

Dated

2025

THE ROCHDALE BOROUGH COUNCIL

and

JED CLARK

A G R E E M E N T

Pursuant to Section 106 of the Town & Country
Planning Act 1990 in respect of
Land at Parkfield House, Manchester Old Road, Middleton, M24 3EB

Suzanne Antrobus Service Director
Legal and Democratic Services
Town Hall
Rochdale
OL16 1AB

HDB/PL

AN AGREEMENT by way of Deed made the day of
2025

BETWEEN

- (1) **THE ROCHDALE BOROUGH COUNCIL** of Town Hall Rochdale Greater Manchester OL16 1AB ("**the Council**")
- (2) **JED CLARK** of Cribbstones, Delph New Road, Delph, Oldham, OL3 5BY ("**the Owner**")

WHEREAS:

- (1) The Council is the Local Planning Authority for the purpose of the Act for the area in which the Site is situate and by whom the planning obligations contained in this Deed are enforceable
- (2) The Owner is the owner of the freehold estate in the Site legal title to which is registered under Title Number MAN81196
- (3) The Application has been submitted on behalf of the Owner to the Council for the development of the Site in accordance with the Planning Permission
- (4) The Council is concerned to ensure that any development of the Site is carried out in such a way as to ensure that appropriate provision will be made in accordance with the Council's policies in relation to the provision and future maintenance of open space and public sports provision outside the site and within the Council's area
- (5) The parties hereto agree that it is necessary to make the Development acceptable in planning terms that this Deed be entered into and that the use of the said land should be restricted as hereinafter appearing and that the securing of such provision as is mentioned above by way of the payments to be made to the Council and other matters set out in this Deed as hereinafter appearing are directly related to and fairly and reasonably related in scale and kind to the Development

NOW THIS DEED WITNESSETH as follows:-

1. Definitions and Construction of this Deed

- 1.1 In this Deed unless the context otherwise requires the following words and expressions and phrases shall have the meanings hereby ascribed to them:

“the Act”	Means the Town and Country Planning Act 1990 as amended
“Application”	Means the application for full planning permission for residential development comprising of 20 dwellings (Use Class C3) and a 80 bed care home development (Use Class C2) including car parking, landscaping, open space and other associated works following demolition of Parkfield House on the Site and given reference number 23/00335/FUL by the Council
“Commencement of the Development”	Means the commencement of the Development by the carrying out on the Site in accordance with the Planning Permission of a material operation as specified in Section 56(4) of the Act (but not including any operations relating to site investigations safety security or surveys or the demolition of any existing buildings or clearance of or removal of contamination from the Site) and the phrase “Commence the Development”

	shall be construed in like manner
“Community Interest Company”	Means a company falling within Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004
“Development”	Means development pursuant to the Planning Permission
“Local Open Space Contribution”	Means the sum of £48,638.60 (forty eight thousand six hundred and thirty eight pounds and sixty pence) to be paid to the Council pursuant to the terms of this Deed and used for provision or enhancement of provision at Limefield Park or such other open space provision within the reasonable vicinity of the Site
“Management Company”	Means a limited liability company incorporated in England and Wales or Scotland with registered office in England or Scotland (as applicable) and registered at Companies House which may already be in existence, or which may be formed by the Owner whose primary objects permit the ongoing maintenance of the On Site

	Open Space for the lifetime of the Development (and in accordance with Schedule 2 paragraphs 3.3 to 3.5) and is approved by the Council in the approval of the On Site Open Space Management Scheme.
“Occupation”	Means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and the term “Occupy” shall be construed accordingly
“On Site Open Space”	Means the landscaping and incidental open space within the Development for which details are to be submitted to the Council for approval in writing pursuant to paragraph 3.1.1 of Schedule 2
“On Site Open Space Management Scheme”	Means the scheme setting out arrangements for the future management and maintenance of the On Site Open Space for the lifetime of the Development and which is to be submitted to

	the Council for approval in writing pursuant to paragraph 3.1.2 of Schedule 2 and which scheme shall include the following details: (a) the identity of the Management Company proposed to be engaged to carry out the maintenance and management of the On Site Open Space; (b) what if any interest in the On Site Open Space is proposed to be granted to the Management Company; (c) the schedule and program of maintenance works to be undertaken in relation to the On Site Open Space; (d) any arrangements for ensuring that individual householders have a say or influence over the activities of the Management Company and whether this is to be achieved via the householders being given membership of the Management Company or the Management Company being set up as a Community Interest Company; (e) the arrangements for ensuring that individual
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	householders are given detailed breakdowns of the costs properly incurred and showing how the total cost is translated into their individual liability; (f) any restrictions on year on year increases in any service charge and whether such restriction is to be fixed to a relevant cost index;
"Planning Permission"	Means the written planning permission to be granted pursuant to the Application
"Site"	Means the land in respect of which the Application has been made and which is described in Schedule 1 and shown edged red on the plan attached to this Deed
"Sports Contribution"	Means the sum of £53,551.80 (fifty three thousand five hundred and fifty one pounds and eighty pence) to be paid to the Council pursuant to the terms of this Deed and used for provision or enhancement of provision at Limefield Park and Bowlee Park or such other sports provision within the reasonable vicinity of the Site
"Working Day"	Means any day from Monday to Friday inclusive which is not

	a Bank or Public Holiday
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- 1.2 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
- 1.3 The clause paragraph and schedule headings do not form part of this Deed and shall not be taken into account in its construction or interpretation
- 1.4 Words importing the singular meaning where the context so admits includes the plural meaning and vice versa
- 1.5 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 interchangeably in that manner
- 1.6 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
- 1.7 Any reference to an Act of Parliament or Statutory Order shall include any modification, extension or re-enactment of that Act or Order 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 Order or deriving validity from it
- 1.8 Reference 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

- 1.9 An obligation to do something includes an obligation to procure it to be done and an obligation not to do something includes an obligation not to allow it to be done

2. THIS Deed which contains planning obligations for the purposes of Section 106 of the Act and is made pursuant to the said Section 106 with the intent that the covenants hereinafter contained shall be enforceable by the Council acting under the powers contained in Section 106 aforesaid or otherwise against the Owner and all persons deriving title from the Owner

3. INSOFAR as any of the covenants contained in the Deed are not planning obligations within the meaning of Section 106 of the Act they are entered into pursuant to the powers contained in Section 111 of the Local Government Act 1972 and all other enabling powers

4. THE parties to this Deed agree that this Deed may be rescinded or varied without the consent of any third party whose consent would otherwise be required pursuant to the Contracts (Right of Third Parties) Act 1999 ("**the 1999 Act**") and that nothing in this Deed will create any rights in favour of any person pursuant to the 1999 Act.

5. This Deed is conditional upon the grant of the Planning Permission SAVE FOR the provisions of clauses 6.2, 6.3 and 8(iii) which shall come into effect immediately upon completion of this Deed.

6. IN consideration of these presents the Owner hereby enters into this Deed and covenants with the Council as set out in Schedule 2 and below:-

- 6.1 To pay to the Council interest at the rate of 4% above the base rate of the Bank of England on any sum due under this Deed which remains unpaid for more than three Working Days after the same has become

due such interest to be paid from the date the sum became due

- 6.2 To notify the Council in writing of any sale of the Site and such notice shall include the date of the sale and the name and address of the person to whom the Site is sold and shall be given within 14 days of the completion of any such sale – for the avoidance of doubt the Owner shall not be required to notify the Council of the sale of individual dwellings built pursuant to the Planning Permission
- 6.3 To pay to the Council on completion of this Deed the sum of two thousand pounds (£2000.00) in respect of the cost of the preparation and execution of this Deed and duplicates thereof

7 **IN** consideration of these presents and of the covenants by the Owner the Council hereby covenants with the Owner as follows:-

- 7.1 That it will within seven days of the date of payment of its costs set out in Clause 6.3 issue the Planning Permission
- 7.2 That it will use the money paid under the provisions of this Deed for the purposes set out in this Deed and for no other purpose
- 7.3 That in the event that the Local Open Space Contribution and/or the Sports Contribution have not been spent or committed to the purposes set out in this Deed within ten years from the date of payment then it will repay to the party who paid the same such part of the Local Open Space Contribution and the Sports Contribution as has not been spent or committed but without being liable for interest on any sums so repaid
- 7.4 That it will on request provide details of the purposes for which all or any part of the Local Open Space Contribution and the Sports Contribution have been spent or committed

8. **IT** is agreed between the parties to this Deed as follows

- (i) No person shall be liable for any breach of the covenants restrictions or obligations contained in this Deed which affect part of the Site in which he has no interest or which occur after he has parted with his interest in the Site or that part of the Site in respect of which a breach occurs

- (ii) The provisions of the Interpretation Act 1978 shall apply to the terms hereof as if this Deed was an Act of Parliament
- (iii) This Deed shall be registered as a local land charge by the Council
- (iv) This Deed shall cease to have effect if the Planning Permission is quashed; revoked; withdrawn; expires prior to the Commencement of Development or otherwise becomes incapable of implementation and in such event the Council shall remove the entry in the Local Land Charges Register relating to it
- (v) Any notice required to be served on any party to this Deed shall be deemed to have been properly served if delivered or sent by the recorded delivery service to the address of the party given in this Deed or to such other address as shall have been notified by that party in writing to all other parties
- (vi) If any clause of this Deed shall be found to be invalid or unenforceable then such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed
- (vii) Where any matter is required to be agreed by any party then such agreement shall not be unreasonably withheld or delayed
- (viii) The planning obligations contained in this Deed shall not be enforceable against the individual occupiers of the care home or the owner-occupiers or tenants of any dwelling constructed pursuant to the Planning Permission
- (ix) Following the performance and satisfaction of all obligations contained in this Deed the Council shall effect the cancellation of the entry in the Local Land Charges Register relating to it
- (x) No waiver whether express or implied by the Council in respect of any breach or default in performing any of the obligations in this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the remaining obligations or from acting upon any subsequent breach or default

9. IN the event of any dispute disagreement or difference hereunder and the parties hereto having been unable to resolve the same within four weeks either party shall be entitled to refer the matter in dispute to

expert determination by an expert of not less than ten years' standing in the field of the matter in dispute and being a member of the Royal Institution of Chartered Surveyors or if appropriate to the matter in dispute another professional institution or body the identify of such person in default of agreement being an appointment made by the President of the Royal Institution of Chartered Surveyors who shall determine the matter in such manner as he shall direct in giving notice of his appointment the terms of appointment including that he makes reasonable endeavours to determine the matter in dispute and issue his determination in writing giving full reasons therefor within ten weeks of his appointment and his costs shall be paid by the parties as directed AND the parties shall comply with his directions and determination save for matters of law and any manifest error.

10. **NO** mortgagee of the Site (or any part of the Site) from time to time shall have any liability under this Deed until it takes possession of the Site (or part of the Site) as a mortgagee in possession in which case it too will be bound by the obligations as if it were a person deriving title from the Owner of that part of the Site in respect of which the relevant charge is held.

11. **THE** Local Open Space Contribution and the Sports Contribution shall be increased by the amount which bears the same proportion thereto as the amount by which the All Items Index of Retail Prices published by the Office for National Statistics or any successor body for the month immediately preceding the date of payment exceeds the index figure of the said Index at the date of this Deed.

12. **THIS** Deed is governed by and interpreted in accordance with the law of England and Wales

IN WITNESS WHEREOF the parties hereto have duly executed this Deed the day and year first before written

SCHEDULE 1

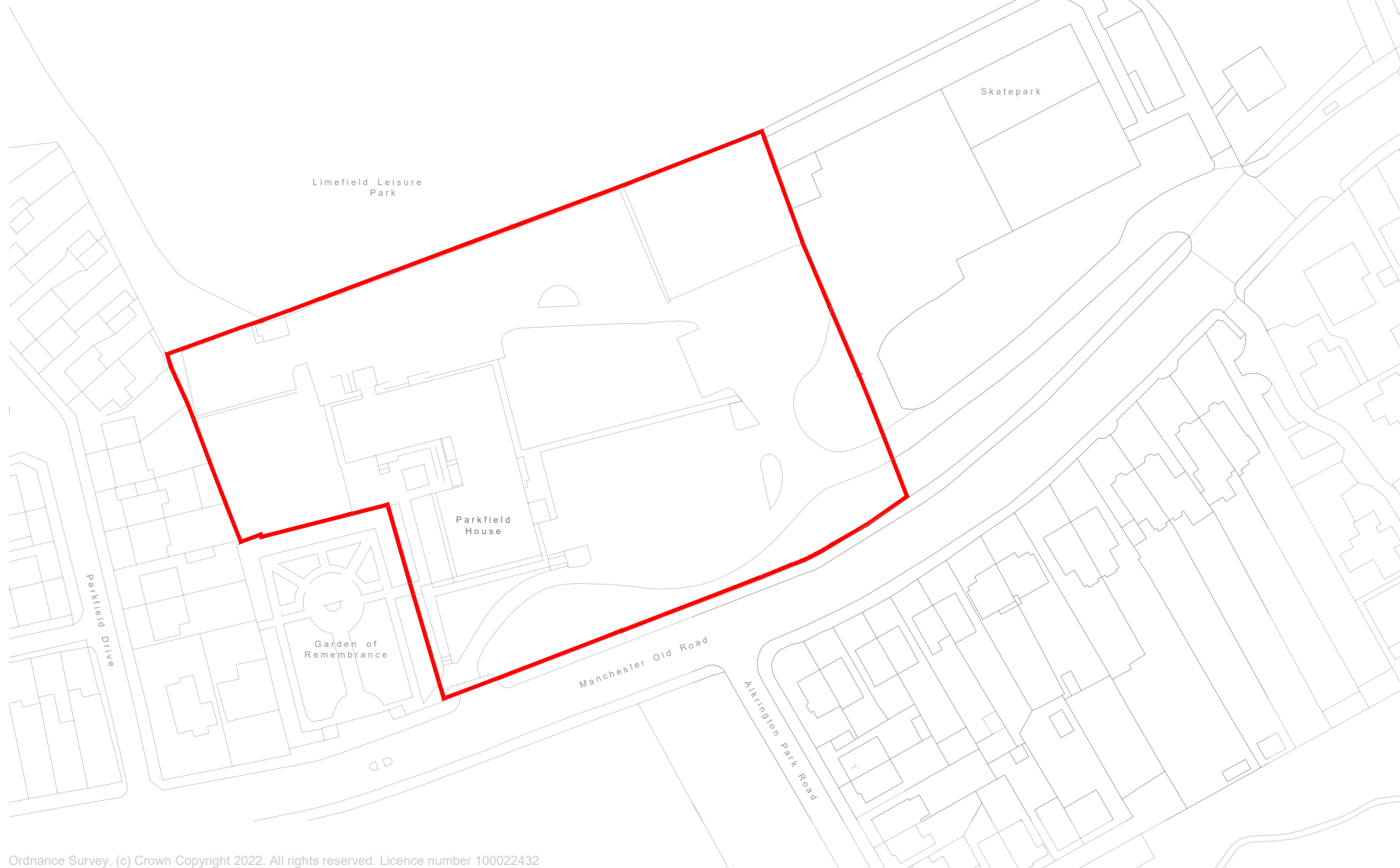
Description of the Site

Land at Parkfield House, Manchester Old Road, Middleton, M24 3EB registered at HM Land Registry under title number MAN81196 and shown edged red on the plan attached to this Deed

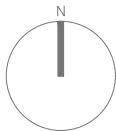
MÜLLER

LEGEND

Denotes Application Site Boundary
1.1ha 2.76ac



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Client:
MÜLLER
PROPERTY GROUP

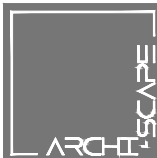
Project Name:
Parkfield House
Project Number:
01-123 - 0012
Project Status:
Stage 3 - Spatial Coordination

Project Address:
Parkfield House,
Manchester old road,
Middleton
Date:
07.03.2023

Drawing Title:
Location Plan
Drawing Number:
MGP_PH.LP.O1
Drawn By:
JB
Scale:
1:1250
@A4
Rev:
-



Winthrop Hall,
Winthrop Lane, Northwich,
Cheshire, WA8 4DU
01940 401777
www.Architectural-Space.com



SCHEDULE 2

Owner's Covenants

Notice of Commencement

- 1 To give to the Council not less than five Working Days' notice in writing of the intended date of Commencement of the Development.

Financial Contributions

- 2 Not to Occupy the Development or permit any Occupation of the Development until the Local Open Space Contribution and the Sports Contribution increased with inflation in accordance with Clause 11 have been paid to the Council

Management of On Site Open Space

- 3.1 Not to Commence Development permit or allow Commencement of the Development until:-
 - 3.1.1 the details of the On Site Open Space have been submitted to and approved in writing by the Council; and
 - 3.1.2 the On Site Open Space Management Scheme has been submitted to and approved in writing by the Council.
- 3.2 The approved On Site Open Space Management Scheme shall only be varied or amended with the written approval of the Council.
- 3.3 The Owner shall fully comply with the approved On Site Open Space Management Scheme and at all times thereafter shall ensure that the On Site Open Space from the time of construction is maintained in accordance with the On Site Open Space Management Scheme and shall keep it maintained until such time as responsibility for its maintenance (together with all necessary rights to enable the Management Company to maintain the On Site Open Space) is transferred to the Management Company PROVIDED THAT it is

agreed that it shall be a written term of the appointment of the Management Company that the transfer is on the condition that they shall manage and maintain the On Site Open Space in accordance with the On Site Open Space Management Scheme for the lifetime of the Development.

- 3.4 The Owner shall transfer responsibility for the maintenance of the On Site Open Space (together with all necessary rights to enable the Management Company to maintain the On Site Open Space) to the Management Company upon completion of the final dwelling within the Development and shall notify the Council in writing within 5 (five) Working Days of the date that the transfer took place.
- 3.5 The written agreement of the Council shall be sought in the event that the Management Company proposes to transfer responsibility for the On Site Open Space to another Management Company who is willing to accept the transfer on the condition that such Management Company shall manage and maintain the On Site Open Space in accordance with the On Site Open Space Management Scheme for the lifetime of the Development.

EXECUTED AS A DEED by affixing)
the Common Seal of **THE ROCHDALE**)
BOROUGH COUNCIL in the presence of:)

Authorised Signatory

EXECUTED AS A DEED by the said)
JED CLARK).....
in the presence of:-)

Witness Signature.....

Witness Name.....

Address.....

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