

Herbert Smith

5<sup>th</sup> June 2007

**THE SECRETARY OF STATE FOR TRANSPORT**

and

**UNION RAILWAYS (NORTH) LIMITED**

and

**THE OLYMPIC DELIVERY AUTHORITY**

---

**DEED OF UNILATERAL UNDERTAKING**  
pursuant to section 106 of the Town and Country  
Planning Act 1990 and other powers  
relating to the regeneration of  
Stratford City, London

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CERTIFIED TO BE A TRUE AND COMPLETE  
COPY OF THE ORIGINAL  
DATED THIS 7<sup>th</sup> DAY OF June 2007  
Pinsent Masons Pinsent Masons

Herbert Smith LLP

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THIS DEED is made the 5<sup>th</sup> day of June 2007

**BY:**

- (1) **THE SECRETARY OF STATE FOR TRANSPORT** of Great Minster House, 76 Marsham Street, London SW1 (the "Secretary of State for Transport"); and
- (2) **UNION RAILWAYS (NORTH) LIMITED** (Company Number 03539665) whose registered office is 3<sup>rd</sup> Floor, 183 Eversholt Street, London, NW1 1AY ("URN")

**TO:**

- (3) **THE OLYMPIC DELIVERY AUTHORITY** of 1 Churchill Place, Canary Wharf, London, E14 5LN (the "ODA").

**WHEREAS:**

- (A) The ODA is the local planning authority for the area within which the Site is situated and the appropriate statutory body to enforce this Deed for the purposes of Section 106 of the 1990 Act.
- (B) The Secretary of State for Transport is the owner with freehold title absolute of the Site registered at HM Land Registry under title numbers EGL343654 and EGL343655.
- (C) By virtue of an agreement known as the "URN Direct Agreement" dated 27 June 2002 and made between (1) The Secretary of State for Transport, Local Government and the Regions, (2) LCR and (3) URN as amended by subsequent supplemental agreements made between the same parties, subject to completion of Section 2 of the HS1, URN is entitled to be granted a leasehold interest in the Site.
- (D) LCR and Stratford City Developments Limited submitted the Woolwich Line Enclosure Works Application to the ODA on 6 October 2006 as an integral part of the Stratford City Development and to carry out works in Zone 1 of the Stratford City Development prior to the Olympic Games.
- (E) Notwithstanding the connection provided by the DLR Woolwich Line extension between Stratford International Station and Stratford Regional Station, URN has agreed to provide the obligations contained in this Deed in order to preserve the ability to provide a second permanent entrance and exit for domestic passengers at Stratford International Station and help realise the future provision of the further enhanced pedestrian interchange between the two stations.
- (F) The ODA at the Planning Committee meeting held on 9 January 2007 resolved to grant the Woolwich Line Enclosure Works Permission subject to completion of this Deed in the manner hereinafter provided.

**NOW THIS DEED WITNESSES** as follows:

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 Where in this Deed the following defined terms and expressions are used they shall have the following respective meanings:

"1990 Act" means the Town and Country Planning Act 1990 (as amended) and including the Planning and Compulsory Purchase Act 2004;

"Council" means the London Borough of Newham of Newham Town Hall, East Ham, London, E6 2RP;

"Enhanced Access Works" means a second permanent entrance and exit for domestic passengers towards the eastern end of Stratford International Station in order to provide better connectivity between Stratford International Station and Zone 1 of the Stratford City Development and an enhanced pedestrian interchange between Stratford International Station and Stratford Regional Station shown for illustrative purposes only on the drawing attached at Annexure 1;

"DLR" means Docklands Light Railway (company number 02052677) whose registered office is at Operations and Maintenance Centre, PO Box 154, Castor Lane, Poplar, London, E14 0DX;

"HS1" means the high speed Channel Tunnel Rail Link;

"Implemented" means the carrying out of a material operation in accordance with the provisions of Section 56 of the 1990 Act PROVIDED THAT for the purposes of this Deed works of site clearance, ground investigation or site survey work, construction of temporary security fencing, boundary fencing or hoarding and/or the display of advertisement signs, laying, removal, replacement, alteration or diversion of services and service media and archaeological investigation shall not be taken as a material operation;

"LCR" means London & Continental Railways Limited whose registered office is 3<sup>rd</sup> Floor, 183 Eversholt Street, London, NW1 1AY (company number 02966054);

"Olympic Games" means the international sporting event known as the Olympic Games to be held in 2012 and starting and ending with formal opening and closing ceremonies;

"Parameter Plan 4" means the fourth drawing listed as part of the Stratford City Permission;

"Parties" means all parties to this deed and the term "Party" shall mean any one of the Parties;

"Site" means part of the Stratford City Site as shown for identification purposes only edged red on the plan attached at Annexure 2;

"Southeastern" means London & South Eastern Railway Limited;

"Stratford City Development" means the development authorised by the Stratford City Permission;

"Stratford City Developments Limited" means the company whose registered office is at 6<sup>th</sup> Floor Midcity Place, 71 High Holborn, London WC1V 6EA (company number 4261851);

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**"Stratford City Permission"** means planning permission granted by the Council on 17 February 2005 for the comprehensive mixed use development of the Stratford City Site to provide B1 offices, residential, retail development in the full range of A1, A2, and A3 uses, commercial leisure uses, hotels and conference facilities, community, health and education facilities, open space, landscaping, water features, parking, transport interchanges, associated infrastructure and a town centre link and any amendment to this permission or further permission approved by the ODA pursuant to Section 73 of the 1990 Act;

**"Stratford City Site"** means the area in Stratford formerly known as Stratford Rail Lands, London E15 in respect of which the Stratford City Permission relates and as shown for illustrative purposes only edged red on the plan attached at **Annexure 3**;

**"Stratford International Station"** means the railway station located within the Stratford City Site serving international train services between London and Continental Europe constructed as part of the Channel Tunnel Rail Link;

**"Stratford Regional Station"** means the railway station located to the south east of the Stratford City Site serving as a transport interchange linking the London Underground Central Line and Jubilee Line and on the Network Rail mainline between Liverpool Street and Stansted Airport, Essex and beyond;

**"Woolwich Line"** means the existing north London railway line and which will become part of the DLR Woolwich Line extension out of Stratford Regional Station from 2009;

**"Woolwich Line Enclosure Works"** means the development to be carried out in accordance with the Woolwich Line Enclosure Works Permission;

**"Woolwich Line Enclosure Works Application"** means an application for full planning permission submitted to the ODA on 6 October 2006 and given reference 06/90005/FUMODA for the proposed works along the Woolwich Line for a long concrete structure which will enclose the Woolwich Line;

**"Woolwich Line Enclosure Works Permission"** means full planning permission to be granted pursuant to the Woolwich Line Enclosure Works Application;

**"Working Day"** means any day from Monday to Friday inclusive which is not Christmas Day, Good Friday or a statutory Bank Holiday and "Working Days" shall be construed accordingly;

**"Zone 1"** means the first zone of the seven development zones identified on Parameter Plan 4.

1.2 Unless the context otherwise requires:

1.2.1 words incorporating the singular include the plural and vice versa and words importing any gender include every gender;

1.2.2 words importing persons include firms, companies, other corporate bodies or legal entities and vice versa;

- 1.2.3 references to URN, Secretary of State for Transport and the ODA shall include their respective statutory successors or successors in title to their respective interests in the Site and persons deriving title therefrom (except where the contrary is expressly provided) and permitted assigns;
- 1.2.4 references to clauses, sub-clauses, paragraph numbers, recitals and schedules are unless otherwise stated references to clauses, sub-clauses, paragraph numbers and recitals of and schedules to this Deed;
- 1.2.5 references to plans are unless otherwise stated references to plans annexed to this Deed;
- 1.2.6 words denoting an obligation on a Party to do any act matter or thing include an obligation to procure that it be done and words placing a Party under a restriction include an obligation not to cause permit or suffer any infringement of the restriction;
- 1.2.7 references in this Deed to statutes, bye-laws, regulations, orders and delegated legislation shall include any statute, bye-law, regulation, order or delegated legislation amending, re-enacting or made pursuant to the same as current and in force from time to time;
- 1.2.8 if any provision of this Deed shall be held to be invalid illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be deemed thereby to be affected impaired or called into question;
- 1.2.9 in the event of any conflict between the terms conditions and provisions of this Deed and any document annexed hereto or referred to herein, the terms conditions and provisions of this Deed will prevail; and
- 1.2.10 the Interpretation Act 1978 shall apply to this Deed.
- 1.3 References to the Secretary of State shall mean the Secretary of State for Communities and Local Government or such other Minister of Her Majesty's Government for the time being having or being entitled to exercise the powers now conferred on her by the 1990 Act.
- 1.4 The clause and paragraph headings in this Deed are purely to aid interpretation, are for reference purposes only, and have no binding legal effect.

## 2. GOVERNING LEGAL PROVISIONS

2.1 This Deed is executed by the Parties hereto as a deed and is made pursuant to Section 106 of the 1990 Act, ~~Section 111 of the Local Government Act 1972~~ and all other powers them enabling and the obligations contained herein constitute planning obligations for the purposes of the 1990 Act enforceable by the ODA.

2.2 The covenants on the part of the Secretary of State for Transport in this Deed in relation to his freehold interest in the Site vested in him are planning obligations made pursuant to and for the purposes of Section 106 of the 1990 Act and whilst the Parties agree that such planning obligations and covenants and undertakings herein on the part of the Secretary of State for Transport shall not be enforceable by the ODA against the Secretary of State for Transport, the obligations and undertakings in this Deed expressed to be given on the part of URN shall be taken to be obligations and undertakings which are binding on the Secretary of State for Transport's freehold interest as if such obligations and undertakings

were given by the Secretary of State for Transport and such obligations and undertakings shall remain binding upon any successors in title to or assigns of the Secretary of State for Transport and/or any person claiming through or under him an interest in the Site as if that person had been an original covenanting party in respect of such interest for the time being held by him.

- 2.3 The obligations, covenants and undertakings on the part of URN in this Deed are planning obligations made pursuant to and for the purposes of Section 106 of the 1990 Act and so as to bind URN's equitable interest in the Site referred to in Recital (C) and subject to clause 6.2, the said obligations, covenants and undertakings on the part of URN are entered into with the intent that they shall be enforceable not only against URN but also against any successors in title to or assigns of URN and/or any person claiming through or under it an interest or estate in the Site as if that person had been an original covenanting party in respect of such interest for the time being held by it.
- 2.4 The planning obligations contained in this Deed shall be enforceable by the ODA in accordance with the terms of section 106(3) of the 1990 Act.

### **3. DEED TO BE CONDITIONAL**

- 3.1 It is hereby agreed between the Parties hereto that, with the exception of this clause 3 and clauses 4, 6, 8.1, 9 and 10 (all of which provisions have operative effect upon the Woolwich Line Enclosure Works Permission being duly granted) none of the terms or provisions in this Deed will have operative effect unless and until both of the following have occurred, namely:
- 3.1.1 the Woolwich Line Enclosure Works Permission has been duly granted; and
- 3.1.2 Implemented.
- 3.2 Where the Woolwich Line Enclosure Works Permission is the subject of any judicial review proceedings or other legal challenge:
- 3.2.1 save for those obligations which have immediate effect by virtue of clause 3.1, until such time as such proceedings or challenge including any appeal have been finally resolved the terms and provisions of this Deed will remain without operative effect notwithstanding the grant of the Woolwich Line Enclosure Works Permission unless the Woolwich Line Enclosure Works Permission is Implemented; and
- 3.2.2 if following the conclusion of such proceedings or challenge the Woolwich Line Enclosure Works Permission is quashed then without prejudice to any liability which may have arisen pursuant to this Deed by virtue of the Implementation of the Woolwich Line Enclosure Works Permission prior to it being quashed this Deed will cease to have any further effect as from the date upon which the Woolwich Line Enclosure Works Permission is quashed.
- 3.3 Wherever in this Deed reference is made to a date on which "legal proceedings or challenge in relation to the Woolwich Line Enclosure Works Permission are concluded" (or cognate expressions are used), the following provisions have application:
- 3.3.1 Proceedings by way of judicial review are concluded:

- (A) when permission to apply for judicial review has been refused and no further application may be made; or
- (B) when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or
- (C) when any appeal is finally determined.

3.3.2 Proceedings under Section 288 of the 1990 Act or in respect of any other legal challenge are concluded:

- (A) when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or
- (B) when any appeal is finally determined.

#### **4. FURTHER PLANNING PERMISSIONS**

- 4.1 Nothing in this Deed shall be construed as prohibiting or limiting the rights of URN to develop any part of the Site or the Stratford City Site in accordance with and to the extent permitted by a planning permission (other than the Woolwich Line Enclosure Works Permission) granted by the ODA or by the Secretary of State on appeal or following a reference to her either before or after the date of this Deed.
- 4.2 If the Woolwich Line Enclosure Works Permission (or any extension alteration or renewal granted pursuant to any planning application) expires without being Implemented or is revoked this Deed will cease to have effect insofar as it relates to the Site, and upon such expiry or revocation its registration on the register of Local Land Charges will forthwith be cancelled.

#### **5. OBLIGATIONS OF URN**

URN on behalf of themselves and their respective successors in title to the Site covenant with the ODA as follows:

- 5.1 within 8 weeks following the grant of the Woolwich Line Enclosure Works Permission to carry out and complete a joint feasibility study with the ODA and in consultation with Stratford City Developments Limited, the Council, DLR, London Travel Watch and Southeastern in order to determine whether the proposed Enhanced Access Works can be completed:
  - 5.1.1 prior to the opening of Southeastern's domestic train services on the HS1 railway line; and
  - 5.1.2 at a reasonable cost, such reasonableness to be based on the current estimated costs of £15 million and on the basis of the funding package agreed between the ODA, URN and the Secretary of State for Transport which includes the ODA contributing towards the completion of the Enhanced Access Works in an amount equal to the funds currently committed towards those improvement works to Stratford International Station domestic platforms which will not be required in the



event that the Enhanced Access Works are completed or on the basis of such other funding package agreed between the Parties;

- 5.2 following confirmation by the joint feasibility study referred to in clause 5.1 that the Enhanced Access Works can be completed at a reasonable cost through an agreed funding package prior to the opening of Southeastern's domestic train services on the HS1 railway line and subject to obtaining all necessary consents, approvals and permissions, to carry out and complete the Enhanced Access Works;
- 5.3 as far as possible within URN's control and subject to clause 8.2, not to carry out any works on the Site prior to the Olympic Games in a form or manner which would prevent the provision of the Enhanced Access Works or such other works as agreed between URN, ODA and Stratford City Developments Limited which would provide enhanced pedestrian connectivity between Stratford International Station and Stratford Regional Station;
- 5.4 that the leasehold interest of the Site which is to be granted by the Secretary of State for Transport to URN at a future date shall be bound by the obligations in this Deed in accordance with the provisions of Section 106(3)(b) of the 1990 Act and the covenants in this sub-clause 5.4 are entered into with the ODA ~~under Section 111 of the Local Government Act 1972.~~



## 6. RELEASE AND CERTIFICATES OF COMPLIANCE

- 6.1 URN and/or the Secretary of State for Transport will, upon disposing of the whole or any part of their interest in the Site, be released from all obligations and covenants under this Deed in relation to that interest or the relevant part thereof (as the case may be) but without prejudice to the rights of the ODA in relation to any antecedent breach of those obligations or covenants.
- 6.2 This Deed shall not be enforceable directly against occupiers or occupational tenants on the Site.

## 7. ODA'S RIGHT TO NOMINATE COUNCIL AS BENEFICIARY

- 7.1 The ODA shall be entitled (but not obliged) to nominate the Council as beneficiary of any of the obligations, covenants and undertakings provided in this Deed **PROVIDED THAT** the ODA provides prior written notice to URN of its intention to nominate the Council as the beneficiary of any obligations, covenants and undertakings in this Deed.

## 8. MISCELLANEOUS PROVISIONS

### 8.1 Local Land Charge

This Deed shall be registered as a Local Land Charge for the purposes of the Local Land Charges Act 1975.

### 8.2 Parties not to encumber

URN shall not encumber or otherwise deal with its interest in the Site or any part or parts thereof in any manner whatsoever whereby the obligations imposed by this Deed are rendered impossible to carry out save where planning permission is granted for an alternative development of the Site and **PROVIDED THAT** this clause 8.2:

8.2.1 shall not restrict URN from encumbering or otherwise dealing with its interest in the Site or any part or parts thereof on a basis that is subject to the obligations imposed by this Deed; and

8.2.2 shall not inhibit the imposition of any encumbrance for the purposes of the construction, operation or maintenance of HS1.

## 9. THIRD PARTY RIGHTS

Save where otherwise specified in this Deed any person who is not a Party to this Deed has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

## 10. NOTICES

10.1 Any notice to be delivered to a Party under this Deed must be in writing and must be sent to it at the fax number or address and marked for the attention of the person, and copied to the person(s), identified below or instead to such alternatives as may be substituted for them from time to time.

### **The Secretary of State for Transport:**

Fax Number: 020 7944 2160

Address: Great Minster House, 76 Marsham Street, London SW1

Attention: Divisional Manager – Rail Major Projects

### **The ODA:**

Fax Number: 020 85199684

Address: Planning Decisions Team, Mailpoint 32B,

1 Churchill Place, Canary Wharf, London, E14 5LN

Attention: Head of Development Control

### **URN:**

Fax Number: 020 7391 4400

Address: 3<sup>rd</sup> Floor, 183 Eversholt Street, London, NW1 1AY

Attention: Planning Director


10.2 Any such notice must be delivered by hand or sent by fax or pre-paid first class post and if delivered by hand, will conclusively be deemed to have been received on the next Working Day after the day of delivery if sent by fax on the date of despatch or, if that is not a Working Day, on the next Working Day and if sent by post and posted within the United Kingdom will conclusively be deemed to have been received two Working Days after the date of posting.

10.3 If a notice is sent by fax a copy must be sent on the same day by pre-paid first class post, but for the avoidance of doubt the date of service of such notice will be the date of despatch of the fax.

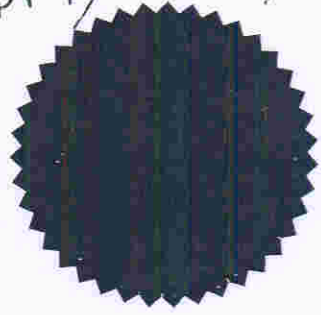
IN WITNESS whereof this Deed has been executed and delivered by the Parties hereto on the date which appears at the head of this document.

SEAL REF No.  
DPT/3141

THE CORPORATE SEAL of THE  
SECRETARY OF STATE FOR  
TRANSPORT was hereunto affixed  
in the presence of:

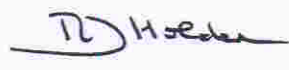
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CEDISON

An Assistant Secretary



EXECUTED as a DEED by UNION  
RAILWAYS (NORTH) LIMITED  
acting by:

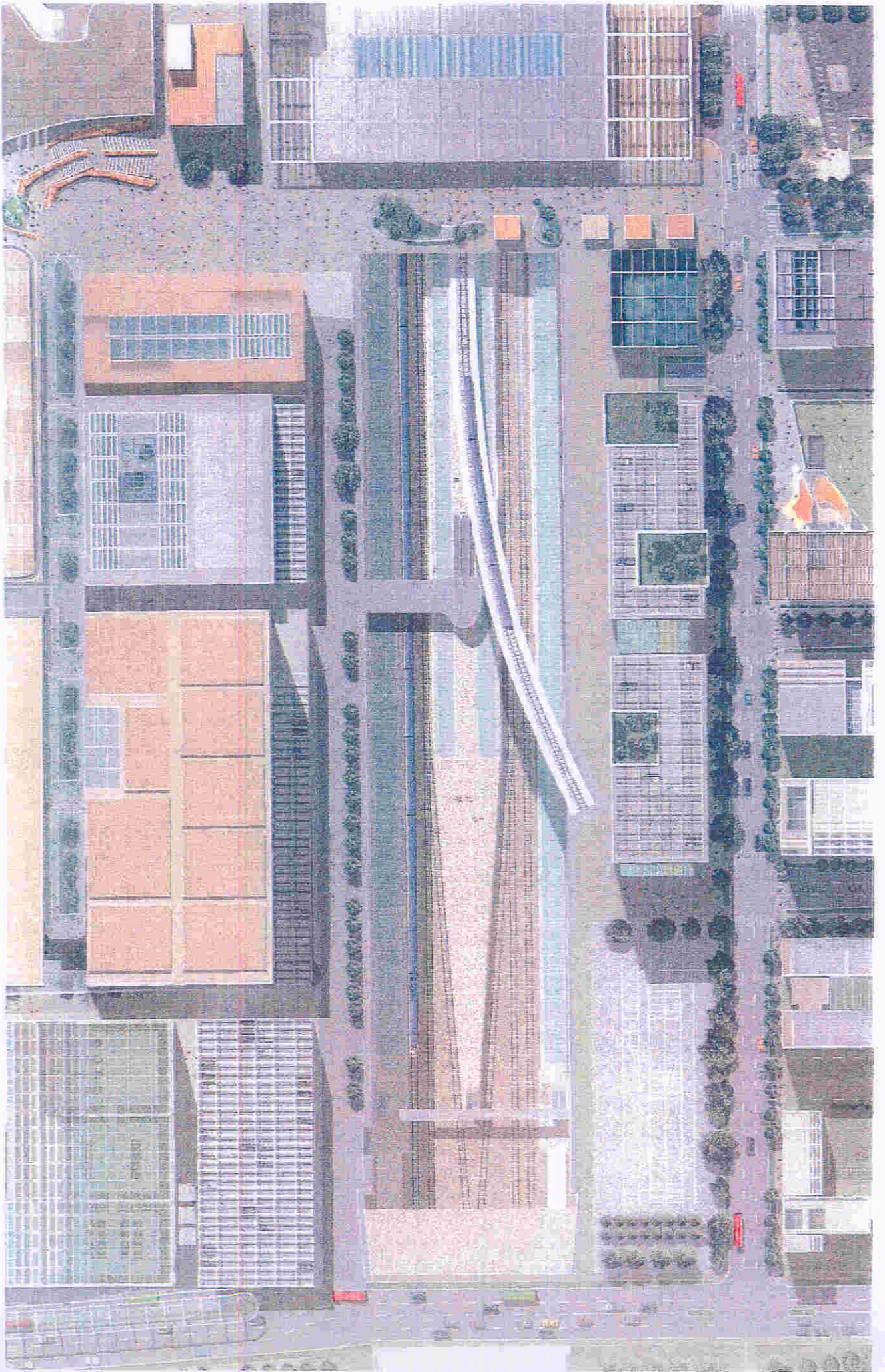
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Director



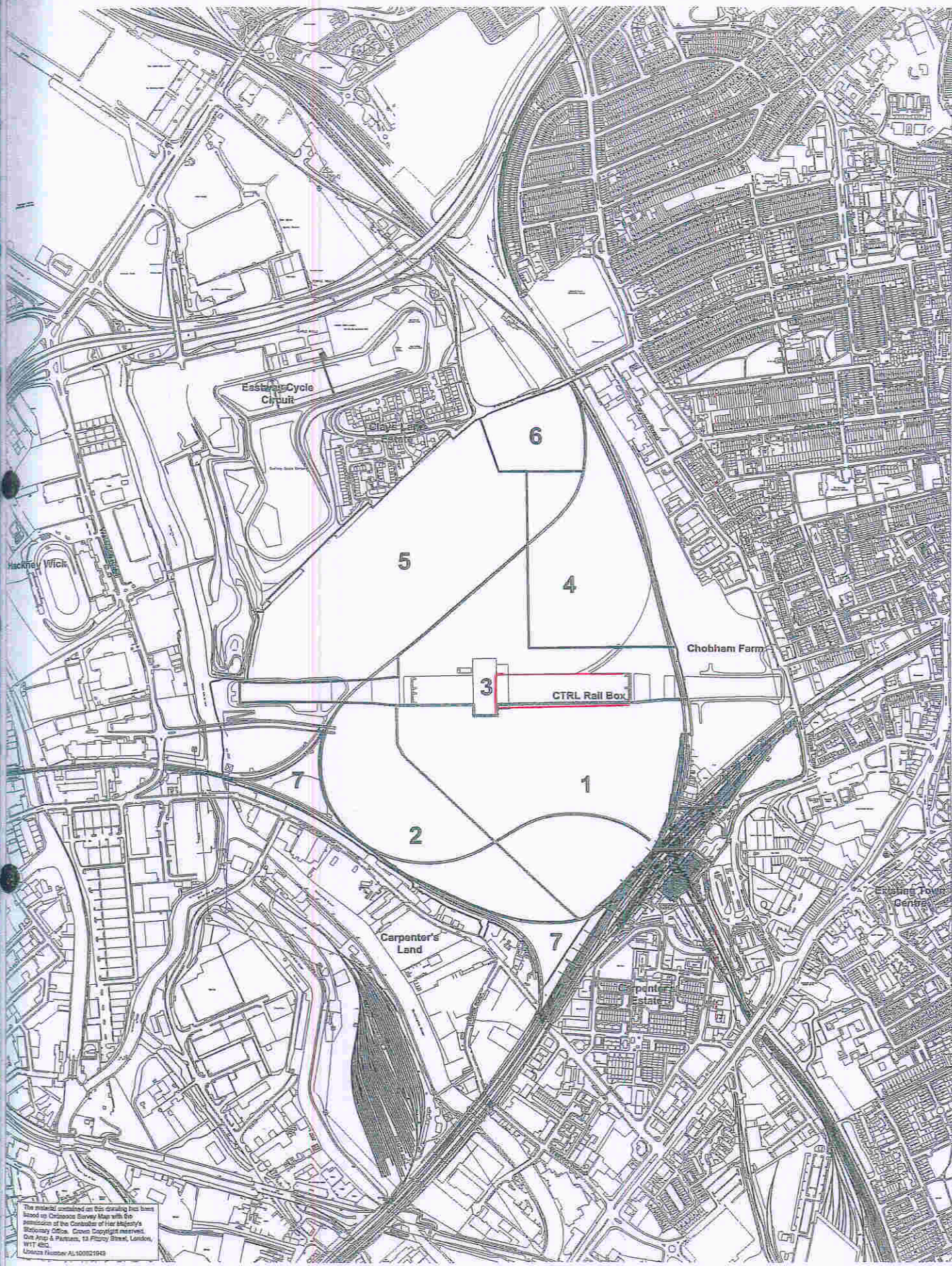
Director/Secretary



# Annexure 1



# Annexure 2



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**STRATFORD CITY**

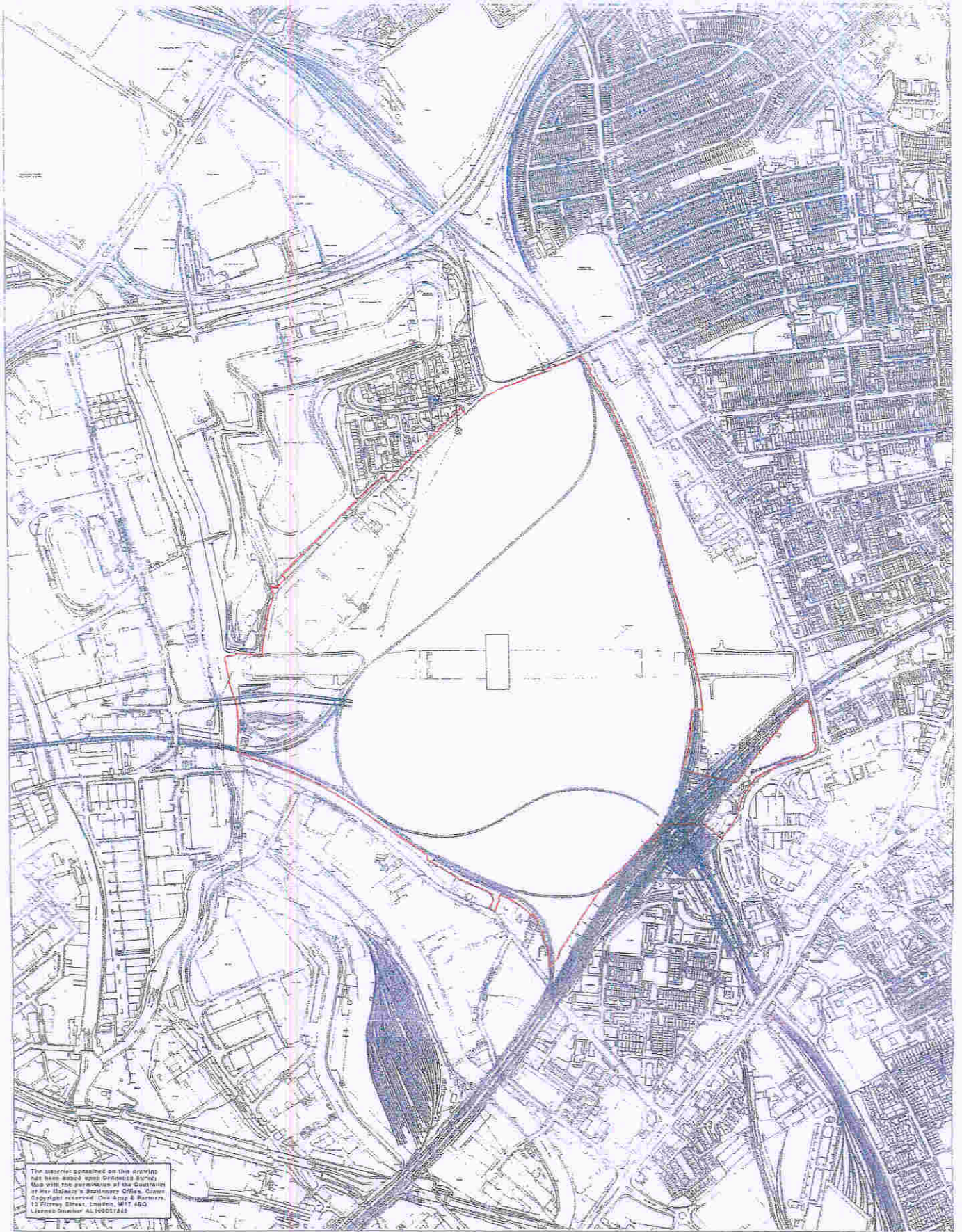
PLAN 2:  
THE SITE

Scale bar:

ANNEXURE 2

# Annexure 3





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**STRATFORD CITY**

Stratford City Outline Planning Application  
Site Location Plan

Scalebar:

Scale: 1:2500 @A0 Date: 16/01/04

CHELSEFIELD STANHOPE LCR

Dwg No. AA-39067/P-98-012

Rev: A

ANNEXURE 3