this Deed which shall include details of:

- (i) the location of the Affordable Housing Unit (Section 106) on the Site including by reference to a plan;
- (ii) the arrangements for the transfer of the Affordable Housing Unit (Section 106) to a Registered Provider (if any) by way of freehold or long leasehold;
- (iii) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the Affordable Housing Unit (Section 106).

"Affordable Housing Unit (Section 106)" means one Dwelling (one x three bedroom) to be provided as an Affordable Rented Unit or such other form of "Affordable housing for rent" as may be agreed by the Council in writing which makes up the Affordable Housing Provision including its plot and allocated parking space and/or garage as may be required.

"Affordable Rent" means the rent charged for an Affordable Rented Unit which is up to 80% (eighty percent) of local market rent including Service Charge but not exceeding the Local Housing Allowance for a similar type of property in the relevant rental market area allowing for any modifications to a level of allowance as published by the Government as calculated using the RICS approved valuation methods.

"Affordable Rented Unit" means one affordable rented unit provided by a Registered Provider let at an Affordable Rent and which complies with the definition of "Affordable housing for rent" in annex 2 of the NPPF and the Council's Delivering Affordable Housing Policy KMBC Developer Contributions SPD June 2016.

"Chargee" means any mortgagee or chargee of a Registered Provider (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a **Receiver**)) of the whole or part of the Site or any persons or bodies deriving title through such mortgagee or chargee or Receiver.

"Local Housing Allowance" means the maximum amount of rent that can be used when calculating entitlement to housing benefit, depending on the number of people in a household

and in the case of this Deed based on the location of the Dwelling and for the avoidance of doubt it is acknowledged that the Local Housing Allowance is updated annually.

"Nominations Agreement" means an agreement between the Council and a Registered Provider in relation to the allocation of the Affordable Housing Unit (Section 106).

"Non Section 106 Units" means any Dwelling which is not an Affordable Housing Unit (Section 106).

"NPPF" means the National Planning Policy Framework (July 2021) or any planning policy statement guidance notes or circulars which may supersede it and which is current at the date of this Deed.

"Occupation" means the same as in clause 1 of this Deed and "Occupant" shall be construed accordingly.

"Receipts" means the aggregate receivable in each 12 month period in respect of a) the net premium receivable on each disposal of the equity retained on a shared ownership housing unit or other form of intermediate housing after deduction of all reasonable costs and expenses of the Registered Provider (including without limitation its administrative valuation and legal costs and fees) and b) the net premium payable by any person exercising any right to buy an interest in an Affordable Housing Unit (Section 106) after the deduction of all reasonable costs and expenses of the Registered Provider (including without limitation its administrative valuation and legal costs and fees) and c) the amounts repayable to central government or any Registered Provider by any person that has exercised a right to buy an interest at a preferential rate.

"Registered Provider" means a provider of social housing as defined by part 2 of the Housing and Regeneration Act 2008 or other entity providing Affordable Housing under equivalent arrangements which is approved or accredited by the Regulator of Social Housing or similar successor body.

"Regulator of Social Housing" means the Government's agency for regulating registered providers of social housing and publishing rent standards which definition shall include any successor agency/organisation taking over such functions.

"Service Charge" means the amount payable by the owner or occupant of any Affordable Housing Unit (Section 106) for all services repairs maintenance and improvements of a communal nature and insurance of the building and curtilage (where relevant) including estate management costs to the extent that all costs in the Service Charge have been reasonably incurred.

The Owners covenant with the Council as follows –

AFFORDABLE HOUSING SCHEME

- 1.1 Prior to Commencement of Development to submit the Affordable Housing Scheme to the Council for approval in writing. Commencement of Development shall not take place until such time as the Affordable Housing Scheme has been approved in writing by the Council.
- 1.2 Thereafter to deliver the Affordable Housing Unit (Section 106) as part of the Development in accordance with the Planning Permission and the approved Affordable Housing Scheme

CONSTRUCTION OF AFFORDABLE HOUSING UNITS (SECTION 106)

- 2.1 The Owners will or will procure the construction and completion of the Affordable Housing Unit (Section 106) together with all necessary services connections and infrastructure ready for Occupation prior to Occupation of five of the Non Section 106 Dwellings and shall not Occupy more than four of the Non Section 106 Dwellings until this has been done.
- 2.2 Construction of the Affordable Housing Unit (Section 106) shall be as follows –
 - 2.2.1 constructed in accordance with the standards specified by the Regulator of Social Housing or equivalent successor body in the latest version of its Design and Quality Standards at the time of construction and to no less standard than nor visually distinguishable from the Non Section 106 Dwellings; and
 - 2.2.2 completion of such Affordable Housing Unit (Section 106) shall be deemed to be either when the NHBC Buildmark Certificate Choice (or similar equivalent) shall have been issued in respect of the Affordable Housing Unit (Section 106) or when the local authority building control or approved inspector certifies them all as complete if earlier.

DELIVERY MECHANISM

- 3.1 To ensure that the Affordable Housing Unit (Section 106) is let to Occupants for an Affordable Rent in accordance with this Deed and to provide evidence to the Council that the rent set for the Affordable Housing Unit (Section 106) is in accordance with the Government's rent policy for Affordable Rent prior to first Occupation and thereafter from time to time (but not more than once in each 12 month period) if reasonably requested by the Council.
- 3.2 To ensure full and free rights of access both pedestrian and vehicular from a public highway to the relevant part of the Affordable Housing Unit (Section 106).
- 3.3 To ensure full and free rights for the passage of water soil electricity gas if provided and other services through the pipes drains channels wires cables and conduits which shall be in the adjoining land up to and abutting the boundary to the relevant part of the Affordable Housing Unit (Section 106).
- 3.4 The Owners shall not without the Council's written consent dispose of the freehold interest or grant a long leasehold interest in the Affordable Housing Unit (Section 106) except to a Registered Provider and in any such disposal the Owners shall include provisions requiring the Affordable Housing Unit (Section 106) not to be used or Occupied other than in accordance with the provisions of this Part 2 of the Second Schedule and be subject to the nominations rights in favour of the Council provided for in paragraph 4 and for the avoidance of doubt this paragraph shall not prohibit or prevent the Owners from mortgaging or otherwise charging the Site or part thereof.
- 3.5 That if the Development involves the creation or employment of a management company there shall be a management company for all of the common parts which serve all the Dwellings including the Affordable Housing Unit (Section 106).

OCCUPATION

- 4 Subject to the provisions of paragraph 7:
- 4.1 from the date of practical completion of the Affordable Housing Unit (Section 106) it shall only be used for Affordable Housing; and
- 4.2 not to allow the Affordable Housing Unit (Section 106) to be Occupied otherwise than as Affordable Housing; and
- 4.3 the Affordable Housing Unit (Section 106) shall be subject to the following nomination rights:
 - 4.3.1 100% (one hundred percent) of the Affordable Housing Unit (Section 106) is to be available for Occupation by nominees of the Council and the timescales and procedures for nominations shall be determined by the Nominations Agreement:
 - 4.3.1.1 in the form specified by the Council; and
 - 4.3.1.2 by no later than two months prior to first Occupation of the Affordable Housing Unit (Section 106)
 - 4.3.2 nominees of the Council shall Occupy the Affordable Housing Unit (Section 106) as soon as reasonably practical following the date of completion of the Affordable Housing Unit (Section 106) ("the Initial Letting")
 - 4.3.3 upon the Owners obtaining vacant possession of the Affordable Housing Unit (Section 106) after the Initial Letting all subsequent lettings and re-letting of the Affordable Housing Unit (Section 106) shall be to nominees of the Council and the timescales and procedures for nominations shall be determined in the Nominations Agreement.

REGISTERED PROVIDER

- 5 If a Registered Provider at any time while having a legal interest in the Affordable Housing Unit (Section 106) was but ceases to be accredited or approved by the Regulator of Social Housing or its equivalent successor body:
 - 5.1 to give notice immediately in writing to the Council of the cessation of accreditation or approval;
 - 5.2 as soon as reasonably possible if required by the Council and subject to obtaining all necessary consents from the Regulator of Social Housing to transfer its legal interest in the Affordable Housing Unit (Section 106) to another Registered Provider subject to the provisions of this Deed or to remedy any circumstances giving rise to the cessation of accreditation or approval with the Regulator of Social Housing so as to obtain accreditation or approval; and
 - 5.3 until such time as the Affordable Housing Unit (Section 106) is transferred if required by the Council or until such accreditation or approval is obtained pursuant to

paragraph 5.2 not to increase any rents or service charges above the levels prevailing at the time that the Registered Provider ceased to be approved or accredited.

APPLICATION OF RECEIPTS

- 6.1 In the event that a tenant or other Occupier of the Affordable Housing Unit (Section 106) exercises the right to buy or right to acquire including the right to acquire a further equity interest under applicable legislation to use or procure the use of the Receipts to fund the provision of further Affordable Housing in accordance with the provisions of paragraph 6.2.
- 6.2 In respect of the Affordable Housing Unit (Section 106):
- 6.2.1 to give notice to the Council as soon as reasonably possible following any disposal and to thereafter calculate the Receipts and thereafter notify the same in writing to the Council;
 - 6.2.2 such Receipts shall be used for the provision of further Affordable Housing within the administrative boundaries of Knowsley on a basis to be prescribed by the Council and within such reasonable timescales as shall be specified by the Council; and
 - 6.2.3 the Receipts shall be held in a separate designated account by the Registered Provider and it shall at least once a year supply to the Council a statement showing monies held on such account with such supplemental information showing how such funds are derived and the use of such sums in accordance with the provisions of paragraph 6.2.2 as the Council may require to satisfy itself that monies are being used for the provision of Affordable Housing in Knowsley.

EXCLUSIONS

7

- 7.1 The provisions in this Part 2 of the Second Schedule of this Deed shall not be binding on:
- 7.1.1 a Chargee exercising its power of sale PROVIDED THAT
 - (i) the Chargee has given written notice to the Council of its intention to dispose of the Affordable Housing Unit (Section 106) and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Unit (Section 106) to a Registered Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
 - (ii) if such disposal has not completed within the three month period, the Chargee shall be entitled to dispose of the Affordable Housing Unit (Section 106) free from the provisions in Part 2 of the Second Schedule of this Deed which provisions shall determine absolutely in relation to that Affordable Housing Unit (Section 106).

- 7.1.2 a tenant who has exercised a right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) and any mortgagee or chargee of such Affordable Housing Unit (Section 106) or any persons deriving title from any of them; or
- 7.1.3 a tenant who has exercised any statutory right to buy preserved right to buy or voluntary right to buy (or any equivalent contractual right) and any mortgagee or chargee of such Affordable Housing Unit (Section 106) or any persons deriving title from any of them.

PART 3

MONITORING FEE

The Owners covenant with the Council as follows:

“Monitoring Fee” means the sum of £1,040.00 (one thousand and forty pounds) towards the additional resource costs arising from the monitoring of the Development and the obligations arising under this Deed.

1. Prior to the Commencement of Development the Owners shall pay the Monitoring Fee to the Council and shall not Commence Development until the Monitoring Fee has been paid to the Council

THIRD SCHEDULE

Council's Covenants

Use and repayment of financial contributions

- 1 The Council hereby covenants with the Owners to use all sums received from the Owners under the terms of this Deed for the purposes specified in this Deed for which they are to be paid or for such other purposes for the benefit of the Development as the Owners and the Council shall agree.
- 2 The Council covenants with the Owners that it will pay to the Owners such amount of any payment made by the Owners 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 fifteen (15) years of the date of receipt by the Council of the payment) such payments to be paid together with interest at Barclays Bank PLC's base rate from time to time for the period from the date of payment to the date of refund.
- 3 The Council shall provide to the Owners such evidence, as the Owners shall reasonably require in order to confirm the expenditure of the sums paid by the Owners under this Deed.

FOURTH SCHEDULE

The Draft Planning Permission



Knowsley Council

REGENERATION AND ECONOMIC DEVELOPMENT

TOWN AND COUNTRY PLANNING ACT 1990

This application is subject to a Section 106 Agreement and needs to be read in conjunction with that Agreement.

PLANNING PERMISSION

Application No: 21/00640/FUL

Name and address of applicant

Livv Housing Group and Built Group Ltd
278 St Mary's Road
Liverpool
L19 1QD

Name and address of agent

Level 2 Architects Ltd
28-30
Grange Road West
Birkenhead
CH41 4DA

Date of Receipt: 9 August 2021

Date Valid: 6 October 2021

Address/Location Of Development:

Land Adjacent To Moss Green Close
Huyton
Knowsley

Description of Development:

**ERECTION OF 10, NO TWO STOREY SEMI-DETACHED DWELLINGS AND
OTHER ASSOCIATED WORKS**

The Council of the Metropolitan Borough of Knowsley hereby give notice in pursuance of the above Act(s) that Planning Permission has been **granted** for the carrying out of the development referred to above in accordance with the application and plans submitted subject to the following condition(s):

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans and documents listed in Schedule 1.

Reason: For the avoidance of doubt.

3. No dwelling hereby permitted shall not be occupied until the areas indicated on Site Plan Drawing 414-1-PLN-002 Rev B (Received 10th March 2022) are set aside for parking, servicing, vehicular manoeuvring (including provision for pedestrians/cyclists) for that dwelling have been surfaced, drained and permanently marked out or demarcated in accordance with the details and specifications shown. These areas shall be retained for each dwelling as such thereafter.

Reason: In the interests of highway and pedestrian safety and to comply with Policies CS2 and CS7 of the Knowsley Local Plan Core Strategy adopted January 2016 and saved Policy H5 of the Knowsley replacement Unitary Development Plan adopted June 2006.

4. No house hereby permitted shall be occupied until it has been provided with an outdoor, weatherproof electric vehicle charging point readily accessible from a dedicated parking space.

All charge points shall be:

- a) A minimum of 7KW;
- b) At Least Mode 3 or equivalent;
- c) Untethered; and
- d) Located in order to comply with the Equality Act 2010 and the accessibility requirements set out in the Building Regulations Part M.

All EV charging points shall be clearly marked as such and their purpose explained to new occupants within their new home welcome pack/travel planning advice.

Reason: In the interests of air quality, promoting sustainable travel opportunities, taking into account Government national policy and to comply with Policies CS2, CS7 and CS19 of the Knowsley Local Plan Core Strategy, adopted January 2016 and NPPF Para 110.

5. No part of the development hereby permitted, including any works of demolition, shall be commenced until a Construction Management Plan that details the means of mitigation of construction effects has been submitted and agreed in writing by the Local Planning Authority. This shall include the following:
 - a) Methods for the mitigation of noise and vibration from building works, including any piling works, and also from the operation of any temporary power generation or pumping plant which will operate overnight.
 - b) Methods for dust control and suppression.
 - c) Control of transfer of mud out of the site - details of wheel washing facilities including location and type.
 - d) Methods for the control of pests if apparent on-site.
 - e) The areas for the storage of plant and materials.
 - f) Location of site compound, including any loading/unloading areas, turning areas for delivery vehicles and construction staff parking arrangements.

- g) Skip provision for use by occupied properties until the site is completed and can be accessed and serviced by Council waste collection vehicles, and details of the waste removal of the said skips.

All site works shall then proceed only in accordance with the approved management plan unless otherwise agreed in writing beforehand with the Local Planning Authority.

All site works shall then proceed only in accordance with the approved management plan unless otherwise agreed in writing beforehand with the Local Planning Authority.

Reason: To ensure the satisfactory development of the site and in the interests of protecting the amenity of neighbouring occupiers and to comply with Policies CS2 and CS19 of the Knowsley Local Plan Core Strategy adopted January 2016 and saved Policies H5 and ENV2 of the Knowsley Replacement Unitary Development Plan adopted June 2006.

6. No construction work shall take place outside the hours of 08:00-18:00 hours Monday to Friday, 08:00- 13:00 hours Saturday and not at all on Sundays / Public Holidays without the prior written permission of the Local Planning Authority.

Reason: To protect residential amenity and to comply with Policy CS19 of the Knowsley Local Plan Core Strategy adopted January 2016 and saved Policies H5 and ENV2 of the Knowsley Replacement Unitary Development Plan adopted June 2006.

7. Notwithstanding the submitted materials schedule no above ground development shall be commenced until samples and details of the proposed external facing materials to be used on walls and roofs and details of all external doors and windows, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using only the agreed materials.

Reason: In the interests of visual amenity and to comply with Policies CS2 and CS19 of the Knowsley Local Plan Core Strategy adopted January 2016 and saved Policy H5 of the Knowsley Replacement Unitary Development Plan adopted January 2006.

8. Notwithstanding any submitted details the development hereby permitted shall not be commenced until a scheme for the provision and implementation of a surface water regulation system to manage the risk of flooding from both overland flow and from the sewer network, has been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first occupation of the development.

The surface water drainage scheme should be consistent with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

Reason: To prevent increased risk of flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to comply with saved Policies CS2 and CS24 of the Knowsley Local Plan Core Strategy adopted January 2016.

9. Notwithstanding any submitted details if the sustainable drainage system is not adopted by a public body or statutory undertaker then, prior to first occupation of any dwelling hereby approved, a Management and Maintenance Plan for the sustainable drainage system relating to the lifetime of the development shall be submitted to and approved in writing by the Local Planning Authority. This shall include:

- Details of provision for management and maintenance by a management company.
- A schedule for on-going inspections relating to performance and condition.
- Details for planned maintenance and a mechanism for remedial and urgent repair works.
- Means of access for inspection and maintenance purposes.

The plan shall be implemented and completed in accordance with the agreed timescales contained within it.

Reason: To ensure effectiveness of the flood risk measures during the lifetime of the development and to comply with Policies CS2 and CS24 of the Knowsley Local Plan, Core Strategy adopted January 2016.

10. A. Risk Assessment

No development shall take place until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with authoritative guidance (CLR 11), and shall assess any contamination on the site, whether or not it originates on the site.

Moreover, it must include (were relevant):

- I. a survey of the extent, scale and nature of contamination;
- II. an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments.

B. Ground Gas Risk Assessment

No part of the development shall commence until a scheme to deal with the potential risk of Ground Gas at the site has been submitted to and approved in writing by the Local Planning Authority. The Ground Gas Risk Assessment should consider the provision of a pictorial CSM and take into account all credible on-site and off-site gas sources. It is considered that additional intrusive works are likely to be required to inform this Gas Risk Assessment, specifically to reduce data uncertainty and increase data confidence, notably with respect to on-site/off-site sources.

The Gas Risk Assessment should take into account the proposed foundation and floor slab construction of the residential properties in line with current UK guidance. The protection measures to all buildings proposed as part of the residential development should be passive. No active protection measures should be permitted.

C. Submission of Remediation Scheme

Where land affected by contamination is found which poses unacceptable risks, no development shall take place until a detailed remediation scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme must include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. As a minimum, the scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to its intended use.

D. Implementation of Approved Remediation Scheme and Verification Report

The approved remediation scheme shall be implemented and a verification report submitted to and approved in writing by the Local Planning Authority, prior to the development (or relevant phase of development) being brought into use.

E. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority. Development on the part of the site affected must be halted and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These shall be implemented prior to the development (or relevant phase of development) being brought into use.

Reason: In the interests of safety, to prevent pollution of the water environment and to comply with Policy CS2 of the Knowsley Local Plan Core Strategy adopted January 2016 and saved Policy ENV5 of the Knowsley Replacement Unitary Development Plan, adopted June 2006.

11. No soil is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development; a suitable methodology for testing this material should be submitted to and agreed by the Local Planning Authority prior to the soils being imported onto site. The methodology should include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out and evidence submitted to and approved in writing to by the Local Planning Authority.

Reason: In the interests of safety, to prevent pollution of the water environment and to comply with Policy CS2 of the Knowsley Local Plan Core Strategy adopted January 2016 and saved Policy ENV5 of the Knowsley Replacement Unitary Development Plan, adopted June 2006.

12. Notwithstanding any details submitted, no part of the development shall be occupied until full details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority.

The details shall relate to all land surfaces not built upon and shall include:

- a. Land-levels and gradients resulting in the formation of any banks, terraces or other earthworks;
- b. Hard surfaced areas and materials;
- c. Planting plans, specifications and schedules, planting size, species and numbers/densities, trees to be retained and a scheme for the timing / phasing of work.
- d. Detailed regime for the establishment together with ongoing and longer term maintenance of all soft landscaping.

The approved landscaping works shall be implemented and completed prior to the occupation of the dwelling to which the landscaping relates, or the first available planting season after if agreed in writing with the Local Planning Authority.

Any trees or shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted.

Reason: To ensure that the site is satisfactorily landscaped having regard to its location and the nature of the proposed development and to comply with Policy CS19 of the Knowsley Local Plan Core Strategy, adopted January 2016 and saved Policy H5 of the Knowsley Replacement Unitary Development Plan, adopted June 2006.

13. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) Schedule 2, Parts 1A, 1E, and 2A, or any amendments made to that Order, shall not apply unless on application to the Local Planning Authority, planning permission for such development has been granted.

Reason: To protect the residential and visual amenities of the area, safeguard the character of this residential development, and to comply with Policies CS2 and CS19 of the Knowsley Local Plan Core Strategy adopted January 2016 and saved Policy H5 of the Knowsley Unitary Development Plan, adopted June 2006.

14. Prior to the commencement of above ground works, precise details of existing and proposed site levels shall be submitted to and agreed in writing with the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

Reason: To ensure that the site is developed so that it does not cause harm to residential amenity.

SCHEDULE 1

Date Received	Ref. No	Version	Drawing/Document Title
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09/08/2021	-	-	LOCATION PLAN
10/03/2022	002	B	PROPOSED SITE PLAN
24/09/2021	004	A	HOUSE TYPE 01 - PROPOSED FLOOR PLANS (PLOTS 1-6)
24/09/2021	005	B	HOUSE TYPE 01 - PROPOSED ELEVATIONS (PLOTS 1-6)
24/09/2021	008	#	HOUSE TYPE 02 - PROPOSED FLOOR PLANS (PLOTS 7 - 10)
24/09/2021	009	#	HOUSE TYPE 02 - PROPOSED ELEVATIONS (PLOTS 7 - 10)
24/09/2021	011	#	PROPOSED STREET SCENES

REASON(S) FOR THE GRANTING OF PLANNING PERMISSION

The decision to grant planning permission has also been taken having regard to the policies and proposals as set out below, and to all relevant material considerations including supplementary planning guidance:-

KNOWSLEY LOCAL PLAN: CORE STRATEGY

CS2 - Development Principles
CS7 - Transport Networks
CS15 - Delivering Affordable Housing
CS19 - Design Quality and Accessibility in New Development
CS21 - Greenspaces and Trees
CS24 - Managing Flood Risk
CS26 - Waste Management
CS27 - Planning and Paying for New Infrastructure

SAVED POLICIES - KNOWSLEY REPLACEMENT UNITARY DEVELOPMENT PLAN (ADOPTED JUNE 2006)

H5 - Development within Primarily Residential Areas
DQ2 - Security in the Built Environment
ENV2 - Noise and Vibration

This informative is only intended as a summary of the reason(s) for the granting of planning permission. Should you require any further details relating to the decision please contact the relevant case officer (Lee Osborne on 0151 443 2395)

ARTICLE 35 STATEMENT

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating with the applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning

permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

NOTE FOR APPLICANT:

IMPORTANT - PLEASE READ CAREFULLY THE NOTES BELOW AS FAILURE TO COMPLY COULD MAKE THE DEVELOPMENT HEREBY PERMITTED UNAUTHORISED

- 1) This planning permission is granted in strict accordance with the approved plans. It should be noted however that:
 - a) Any variation from the approved plans following commencement of the development, irrespective of the degree of variation, will constitute unauthorised development and may be liable to enforcement action.
 - b) You or your agent or any other person responsible for implementing this permission should inform Planning Services immediately of any proposed variation from the approved plans and ask to be advised as to the best method to resolve the matter. Most proposals for variation to the approved plans will require the submission of a new planning application.
- 2) This permission is granted subject to conditions and it is the owner of the property and the person responsible for the implementation of the development who will be fully responsible for their compliance throughout the development and beyond.
- 3) If there is a condition that requires work to be carried out or details to be approved prior to the commencement of the development this is called a "condition precedent". The following should be noted with regards to conditions precedent:
 - a) If a condition precedent is not complied with prior to the start of development, the whole of the development will be unauthorised and you may be liable to enforcement action.
 - b) In addition, if the requirements of a condition precedent are subsequently not complied with, the development is unauthorised and the only way to rectify the development is the submission of a new application.

If any other type of condition is breached then you will be liable to a breach of condition notice.

NOTE FOR APPLICANT: The applicant's attention is drawn to the following comments:

1. Please see attached comments by Merseyside Fire Authority
2. Please see attached comments by United Utilities

Date:

IMPORTANT NOTES FOR YOUR ATTENTION:

1. This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, bylaw, order or regulation.
2. This permission refers only to those plans submitted as part of the Planning Application a copy of which is retained by the Local Planning Authority. The Local Planning Authority should be contacted in writing if it is proposed to amend these plans in any way as a further permission, may be required.
3. If a Building Regulations Consent is required for these works it is your responsibility to ensure that the plans submitted for both the Building Regulations Consent and Planning Permission are the same in all respects. Should the plans relating to one consent vary from the other, it will be necessary for you to submit amended plans to this Department and obtain the relevant approval(s) prior to commencing any works.

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

ANNEXURE – THE PLAN

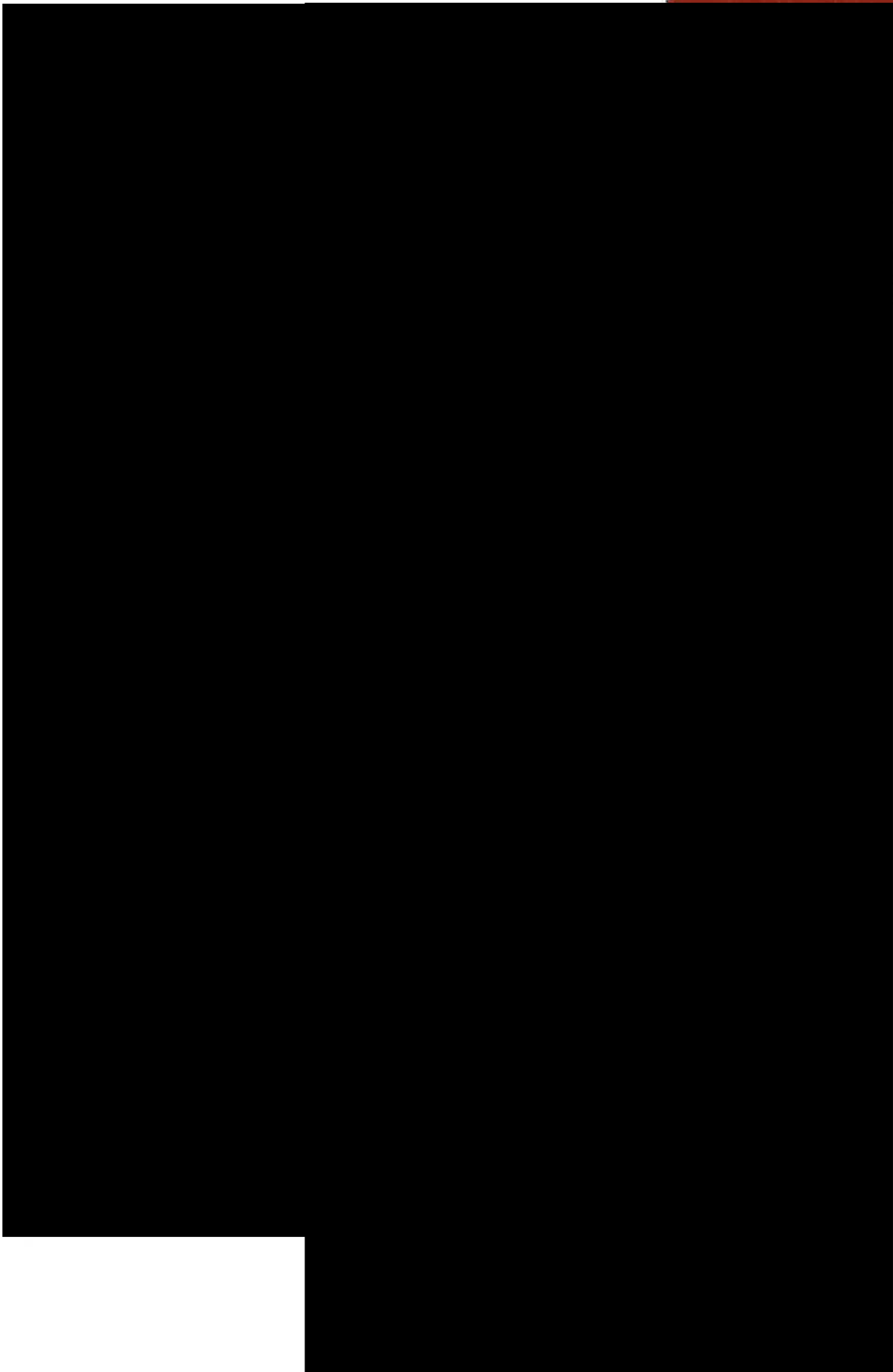
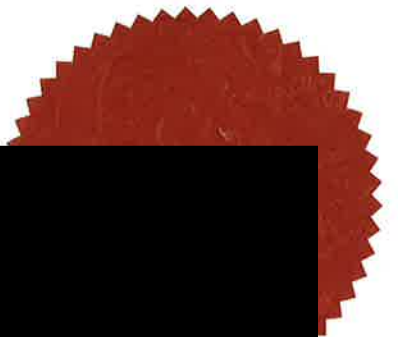
Land Adjacent to Moss Green Close, Huyton, Knowsley, L36 3RG



Site Plan shows area bounded by: 342787.97, 391836.87 342987.97, 392036.87 (at a scale of 1:1250), OSGridRef: SJ42889193. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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