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## Appeal Decision

Inquiry held on 23-25 July, 30 July-2 August, 13-16 August, 28-30 August and 5 September 2024

Site visits made on 4 and 24 July and on 10 September 2024

**by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 January 2025**

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**Appeal Ref: APP/E5330/C/23/3332209**

**Mast Quay Phase II, Woolwich Church Street, London SE18 5BG**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Fincraft Limited against an enforcement notice issued by the Royal Borough of Greenwich (RBG).
- The notice was issued on 25 September 2023.
- The breach of planning control as alleged in the notice is the erection of a 15 storey tower block known as Sky Sail House ("Block D") and a tower block of 23 storeys known as Main Sail House, with linked tiered 11, 9 and 6 storeys known as Moon Sail House ("Block E"), in the approximate positions marked on the Plan and all associated development on the Land including all hard landscaping, the pedestrian footbridge to Woolwich Church Street and the underground development and car park (the "Unauthorised Development").
- The requirements of the notice are: 5.1 Demolish the buildings consisting of a 15 storey tower block known as Sky Sail House (Block D) and the tower block of 23 storeys known as Main Sail House, with linked tiered 11, 9 and 6 storeys known as Moon Sail House (Block E), above and below ground, which are located on and within the land; 5.2 Remove and demolish all associated development including all hard landscaping, the pedestrian footbridge to Woolwich Church Street and the underground development and car park that forms part of the unauthorised development located on and within the land (shown edged red on the Plan); 5.3 Restore the land to its condition before the breach took place, but excluding the development within the areas hatched blue on the Plan which is to be retained on the land; and 5.4 Remove from the land all materials, debris and rubble arising from compliance with the requirements in paragraphs 5.1 to 5.3 above.
- The period for compliance with the requirements is twelve months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

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### Decision

1. The enforcement notice is varied by the deletion of (a) to (z) in section 4.2 of the notice and the substitution instead of:
  - a) Difference in external appearance of the buildings including changes to building footprints, materials, design, fenestration, roof setback, glazing, and balcony location and provision;
  - b) Reduced provision of communal amenity space and omission of child playspace;

- c) Changes to some residential units which impact wheelchair accessibility;
- d) Reduced provision of commercial floorspace in Block D;
- e) Provision of inaccessible residents' gym in Block E in place for approved commercial floorspace;
- f) Changes to car parking and basement footprint/layout, and associated reduction in landscaping;
- g) Changes to landscaping and public realm treatments, including omission of roof garden, reduction to size of footbridge and change to landscape area around Thames Tidal Inlet to north-west corner of site;
- h) Stepped accesses to balconies within some units, to all communal roof terraces and between main areas of public realm;
- i) Changes to stair cores and location of substation with associated impact on internal layouts;
- j) Changes to internal layouts of some units and introduction of structural pillars in some units; and
- k) Consequent to changes detailed in a) above reduced levels of daylight within units.

2. Subject to the variation, the appeal is allowed, the enforcement notice is upheld and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the erection of a 15 storey tower block known as Sky Sail House ("Block D") and a tower block of 23 storeys known as Main Sail House, with linked tiered 11, 9 and 6 storeys known as Moon Sail House ("Block E") and all associated development including all hard landscaping, the pedestrian footbridge to Woolwich Church Street and underground development and car park, subject to the conditions set out in a schedule attached to this decision.

### **Applications for costs**

3. RBG has made an application for costs against the Appellant. This application is the subject of a separate Decision.

### **Preliminary Matters**

4. The main parties submitted a draft Statement of Common Ground (SoCG) before the Inquiry opened on 23 August. The draft was revised throughout the Inquiry and a final version was signed after the Inquiry closed on 5 September.

5. The enforcement notice, at section 4.2, lists twenty-six material deviations from the scheme approved in 2012. The ground (b) and (c) appeals were made by the Appellant to address duplication of, and other concerns with, the twenty-six material deviations. These were addressed by RBG and the main parties agreed a list of eleven alternative material deviations, as set out in the SoCG. The enforcement notice has been varied by the deletion of the deviations in section 4.2

and the substitution instead of the agreed eleven material deviations. The ground (b) and (c) appeals do not therefore need to be considered. Matters mentioned in the ground (f) appeal relate to the merits of proposed modifications to the as-built development and shall therefore be considered in the ground (a) appeal. Taking into account the conclusion of the previous paragraph this decision will need to consider only the ground (a) appeal and, if necessary, the ground (g) appeal.

6. The main parties have agreed that, for clarity and with regard to the planning permission hereby granted, the breach of planning control should be varied to be 'the erection of a 15 storey tower block known as Sky Sail House ("Block D") and a tower block of 23 storeys known as Main Sail House, with linked tiered 11, 9 and 6 storeys known as Moon Sail House ("Block E") and all associated development including all hard landscaping, the pedestrian footbridge to Woolwich Church Street and underground development and car park'.

### **Background information**

7. On 29 March 2012 planning permission 10/0161/F for Mast Quay Phase II was granted for 'mixed use development comprising of 218 residential units and 738 square metres commercial floor space with associated car parking and landscaping and public realm' on the appeal site. The planning permission was subject to 47 conditions. The permitted development, despite its description, was for 204 residential units.

8. On 22 April 2015 RBG issued a Decision Notice for application 15/0081/V, which granted approval for the variation of the wording of 19 of the 47 conditions attached to the planning permission.

9. The Appellant accepts that planning permission 10/0161/F as varied by application 15/0081/V was not lawfully implemented and that the development that exists on site does not have planning permission.

### **The Appellant's Outstanding Proposals**

10. In their Statement of Case the Appellant set out parts of the development "...which are yet to be completed and which will be delivered...". They refer to these as the 'Outstanding Proposals'. During the course of the Inquiry the Outstanding Proposals were added to and are, as listed in the SoCG,:

- (a) Fire-safety related improvement works including:
  - (i) Replacement of existing glazed balcony treatment with fire resistant glass panels on Blocks D and E;
  - (ii) Provision of external fire lift and automatic smoke vent to eastern elevation of Block E and relocation of existing fire exit serving Block E (Moon Sail House);
  - (iii) An additional smoke vent with the stair core of Moon Sail House;
  - (iv) Changes to the layouts of Units 103, 104, 204, 304, 404, 504, 602, 701, 702, 801, 802, 901 and 1001 in Moon Sail House to accommodate the new fire lift and automatic smoke vents;
  - (v) Addition of fire doors in the buildings;

- (vi) New emergency exit route in the ground floor of Block D; and
- (vii) New emergency route for Block E (Main Sail House) together with associated works to remove existing access onto adjacent Transport for London (TfL) land;
- (b) Self-containment of the office space in Block D;
- (c) Removal of all standard parking bays from the site, with the exception of visitor, car club and disabled persons' vehicle bays;
- (d) Provision of long-stay residents' cycle parking within the basement;
- (e) The public realm treatment and landscaping scheme;
- (f) Dedicated external private amenity spaces on the 6th and 9th floor roof terraces, and communal roof terrace with landscaping and accessibility related works on the 11th floor, all in Block E;
- (g) Provision of the children's play space;
- (h) Provision of ramped access along the western side of Block D and the provision of a wheelchair lift to overcome vehicular ramp access issues;
- (i) Installation of air conditioning units and reflective blinds to bedrooms within the development, together with adjustments to windows to allow them to open;
- (j) Provision of 10% wheelchair adaptable units and associated conversion works as required;
- (k) Provision of enlarged green roofs to the roofs of Block D and Block E;
- (l) Provision of an access lift in the gym.

### **The Appellant's Optional Enhancements**

11. In their Statement of Case the Appellant offered proposed enhancements to Block E. They refer to these as the 'Optional Enhancements'. These have been offered "...should the Inspector judge that any of the...Optional Enhancements be necessary to make the existing development more acceptable". With regard to (b) below, this only applied to Block E, but during the Inquiry (b) was altered to apply to both Blocks D and E. As set out in the SoCG the Optional Enhancements are:

- (a) The addition of dark grey panelling below window openings on the eastern and western elevations of Block E;
- (b) Introduction of a modified treatment to the roofs of Blocks D and E;
- (c) Introduction of grey and white banding across the tail element of Block E, demarking different floor levels and replacing existing grey banding on orange block; and/or
- (d) The conversion of the existing resident's gym to a commercial gym.

## **The main issues**

12. The main issues in the ground (a) appeal are:
  1. The effect of the development as built on the character and appearance of the area;
  2. The effect of the development as built on the setting and significance of heritage assets;
  3. Whether residents of the development have acceptable living conditions;
  4. Whether residents of the development have acceptable outdoor amenity space;
  5. Whether the development is inclusive to those with disabilities;
  6. Whether the development has an acceptable public realm with regard to landscaping, car parking, ecology and biodiversity;
  7. Whether the development has acceptable cycle parking;
  8. Whether the development has acceptable servicing and access arrangements;
  9. Whether the development includes sufficient affordable housing; and
  10. Whether the development includes adequate commercial floorspace.

## **Planning Policy and Guidance**

13. The Development Plan includes the RBG Local Plan: Core Strategy with Detailed Proposals (CS), adopted in 2014, and The London Plan (LP), adopted in 2021. The following is a precis of the relevant policies from these two documents, relevant supplementary guidance documents, and guidance in the National Planning Policy Framework (NPPF), for each main issue.

The first issue – character and appearance of the area

14. CS policy DH1 requires all developments to be of a high quality of design and that they positively contribute to the improvement of the built environment, and policy DH2 states that tall buildings may be appropriate in Woolwich Town Centre. The supporting text to policy DH2 states that well designed tall buildings can potentially create landmarks for an area and a proposal for a tall building will need to consider its impact on the existing character of the area.

15. LP policy D3 states that all development must make the best use of land by following a design-led approach that optimises the capacity of sites, and that development proposals should respond to the existing character of a place and be of high quality, with architecture that pays attention to detail. LP policy D9 states that a development proposal for a tall building should address, amongst other things, the visual impact of the building, including the design of the top of the building, the form and proportions of the building and relationship with the street.

16. RBG's Urban Design Supplementary Planning Document (USDPD) provides detailed guidance on the development of tall buildings. The UDSPD states that tall buildings are often described as landmark buildings and that well-designed local

landmarks can be a positive feature of new developments within a place if they integrate well with their context, and respond appropriately to townscape character. NPPF paragraph 135(c) requires developments to be sympathetic to local character, including the surrounding built environment and landscape setting.

The second issue – setting and significance of heritage assets

17. CS policy DH3 states that RBG will apply the presumption in favour of the preservation of listed buildings and their settings. LP policy HC1 states that development proposals affecting heritage assets and their settings should conserve their significance, by being sympathetic to the asset's significance and appreciation within their surroundings. LP policy D9(c) reiterates policy HC1 in regard to the effect of tall buildings on heritage assets.

18. The UDSPD states that tall buildings should respond appropriately to the setting of heritage assets and townscape character. NPPF paragraph 135(c) requires developments to be sympathetic to history, and NPPF paragraph 208 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

The third issue – living conditions

19. CS policy E1, in compliance with LP policy SI3(D)(3), requires all development to reduce demand for energy and to provide sufficient infrastructure to enable a connection to a decentralised energy network for immediate or future use. LP policy SI2(A) requires major development to be net zero-carbon which means reducing greenhouse gas emissions and peak energy demand by being lean, clean, green and seen, and policy SI2(C) requires a minimum on-site reduction of at least 35% beyond Building Regulations.

20. LP policy SI4 states that major development proposals should demonstrate through an energy strategy how they will reduce the potential for internal overheating and reliance on air conditioning systems in accordance with a cooling hierarchy. LP policy D6(A) states that housing developments should provide adequately sized rooms with functional layouts which are fit for purpose and meet the needs of Londoners without differentiating between tenures. LP policy D6(A) states that housing development should be of high quality design and provide adequately sized rooms which are fit for purpose, and LP policy D6(F) requires housing developments to meet minimum standards.

The fourth issue – outdoor amenity space

21. CS policy H5 requires that flats should have a good-sized balcony, a terrace or access to an enclosed communal garden. LP policy D6 states that a minimum of 5 sqm of private outdoor space should be provided for 1-2 person dwellings and an extra 1 sqm for each additional occupant, and it must achieve a minimum depth and width of 1.5 metres.

The fifth issue - inclusivity

22. CS policy DH1, which carries forward LP policy D5, expects developments to achieve accessible and inclusive environments for all, including disabled people. LP policy D7 states that residential developments must ensure that at least 10% of dwellings meet Building Regulation (BR) requirement M4(3) 'wheelchair user dwellings', and all other dwellings meet BR requirement M4(2) 'accessible and

adaptable dwellings'. LP policies T6 and T6.1 require a minimum disabled parking provision of 3% of the number of dwellings along with a demonstration that a further 7% could be provided.

The sixth issue – public realm

23. CS policy DH1 states that a development is expected to create an attractive, manageable well-functioning space within the site. LP policy D8(B) states that development proposals should ensure the public realm is well-designed, safe, accessible, inclusive, attractive, well-connected, related to the local and historic context, and easy to understand, service and maintain. LP policy G5, with regard to urban greening and achieving an Urban Greening Factor (UGF), seeks a target score of 0.4 UGF for predominantly residential developments, and LP policy G6(D) states that developments should aim to secure biodiversity net gain (BNG).

The seventh issue – cycle parking

24. LP policy T5 requires that development proposals include the provision of appropriate levels of cycle parking which should be fit for purpose, secure and well-located, and that cycle parking should be laid out in accordance with guidance contained in the London Cycling Design Standards.

The eighth issue - servicing and access arrangements

25. LP policy T7 requires developments to facilitate safe, clear and efficient deliveries and servicing, and policy D9 states that buildings should be serviced, maintained and managed in a manner that will not cause disturbance or inconvenience in the surrounding public realm.

The ninth issue – affordable housing

26. CS policy H3 and LP policy H5 require developments of 10 or more homes to provide at least 35% affordable housing, the precise percentage being determined by factors including viability. LP policy H11 includes the same requirement for Build to Rent schemes.

The tenth issue – commercial floorspace

27. CS policy EA1 supports the expansion of increased employment opportunities by, amongst other things, supporting the development of small and medium business space, and policy EA(a) seeks to maximise the contribution to employment from sites in previous employment use. LP policy GG5 seeks to ensure that there is sufficient employment space in the right locations to support economic development.

## **Reasons**

28. It is an important planning principle that if a concern can be overcome by imposition of a condition on a planning permission, whether at application stage or on appeal, then planning permission should not be withheld. Many matters of detailed design are dealt with by imposition of conditions on a planning permission and it is worth noting that the 2012 planning permission for Mast Quay Phase II had 47 conditions, only 3 less than imposed on the planning permission granted in this decision. In consideration of each of the main issues the aforementioned important planning principle will be followed.

The first issue – the character and appearance of the area

29. The appeal site is about 0.64 hectares and is located between the River Thames to the north and Woolwich Church Street to the south, which in this location is a dual carriageway. To the west of the site is Mast Quay Phase I which comprises three residential blocks; Lower Mast House, a 3/4 storey building, Jigger Mast House, a 2/5/8/15 storey building, and Mizzen Mast House, also a 2/5/8/15 storey building. To the east of the site is a hard surfaced vehicle parking area and to the north-east of this area is the Woolwich Ferry Crossing. Woolwich Church Street terminates at a large roundabout junction with the access to the ferry crossing, Woolwich High Street, which extends eastwards, and South Circular Road, which extends southwards.

30. The development as built has a slightly larger footprint than the approved development. But the increase in footprint, in visual terms, is not material. The development as built is, most importantly, the same height as the approved development. RBG has sought to compare the two schemes but the development as built must be judged on its individual merits. However, differences between the two schemes can inform a judgement as to the acceptability of the as built development, particularly as it is sited alongside Mast Quay Phase I which has some features, wrap around balconies for instance, that would have appeared in the approved development if it had been built.

31. The 15 storey elements of the two principal buildings in Phase I have similar footprints to Blocks D and E in Phase II; the scale of these elements is similar, in fact, to Sky Sail House, Block D. Wrap around corner balconies are a feature of Phase I and they complement the scale of the buildings, which are clad in grey cladding panels interspersed by areas of, what was originally, orange render. But the orange colour has faded in the years since Phase I was completed and the render panels are now a subdued orange/ochre colour. An attractive feature of the two principal elements in Phase I is 1/2 storey penthouse accommodation with a curved, sloping, projecting roof plane.

32. Whereas Block E in the approved scheme would have had extensive areas of curtain walling, on the east and west elevations and in the shape of sails to reflect the maritime history of the location, the as built scheme is wholly clad in aluminium panels punctured by windows. The sail features are picked out in an off-white colour to the principal grey colour of the cladding but they are indistinct. Furthermore, both Block D and Block E have generally flat roofs relieved only by a slight upturn on the north elevations to the river. Neither block has an intended penthouse or a projecting sloping roof. The two principal blocks, as built, do not convincingly 'meet the sky'.

33. One of the optional enhancements put forward by the Appellant would be the addition of a dark coloured projecting edge to the roofs of Blocks D and E. Whilst not the distinctive penthouses of Phase I the projecting roof features would adequately address how the buildings 'meet the sky' and this particular requirement of LP policy D9. The aluminium panels that clad the development are a different aesthetic to the part curtain walling of the approved scheme but there is nothing particularly unappealing or unattractive about this type of cladding which is just as appropriate for a residential development as it is for any other type of development. In this regard the small size of the panels and the consequent many lines across the facades are not considered to be unacceptable.



34. A distinctive feature of the as built development is the inclusion of areas of orange cladding. This cladding appears on a projecting 12 storey element on the east elevation of Moon Sail House and there are smaller areas on the south and north elevations of Main Sail House, the 23 storey element of Block E. Unlike the render panels in Phase I the bright orange colour of the panels will not fade over time and they will remain visually intrusive and uncomplimentary. The areas of orange cladding are particularly prominent in close views of the development from the vicinity of the roundabout and from the access road to the ferry crossing and Woolwich Church Street, and they are visually intrusive in longer distance views from the river and South Circular Road.

35. The Appellant has requested that the optional enhancements be considered and, in similar fashion, the Appellant has been asked to consider a condition, in addition to those put forward by both main parties, that would require the removal of all orange cladding panels and their replacement by cladding panels of an appropriate and complimentary colour that shall be agreed by RGB. The Appellant has agreed to the condition. RGB has expressed "...reservations with such an approach..." and has suggested that the condition should require "...a more comprehensive strategy..." that would result in the replacement of all cladding panels. Given paragraph 33 above this would not be necessary.

36. The omission of wrap around balconies is not considered to be detrimental to the appearance of the as built development. Such features, in fact, can add to the apparent bulk of a building and this is relevant to Block E. The 23 storey element of this Block has a pleasing slenderness, in contrast to the boxy scale of Block D and the two 15 storey elements of Phase I, and wrap around balconies would compromise this slenderness. The other aesthetic optional enhancements, the addition of dark grey panelling below windows and the introduction of grey and white banding across the tail element of Block E, would enhance the development and would address, to some degree, its somewhat bland appearance. The introduction of ventilation grilles across the facades of the development, which would be colour matched to the cladding, would be inconsequential.

37. The necessary addition of a fire escape on the east elevation of Block E would not unduly compromise the 'stepping down' of the as built development to Woolwich Church Street. If a comparison has to be made between the approved and as built schemes then the comparison is about the detailing and external features of the scheme; because the scale of the two schemes is materially the same. In this regard, Main Sail House is a prominent feature of the riverside footpath, particularly in views from the west, but it is not a particular landmark that relates to land uses or activity in the surrounding area. Mast Quay is, in fact, removed from the town centre and confined by Woolwich Church Street and the access road to the ferry crossing.

38. The optional enhancements will be added and the requirement to replace the orange cladding panels is controlled by condition. Attention has been paid to the detailing of the development and it will be of sufficiently high quality. The as built development, with conditions attached to the planning permission hereby granted, does not have a significant adverse effect on the character and appearance of the area, and does not conflict with CS policies DH1 and DH2, with LP policies D3 and D9, with the USDPD or with NPPF paragraph 135(c).

The second issue - setting and significance of heritage assets

39. On the south side of Woolwich Church Street, on higher ground than the appeal site, is the Church of St Mary Magdalene, a Grade II\* listed building. Entry into the churchyard that surrounds the church is, apart from an access off Woolwich Church Street, off the South Circular Road and off Greenlaw Street to the west of the church. On the west side of the roundabout is the New Wine Church, a former Odeon Cinema, that is a Grade II listed building, and on Powis Street, which has a junction with South Circular Road opposite the New Wine Church, is a Granada Cinema, a Grade II\* listed building. The three listed buildings are within the Woolwich Conservation Area. Paragraph 205 of the NPPF requires great weight to be given to the preservation of the significance of designated heritage assets.

40. Mast Quay Phase II is visible in views towards the church from the pathways that lead to it from South Circular Road and Greenlaw Street, though the development is screened in these views by substantial mature trees along the north boundary of the churchyard to Woolwich Church Street. The development is also visible in views westwards along Powis Street and from the vicinity of the roundabout, from where there are views of the frontages of the Granada Cinema and the New Wine Church. It is from these vantage points, all within the Conservation Area, that the listed buildings are experienced and are appreciated.

41. A development of the same size and scale as Mast Quay Phase II was granted approval in 2012 and it must be assumed, given the need for housing, that a development of at least the same size and scale would be granted planning permission now. So, the effect of the as built development on the setting and significance of the heritage assets only arises from the detailing and appearance of the development. The development is set in the background in views of the listed buildings so its detailing is not significant. In views of the listed buildings from within the Conservation Area it is the use of orange cladding on the development that draws the eye and adversely affects appreciation of the heritage assets.

42. If it were not for the orange cladding the as built development would be a neutral element in the setting of the heritage assets. The Appellant has agreed, as previously set out, to the imposition of a condition that would require the removal of all orange cladding panels and their replacement by cladding panels of an appropriate and complimentary colour that shall be agreed by RBG. Such a condition has been imposed on the planning permission hereby granted and it must therefore be concluded that the as built development, once altered in accordance with the condition, would not have any adverse effect on the setting and significance of the aforementioned heritage assets. The development does not conflict with CS policy DH3, with LP policies HC1 and D9(c), or with the UDSPD.

The third issue – living conditions

43. There is no material disagreement between the parties on the levels of daylight in the 204 flats. The disagreement between them relates to the guidance to be applied when assessing whether the levels of daylight are acceptable and therefore compliant with policy. RGB has applied standards set out in BS EN 17037:2018, whereas the Appellant has applied the standards set out in the UK National Annex (NA) Targets. The NA Targets, as stated in the document, would be applicable where daylight recommendations in BS EN 17037 may not be achievable, such as in basement rooms or where there are external obstructions; for example, rooms in dwellings in a dense urban area or with tall trees outside.

44. The Appellant claims that the development is sited in a dense urban area but such a claim is misplaced. There is development to the west but this is ribbon development alongside the river. To the north is the river, to the south is a wide dual carriageway beyond which is, on higher ground, the churchyard of the Church of St Mary Magdalene, and to the east, a considerable distance away, are the first buildings of Woolwich town centre. That is where the dense urban area of Woolwich begins and the site is not within it. Furthermore, there are no external obstructions anywhere near the development. It is the standards set out in BS EN 17037:2018 itself that must be applied.

45. The Appellant has compared daylight levels in Mast Quay Phase II with the levels achieved in two buildings of the Royal Arsenal development. This development is between Woolwich town centre and the river and is a dense development in itself, and is within a dense urban area. Whilst daylight levels in the two schemes are comparable their surroundings are not. Many flats in Mast Quay Phase II fail to meet the standards set out in BS EN 17037:2018 and some of these flats were visited at the post Inquiry site visit. Whilst many flats have acceptable levels of daylight there are a few with obviously sub-standard levels. Some residents of the development have less than acceptable living conditions.

46. RBG has not provided any substantive evidence to challenge the Appellant's claim that, with regard to LP policy SI2(C), the development achieves a minimum on-site reduction of carbon emissions of at least 35% beyond Building Regulations. The Appellant accepts, however, that the policy requirement that 10% of such savings should come from energy efficiency measures is not met. The Council questions whether the reduction target can be met because the exhaust air heat pumps in the flats are reliant on replacement air entering the units. This air is provided by trickle vents over windows and the Council claims that residents might close these to prevent drafts. But this is speculation and it could very well be that residents understand that the effective operation of their source of heating, and their general health, is dependent on the trickle vents being kept open.

47. With regard to CS policy E1 and LP policy SI3(D)(3) the development cannot provide a connection to the planned District Heating Network (DHN). The DHN is an intention for the future but there are no plans for it yet and it will be many years before it is in place. However, there is a technical breach of the two policies.

48. The Appellant accepts that there is the potential for overheating in bedrooms if residents are reluctant to open windows for ventilation and thus suffer disturbance due to noise from traffic on nearby Woolwich Church Street. They propose the introduction of air conditioning units in bedrooms to provide residents with an alternative means of cooling, and condition 14 would require the prior approval and implementation of a scheme that would introduce cooling systems, unlock window restrictors to allow windows to be fully openable, and the installation of highly reflective internal blinds. The condition, when complied with fully, would provide residents with the choice of either natural or artificial ventilation at nighttime, and would satisfy relevant requirements of the LP and Part O of the Building Regulations.

49. 43 of the 204 flats in the development fall below the space standards set out in Table 3.1 in the LP, as referenced in LP policy D6. In 20 of the 43 flats the shortfall is less than one square metre; these space deficiencies are inconsequential. In 4 of the 43 flats the shortfall is greater than 5 square metres but, as pointed out by the Appellant, the shortfall is offset by private external

amenity areas exceeding the relevant standard. In the remaining 19 flats the shortfall is between one square metre and 5 square metres. Of these 17 have private external amenity area and only two do not. In one of the two flats the shortfall is 1.2 square metres so is bordering on inconsequential. In the other flat, Flat 101 in Block E, the shortfall is 3.7 square metres so is significant.

50. The Appellant has suggested that this flat, and others if deemed necessary, could be redesignated from a 2 bedroom 3 person unit to a 1 bedroom 2 person unit with an office or spare room. Redesignating flats would artificially result in compliance with the LP space standards. However, designated occupancy of flats cannot be enforced and occupancy of any flat will fluctuate over time depending on residents' circumstances. Furthermore, the adequacy of the size of a flat is for a prospective renter to judge and, in the case of Flat 101, a renter, who is likely to be unaware of the space standards in the LP, might be satisfied that it could accommodate the space requirements of a three person household. Though there is a technical breach of LP space standards, residents of the development, in terms of floorspace, have adequate living conditions.

51. Some residents of the development, in terms of levels of daylight, have less than acceptable living conditions. There is thus conflict with LP policy D6(F) and, in terms of connection to a DHN, there is a technical breach of CS policy E1 and LP policy SI3(D)(3).

The fourth issue – outdoor amenity space

52. 28 flats in Block E do not have a private outdoor amenity space in the form of, like those that do, a balcony. The 28 flats do not therefore satisfy the requirement of LP policy D6, and in another 46 flats the balconies are smaller than is required by this policy. CS policy H5 states that an alternative to a private balcony for residents of a flat can be access to an enclosed communal garden. The Appellant has proposed that residents of the 28 flats that do not have a private balcony could have exclusive access to the 6<sup>th</sup> and 9<sup>th</sup> floor roof terraces of Block E, which could be controlled by keycard; condition 51 of the agreed conditions would secure such an exclusive provision.

53. Residents of the 28 flats would have, without the condition, access to the two terraces in any event, and would have access to the 11<sup>th</sup> floor roof terrace though this would be dominated by gym equipment and is likely only to be accessed by those who wish to use the equipment. It is likely, furthermore, that residents of the flats that do have private outdoor amenity space would be unlikely to access the 6<sup>th</sup> and 9<sup>th</sup> floor roof terraces. In this regard, there are extensive areas of communal amenity space at ground level and it is most likely that residents of the development will use these amenity areas, in preference to the roof terraces, because they provide opportunities for social interaction.

54. For these reasons, the condition has not been imposed. Even if it had been imposed residents of 28 flats do not have access to a private outdoor amenity space and the development thus conflicts with LP policy D6.

The fifth issue - inclusivity

55. Imposed conditions 20 and 21 will ensure that the development complies with requirements M4(2) and M4(3) of the Building Regulations; which require specified percentages of flats to be wheelchair user dwellings and accessible and adaptable dwellings. There is some doubt that existing accessible flats, unit types

C, D and E, are capable of meeting requirement M4(3). This type of dwelling should therefore be, exclusively, types A and B, which are larger flats and plans submitted at the Inquiry demonstrate that they can be adapted to meet requirement M4(3). Another submitted drawing demonstrates that a minor adjustment to doors to balconies in these flats would provide the necessary turning circle for wheelchairs on the balconies. Furthermore, disabled access to and on roof terraces and within the residents' gym in Block E can be accommodated by the introduction of chair lifts and ramps.

56. The Appellant did demonstrate, during the Inquiry, that the needs of wheelchair users in external areas, through the introduction of ramps and chair lifts, can be accommodated. Imposed condition 22 will require the prior approval of full details of these disabled access arrangements and their implementation and maintenance for the lifetime of the development. Similarly, the Appellant has demonstrated that initial policy compliant disabled parking, in the basement under Block E, can be provided, and imposed condition 39 will require the prior approval, implementation and maintenance of a Vehicle Parking Location and Management Plan. The Plan will also include provision, in accordance with policy, for additional disabled parking in the future if required, and that all disabled parking spaces will accord with design guidance in BS:8300 Vol.1.

57. The Appellant will be required to alter the development to satisfy the requirements of the Building Regulations and they have demonstrated, and imposed conditions will ensure, that the development accords with LP policies D5 and D7 and CS policy DH1.

The sixth issue – public realm

58. RBG's criticisms of the Appellant's proposals for the public realm are unfounded. The outstanding proposals, which will be carried out in accordance with imposed condition 2, include a comprehensive landscaping scheme for all areas including the intertidal zone. Furthermore, imposed condition 17 will require the prior approval and implementation of a Landscaping Strategy for the site, which will include details of all hard and soft landscaping for areas around the buildings and for roof terraces. RBG will therefore be able to contribute to the detailed design of all landscaping.

59. Woolwich Church Street is a four lane highway carrying significant traffic and is an inhospitable environment. The separation of the site from the road by a boundary wall is entirely appropriate, particularly given the location of the children's play area close to the site frontage to the road. This location for the play area, which is significantly larger than is required by policy, is also appropriate for it will be within, and surrounded by, significant frontage planting, which will separate the development from the road. The width of the 'bridge' from the pavement to the road to the podium between the two buildings is appropriate.

60. A ramped access, of a suitable gradient for wheelchair users, will be provided to the west of Block D. This will provide access from the Thames Path through the site to Woolwich town centre. Though it terminates at its highest point at a turning area associated with six parking spaces, for car club, disabled and servicing purposes, these will likely be little used and there are no significant safety concerns. Onward movement up a ramp to podium level can be achieved for wheelchair users by introduction of a wheelchair lift. Other imposed conditions will require the prior approval and implementation of children's play space equipment, a Landscape and Ecological Management Plan and the design of the intertidal zone.

61. The Appellant originally claimed that the development would achieve a 100% BNG but revised this to 36.76%. RBG doubt that even this percentage will be achieved but there can be no doubt that the base requirement of 10% BNG will be achieved, in accordance with LP policy G6(D). Imposed condition 34 will require that the prior approval and implementation of measures to secure a UGF of at least 0.46, in excess of the UGF sought by LP policy G5.

62. The landscaping scheme and strategy set out in the outstanding proposals that will be carried out in accordance with imposed condition 2 will result in a public realm that will be well-designed, safe, accessible and well connected. Other imposed conditions will provide the opportunity for RGB to ensure that the public realm will also be related to the local and historic context and will be easy to understand, service and maintain. The resulting public realm will thus comply with CS policy DH1 and LP policy D8(B).

The seventh issue – cycle parking

63. RBG's concerns regarding the provision of cycle parking are unfounded. The drawings provided by the Appellant at the Inquiry adequately demonstrate that the quantum and type of cycle parking required will be achieved. Furthermore, imposed condition 41 will require the prior approval and implementation of a cycle parking scheme that is required by LP policy T5 and which will comply with the standards and principles of the London Cycling Design Standards. Cycle parking will comply with LP policy T5.

The eighth issue – service and access arrangements

64. RBG's concerns regarding service and access arrangements are unfounded. The Appellant has provided adequate information to demonstrate that the development will be serviced, maintained and managed in a manner that will not cause disturbance or inconvenience in the public realm or to residents. Furthermore, imposed condition 38 will require the prior approval and implementation of a Delivery and Service Plan which will be maintained for the lifetime of the development. Service and access arrangements for the development will comply with LP policies T7 and D9.

The ninth issue – affordable housing

65. 13.7% of the 204 residential units of the development are let on an affordable basis. The Appellant maintains that, for viability reasons, this is the maximum affordable housing that can be provided. RBG, conversely, maintain that the development should include a policy compliant 35% affordable housing. The difference between the parties is a matter of whether a viability appraisal should take into account the build costs of the development and developer profit. If they are taken into account then RBG accepts that 13.7% is the maximum affordable housing that is viable, and the Appellant accepts that if they are not taken into account then 35% affordable housing should be provided.

66. RBG accept that if additional affordable housing is to be provided that it should be by way of a financial payment in lieu of on-site provision. The Section 106 Agreement includes two options for the delivery of affordable housing. Option 1 provides for the retention of 13.7% affordable housing and a late stage viability review at a specified time in the future. Option 2 provides for the retention of 13.7% affordable housing and the payment by the Appellant to RBG of an affordable housing contribution equivalent to 21.3% of residential units. The Section 106 Agreement therefore includes a blue pencil clause. The effect of the

clause is that this decision will determine if an affordable housing contribution is required, and if it is, which of two alternative sums.

67. In enforcement appeal ref. APP/U5360/C/20/3259652 (the Hackney case) the breach of planning control was, in brief, the change of use of the property to 13 self-contained flats. The decision, which was issued on 26 March 2024, considered a ground (a) appeal and the Council had accepted, before the Inquiry, that the deemed planning application should be allowed and planning permission be granted. The only issue in the Hackney case was whether an affordable housing contribution was required and, if it was, which of two alternative contributions was required (the Appellant was putting forward two alternative schemes to complete the development and to bring it into compliance with the development plan).

68. There are differences between this case and the Hackney case. In this case RBG are resisting the grant of planning permission, the development is recently constructed rather than a conversion of a commercial building, and there are 204 flats rather than 13. But there are some similarities. In this case, as it was in the Hackney case, the development is not lawful until planning permission is granted, and, in both cases, if imposed conditions are not complied with the land must be returned to its lawful use. The Appellant has incurred build costs to create the development, as they had in the Hackney case, but the development has no value unless planning permission is granted. In fact, if planning permission is not granted the development would have a negative value because the Appellant would be required to comply with the principal requirement of the enforcement notice, which is to demolish the buildings.

69. Mr Katkowski, in his closing submissions on behalf of the Appellant, stated that "The statutory scheme is not punitive and allows developers to build at risk and seek consent later...". That the statutory scheme is not punitive is correct and was acknowledged in the Hackney decision. But to suggest that the scheme allows 'developers to build at risk and seek consent later' is, bluntly, wrong. In a Ministerial Statement made in December 2015 the then Minister of State for Housing and Planning stated that "The Government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission". The Government thus introduced "...a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals". Very clearly the statutory scheme does not allow 'developers to build at risk and seek consent later' for this would be encouraging and condoning intentional unauthorised development (IUD).

70. The bare facts of this case are that the Appellant has built a development that is not in accordance with the 2012 planning permission and that is unlawful unless and until planning permission is granted and has been fully implemented. The Appellant has, in this regard, risked the build costs "...in advance of obtaining planning permission". In these circumstances, as it was in the Hackney case, it is fair and reasonable to discount build costs, and developers profit, in assessing viability. To do otherwise would be contrary to Government policy. Mr Katkowski maintains, and he mentioned this more than once in his closing submissions, that there is "...the absence of policy support and the absence of support in the wider statutory scheme for treating retrospective applications differently as a matter of principle...". But the opposite is also true, that there is nothing in policy, guidance or the statutory scheme to indicate that retrospective applications "...should be approached in the same way as for any other application".

71. The Ministerial Statement is clear that harm may be caused where the development of land has been undertaken in advance of obtaining planning permission. Whilst this decision is not bound by the decision in the Hackney case, consistency in decision making is important and, as previously mentioned, there are some similarities between the two cases. In this case, as in the Hackney case, the Appellant has brought into use, at their own risk, a residential development, in this case of 204 flats, that does not comply with development plan policy and that is unlawful and unacceptable in planning terms. It is therefore fair and reasonable, as a matter of planning judgement and in recognition of the Ministerial Statement, to discount build costs to date. This conclusion dictates, with regard to the provision of affordable housing and given the position accepted by both parties as set out in paragraph 65, that Option 2 must be adopted.

72. The adoption of Option 2 will result in the development complying with CS policy H3 and with LP policies H5 and H11.

The tenth issue – commercial floorspace

73. It is a matter of fact that CS policy EA1 does not specify a minimum commercial floorspace requirement but that CS policy EA(a) does seek to maximise the contribution to employment from sites in previous employment use. The site was in previous employment use but there is nothing in policy to indicate what 'maximise' means. In this regard it is not surprising that RGB does not consider that the developer has maximised employment opportunities and that the Appellant considers that they have. RGB has pointed to the site's proximity to Woolwich town centre and to public transport opportunities in support of its contention. But the site is detached from the town centre and separated from it by Woolwich Church Street and the ferry access road.

74. There is only distant intervisibility between the site and the town centre and, given that the development will be car-free, apart from that associated with servicing, disabled and car club parking, employment space on site is unlikely to be attractive to commercial operators. The commercial space at ground floor level of Block E is currently a residents' gym. Imposed condition 46 will require the gym to be marketed to commercial operators for a period of two years. If, after the marketing period a commercial operator has not been secured the gym will continue as a residents' gym for the lifetime of the development. Whilst a commercial operator would have to address installing changing rooms and other ancillary facilities the possibility is that such an operator might be secured.

75. There are two commercial units at ground floor level of Block D; an office space of about 45 square metres and a commercial area of about 136 square metres. The larger unit is not visible from Woolwich Church Street and is set about three metres above the paved area that opens out from the Thames Path and which includes the intertidal area as a feature. The locational limitations and the lack of any visitor parking may well make these units unattractive to potential commercial or business users. Nothing mentioned by RGB alters the conclusion that the development includes sufficient commercial floorspace to satisfy CS policies EA1 and EA(a) and LP policy GG5.

Other Matters

76. RGB maintains that the development is IUD. The Appellant company appointed a building contractor to construct Mast Quay Phase II on a design and build contract. The Architects and Planning Consultants who were responsible for



obtaining the 2012 planning permission and the 2015 variation to that permission were not involved during the construction phase. Many of the varied conditions of the planning permission required applications to be made to RBG for discharge of conditions. The first two such applications were made in January 2015 and were approved in March and April 2015.

77. Between January 2015 and January 2023, the Planning Department at RBG accepted and validated twenty-four discharge of conditions applications. Two of these were withdrawn, many were approved, three were refused and five remain pending. In accepting and validating so many applications relating to Mast Quay Phase II up until January 2023 RBG must have known that construction of the development was proceeding. Furthermore, given the size of the development and the location of the site next to Woolwich Church Street, it would have been visually obvious that development was proceeding.

78. It is reasonable to consider that those who were responsible for submitting the discharge of conditions applications will have thought that they were implementing the 2012 varied planning permission. The last such application to be approved was submitted in October 2021 and approved in September 2022, so Planning Officers at RBG will have been aware that construction works were continuing. By September 2022 the entire superstructure of the development was complete and Block D, at least, was clad. In these circumstances it is reasonable to conclude that the Appellant company was not undertaking IUD.

79. Local residents who spoke at the Inquiry vary in their views of Mast Quay Phase II. Generally, those who live in the development wish it to remain, whilst those who live in Mast Quay Phase I support the Council in seeking its demolition. The views of all residents have been taken into account but they do not alter the main conclusion that is reached below.

#### Conditions

80. At the close of the Inquiry the parties jointly submitted a list of 53 conditions to impose on a planning permission if granted; 44 of the conditions are agreed but 9 conditions are not. For these conditions the parties have, generally, provided alternative wording and these are considered below. Many of the conditions reflect the retrospective nature of the deemed planning application and require the requirements of the upheld enforcement notice to be carried out if the Appellant fails to comply with any of the conditions. Reasons for all the conditions are stated in the schedule of conditions attached to this decision. The numbers of conditions referred to in the next few paragraphs are those of conditions in the list of 53 conditions referred to above. The numbers of conditions in the schedule attached to this decision are, after condition 11, different.

81. The conditions that require the prior approval and implementation of specified matters include provisions if the approved matters are not carried out. If this occurs each condition includes the sanction that the requirements of the upheld enforcement notice shall therefore be carried within a specified time period. RBG maintain that the period should be 12 months, to reflect the compliance period set out in the notice, whilst the Appellant maintains that 36 months would be a reasonable period. 12 months is a wholly inadequate time period to plan for and carry out the requirements of the notice. If the development is demolished it will be necessary, to minimise waste and carbon emissions, for all materials that can be recovered to be re-used or recycled. This would be a complex and lengthy

process and whilst 36 months would be an exceptional compliance period, it reflects the exceptional circumstances of this case.

82. For disputed condition 10 circumstances have changed since the Environmental Statement, particularly in relation to Chapter 11, was prepared in April 2024 and updated in July 2024. There is good reason therefore for the Energy Strategy in Chapter 11 to be revised and updated to ensure that energy saving measures are properly considered. Whereas the Appellant's wording relies on implementing the measures set out in Chapter 11, RBG's wording necessarily requires the submission of an updated Energy Strategy. Both versions of disputed condition 11 refer to the need to submit for approval a Circular Economy Statement that must be produced in accordance with GLA Circular Economy Guidance. Given the agreed reference to the guidance RBG's version is too prescriptive and the Appellant's version is favoured.

83. RBG has provided wording for condition 12. The Appellant considers the condition to be unnecessary. Condition 10 requires the Appellant to implement and maintain approved measures to achieve an overall sitewide reduction in regulated CO2 emissions of at least 35% beyond Building Regulations Part L 2021. If those measures are not maintained then the Appellant would be in breach of the condition. The monitoring measures that are being sought by the Council in condition 12 are unnecessary and, in addition, the condition as drafted by the Council is incomplete and lacks clarity. Condition 12 is unnecessary.

84. The Appellant's wording of disputed condition 13 is incomplete, because it refers to 'steps a and b' and only step a is set out. RGB's wording is overly prescriptive but otherwise necessary. Disputed condition 14 relates to compliance with the GLA's Whole Lifecycle Carbon Assessment. RGB's wording is overly prescriptive whilst the Appellant's is concise and complete. The Appellant's wording is favoured. Condition 18 is not, in principle, disputed, but one element is. It is likely that some flats will remain occupied whilst the works permitted by this decision are carried out. It is therefore unnecessary to prevent further occupation or re-letting of flats whilst landscaping works are carried out. The disputed element of the condition has not therefore been included.

85. Condition 31 is not, in principle, disputed, but one element is. RBG is requiring that the mitigation and enhancement measures set out in the required Landscape and Ecological Management Plan (LEMP) should include, amongst other things, 'Habitat areas identified in the Greenwich Biodiversity Action Plan'. These areas are across the Borough and there is no reason why the LEMP should apply to these areas as opposed to being specific to the site of Mast Quay Phase II. The disputed element of the condition has not therefore been included. RGB's wording for disputed condition 43 is overly prescriptive and, as the condition requires a scheme to be submitted for their approval, any deficiencies in the scheme can be addressed at that stage. The Appellant's wording is preferred.

86. Disputed condition 48 relates to the gym situated at ground floor level of Block E. Currently this is set up as a residents' gym but the space should be used for commercial purposes, and the condition will, in principle, require marketing to be carried to seek a commercial operator for the gym. RGB's wording is imprecise and does not specify a reasonable period for marketing to be carried out. It is also reasonable that if a commercial operator is not secured then the gym shall continue to be a residents' gym. The Appellant's wording provides for these

matters and is preferred. The Appellant suggested condition 53 but the matters it relates to are covered by condition 31 and the condition is therefore unnecessary.

87. Imposed condition 50 is the condition that is referred to in the first two main issues. The conditions, either agreed or disputed, have been amended, where necessary, in the interests of consistency and precision and in accordance with the tests for conditions set out in the Planning Practice Guidance.

#### Section 106 Agreement

88. A draft Legal Agreement, made pursuant to Section 106 of the Act, was submitted during the Inquiry. The signed and dated Legal Agreement was submitted to the Planning Inspectorate on 23 December 2024. The obligations of the Agreement are, apart from those mentioned in following paragraphs, all related to requirements of development plan policies and are all necessary to make the development acceptable in planning terms. They are all, furthermore, directly related to the development, are fairly and reasonably related in scale and kind to the development, and are in place to mitigate the effects of the development. The Legal Agreement therefore, generally, complies with the tests set out in the NPPG and with Regulation 122 of the CIL Regulations 2010. The Agreement includes several 'blue pencil' clauses which require judgements to be made on which alternative provision or obligation is appropriate.

#### Affordable Housing Contribution

89. In paragraph 71 above it has been concluded that the affordable housing contribution shall be Option 2. With regard to the two alternative contributions for Option 2, as set out in Schedule 3 of the Agreement, the Appellant's proposed provision would be £4,400,000 and RBG's proposed provision would be £12,112,619. The Appellant's provision is based on 40 x £100,000; 40 being the number of homes that would be the equivalent of 21.3% affordable housing and £100,000 per home being set out in RBG's Planning Obligations Guidance Supplementary Planning Document (POGSPD). RBG's proposed provision, based on evidence submitted by the Appellant's expert witness, is the difference between the residual profit of the development with 35% affordable housing and with the 28 existing affordable flats.

90. RBG maintains that the POGSPD is out of date but have not stated why they believe it to be out of date. There is no evidence to indicate that the document has been rescinded or superseded and it remains one of the supplementary planning documents referred to on RBG's website as being 'Current SPDs'. There is no justification, therefore, for finding it out of date and not therefore relevant. The Appellant's proposed provision is in accordance with the POGSPD and is therefore an appropriate provision.

91. There is no justification for delaying the payment of the affordable housing contribution but RBG has not adequately justified the need for an occupancy restriction. RBG's proposed two month 'Trigger for Payment' as set out in paragraph 16.2 of the Third Schedule of the Agreement is appropriate, but it is the Appellant's proposed 'No Occupational Restriction', as set out in paragraph 17.1 of the Third Schedule of the Agreement, that is also appropriate.

#### Carbon Offsetting Contribution

92. The difference between the parties is their assessment of the annual residual carbon emissions generated by the development; the Appellant assesses this to be

3,357 tonnes and RBG assesses this to be 4,782 tonnes. The Appellant's assessment may be optimistic but it has been fully quantified whereas RBG accepted at the round table session on this topic at the Inquiry that their assessment is an estimate. Though there are concerns with the efficiency and effectiveness of the exhaust air heat pump in each residential unit there is no reason not to accept the Appellant's assessment. In the Definitions and Interpretation section of the Agreement it is the Appellant's proposed provision or obligation for 'Carbon Offsetting Contribution' that applies.

#### Cycleway 4 Extension Contribution

93. Transport for London (TfL) is seeking, through RBG, a contribution, based on £1,591 per residential unit, of £326,155. They have set out in a letter dated 12 August 2024 a reasoned justification for seeking such a sum. But they also list four recently permitted residential developments, setting aside a student housing scheme which has different considerations, where the contribution made towards the Cycleway 4 Extension fell short of the tariff for viability reasons. The Woolwich Central scheme of 724 units provided a contribution of £150,000, £207/unit, the Riverside House scheme of 209 units provided a contribution of £78,375, £375/unit, the Woolwich Leisure Centre scheme of 482 units provided a contribution of £75,000, £155/unit, and the Woolwich Exchange scheme of 801 units provided a contribution of £170,000, £212/unit.

94. The TfL letter does not list any permitted residential schemes that have provided a contribution that equates to £1,591 per unit. The Appellant has offered a contribution that would reflect that of the highest of the four other recent cases; £375/unit resulting in a contribution of £76,500. Across the four other schemes the average contribution per housing unit was £213. The contribution offered by the Appellant is fair, reasonable and equitable. In the Definitions and Interpretation section of the Agreement it is the Appellant's proposed provision or obligation for 'Cycleway 4 Extension Contribution' that applies.

#### Energy Strategy

95. As set out in paragraph 82 imposed condition 10 requires the prior approval and implementation of a revised Energy Strategy. In the Definitions and Interpretation section of the Agreement it is RBG's proposed provision or obligation for 'Energy Strategy' that applies.

#### Health Infrastructure Contribution

96. RBG maintains that "...the financial contribution of £362,634 indexed towards funding of NHS infrastructure in the area is necessary on the basis of evidence put forward by the NHS...". That evidence is an email dated 10 June 2024 in which it is stated that "...while the HUDU (Healthy Urban Development Unit) Model calculated the cost of mitigation could be up to £818K in reviewing specific projects to meet demand for this scheme which we consider appropriate we have reduced this figure to £362,634". There is no explanation of how the £818K figure was calculated or of how this was reduced, and the only explanation is that this "...would support expanding...infrastructure to help address the demands arising from the residents of the scheme".

97. The NHS explanation for a health infrastructure contribution of £362,634 is vague and somewhat arbitrary. For instance, £75,000 of the contribution would be for expansion of "...the Valentine Primary Care practice which is the nearest to the development", but there is no evidence to indicate that the practice would be

unable to accommodate the additional demand generated by the development. There is insufficient evidence to justify the contribution that is sought. In the Definitions and Interpretation section of the Agreement it is the Appellant's proposed provision or obligation for 'Health Infrastructure Contribution' that applies.

Trigger for payment of contributions

98. The development is already in place and many of the flats are occupied. There is therefore no reason to delay payment of contributions so RBG's proposed three month 'Trigger for Payment' as set out in paragraphs 1.2 and 2.7 of the Second Schedule of the Agreement is appropriate. However, in line with the conclusion reached in paragraph 89, it is the Appellant's proposed 'No Occupational Restriction' as set out in paragraph 1.3 of the Second Schedule of the Agreement that is appropriate.

The planning balance

99. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This requirement is at the heart of the planning balance.

100. RBG cannot, contrary to the requirement of NPPF paragraph 77, demonstrate 'five years' worth of housing'. Currently, RBG can only demonstrate 2.46 years of housing land supply. Furthermore, applying the Housing Delivery Test, delivery has been only 48%, well below the 75% requirement, over the previous three years. So, in accordance with NPPF paragraph 79 c), "...the presumption in favour of sustainable development applies...". As set out in NPPF paragraph 11 this means, for decision taking, granting planning permission unless the application of policies in the Framework that protect assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

101. Assets of particular importance include designated heritage assets. It is a conclusion of this decision that the as built development, once altered in accordance with imposed condition 50 in particular, would not harm the significance of any designated heritage assets. Turning to the second limb of paragraph 11, some residents of the development, in terms of levels of daylight, have less than acceptable living conditions, residents of 28 flats do not have access to a private outdoor amenity space, and the development cannot provide a connection to the planned DHN. In development plan terms, the development conflicts with LP policy D6 and there is a technical breach of CS policy E1 and LP policy SI3(D)(3).

102. The benefits of the development include the provision of 204 residential units including 28 affordable housing units, in a Borough where there is a woeful undersupply of housing, and the payment of an affordable housing contribution of £4,400,000 to RGB. These benefits, in themselves and as a matter of planning judgement, are compelling.

103. The adverse impacts of granting planning permission, as mentioned above, do not significantly and demonstrably outweigh the compelling substantial benefits. Furthermore, granting planning permission will bring forward additional benefits including other financial contributions as set out in the Section 106 Agreement, as

well as a Community Infrastructure Levy contribution of £2,340,000, and would result in an enhanced public realm, increased biodiversity and urban greening, and improved access to the Thames Path. Material considerations indicate that the appeal shall be determined other than in accordance with the development plan.

#### Conclusion

104. The ground (a) appeal thus succeeds and planning permission has been granted on the application deemed to have been made for the development already carried out, namely the erection of a 15 storey tower block known as Sky Sail House ("Block D") and a tower block of 23 storeys known as Main Sail House, with linked tiered 11, 9 and 6 storeys known as Moon Sail House ("Block E") and all associated development including all hard landscaping, the pedestrian footbridge to Woolwich Church Street and underground development and car park, subject to the conditions set out in a schedule attached to this decision. The ground (g) appeal does not need to be considered.

105. If the Appellant company implements the planning permission in accordance with the conditions and the Section 106 Agreement then the development will be sustainable and lawful. If they do not then the conditions will require them to remediate the land in accordance with the requirements of the enforcement notice, which has been upheld so that this ultimate sanction remains in place.

***John Braithwaite***

Inspector

## **APPEARANCES**

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INTERESTED PARTIES:

Mr E Smith Local Resident

Ms S Watts Local Resident

Mr A Shahari Local Resident

Mr G Gerardas Local Resident

Mr C Cheung Local Resident

Ms N Papandreou Local Resident

## **DOCUMENTS**

1. Opening Statement on behalf of the Local Planning Authority
2. Appellant's Opening Submissions
3. Appearances on behalf of the Local Planning Authority
4. Appearances on behalf of the Appellant
5. Letter from Mr J Ward, Development Viability Advisor at the GLA, dated 24 July 2024
6. Letter from Mr J Ward, Development Viability Advisor at the GLA, dated 30 July 2024
7. Victorium Exhaust Air Heat Pump – Manufacturer's Specification
8. Ecology Notes by Mr Machin dated 1 August 2024
9. External Wall Build Up and Core Fire Compliance Note by Mr Sullivan dated 31 July 2024
10. Overheating Note on Air Conditioning Units by Mr Paxton dated 31 July 2024
11. Draft Conditions
12. Representation by Mr Gerardas and petition
13. Additional information to support NHS request for Section 106 contributions
14. Council response note on Energy/Overheating
15. Appellant's summary note on Cooling Unit Vents
16. Ms Jones' Note for Accessibility Roundtable
17. Designated wheelchair accessible unit schedule dated 15 August 2024
18. Representation by Ms N Papandreou

## **SCHEDULE OF CONDITIONS**

1. Subject to condition 2, the development shall be retained in accordance with the application plans, drawings and documents hereby approved and set out in a 'Schedule of Drawings for Condition 1' attached to this decision.

Reason: In the interests of good planning and to ensure that the development is retained in accordance with the approved and submitted documents, plans and drawings.

2. Notwithstanding condition 1, proposed elements of the development shall be carried out and thereafter retained in accordance with the plans, drawings and documents hereby approved and set out in a 'Schedule of Drawings for Condition 2' attached to this decision.

Reason: In the interests of good planning and to ensure that the development is retained in accordance with the approved and submitted documents, plans and drawings.

3. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision an overarching timetable for the outstanding details pursuant to this decision notice shall have been submitted for the written approval of the Local Planning Authority.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the timetable or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted timetable shall have been approved by the Secretary of State.
- d. The approved timetable shall have been carried out and completed in accordance with the approved timetable.

Reason: In the interest of the living conditions of future occupiers and to ensure that the external appearance of the building is satisfactory.

4. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision details of facing materials and finishes to be used on the proposed elements, including samples and manufacturer's specifications and, other than materials for landscaping works pursuant to condition 18, shall have been submitted for the written approval of the Local Planning Authority.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the details or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted details shall have been approved by the Secretary of State.
- d. The approved details shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In the interests of the external appearance of the development and for compliance with Policies D3 and D4 of the London Plan and Policy DH1 of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

5. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a Construction Logistics Plan (CLP) and a Construction Management Plan (CMP) shall have been submitted for the written approval of the Local Planning Authority. The CLP and the CMP shall cover the following matters:
  - loading and unloading of plant and materials;
  - storage of plant and materials;
  - measures for traffic management and encouragement for sustainable modes of transport for workers;
  - details of a vehicle booking system;
  - provision of boundary hoarding and visibility zones of construction traffic routing;
  - hours of operation;
  - means to prevent deposition of mud on the highway;
  - likely noise levels to be generated from plant and construction works;
  - a dust risk assessment;
  - means to monitor and control dust, noise and vibrations;
  - haulage routes;
  - a site plan identifying location of site entrance, exit, wheel washing, hardstanding hoarding (distinguishing between solid hoarding and other barriers such as heras and monarflex sheeting), stock piles, dust suppression, location of water supplies and location of nearest neighbouring receptors;
  - bonfire policy;
  - confirmation that a mobile crusher is or is not to be used on site and if it is a copy of the permit and intended dates of operation.
  - confirmation that a photographic survey of the condition of the highway around the site will be undertaken and retained and made available to the Local Planning Authority upon request.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the CLP and the CMP or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted CLP and the CMP shall have been approved by the Secretary of State.
- d. The approved CLP and CMP shall be adhered to until the development is completed.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in

this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure that the development does not interfere with the free flow of traffic and conditions of safety on the public highway, and to ensure the development process does not have a significant adverse impact on the amenities of nearby residential properties in accordance with Policies D14, SI1, T3, T4, T7 of the London Plan and Policies IM5, DH(b) and E(a) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

6. Prior to the commencement of further works on site, details of all plant and machinery to be used in any demolition and construction works shall have been submitted for the written approval of the Local Planning Authority. Evidence is required to meet Stage IIIA of EU Directive 97/68/ EC for both NO<sub>x</sub> and PM. All Non-Road Mobile Machinery (NRMM) and plant to be used on the site of net power between 37kW and 560 kW shall be registered at <http://nrmm.london/>. Proof of registration shall be submitted to the Local Planning Authority prior to the commencement of any works on site. The approved NRMM shall be used during any demolition and construction works in accordance with the approved details.

An inventory of all NRMM shall be kept on site during the course of demolitions, site preparation works and construction works. All machinery shall be regularly serviced and service logs kept on site for inspection. Records shall be kept on site which details proof of emission limits for all equipment. This documentation shall be made available to local authority officers as required until development completion.

Reason: To safeguard the amenities of neighbouring properties and the area generally and to ensure compliance with Policies SI1 and D14 of the London Plan and Policy DH(k) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

7. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a verification report of remedial works by a jointly appointed and suitably qualified professional shall have been submitted for the written approval of the Local Planning Authority.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the report or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted report shall have been approved by the Secretary of State.
- d. The approved report shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure that environmental and health risks have been satisfactorily managed so that the site is deemed suitable for use and for compliance with Policy (E) of the Royal Borough of Greenwich Local Plan: Core Strategy with Detailed Policies.

8. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision full details of the works to be carried out in relation to fire safety, in accordance with the recommendations in the 'Expert Report on Alleged Deviations from the Fire Strategy Provision of the London Plan' technical report (ref. 125168-104/BMR) prepared by Hollis, dated 02/07/2024, shall have been submitted for the written approval of the Local Planning Authority.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the works or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted works shall have been approved by the Secretary of State.
- d. The approved works shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure that the development incorporates necessary fire safety measures in accordance with Policies D5, D9, D11 and D12 of the London Plan.

9. If, during further development, contamination not previously identified is found to be present at the site then no further ground works (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until a remediation strategy has been submitted for the written approval of the Local Planning Authority detailing how this unsuspected contamination shall be dealt with, together with a timetable for implementing the strategy. The remediation strategy shall be fully implemented as approved and in accordance with the approved timetable, and documentary evidence shall be provided of its full implementation to the Local Planning Authority within one month after completion.

Reason: To ensure that environmental and health risks have been satisfactorily managed so that the site is deemed suitable for use in accordance with Policy (E) of the Royal Borough of Greenwich Local Plan: Core Strategy with Detailed Policies.

10. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a scheme for the following matters shall have been submitted for the written approval of the Local Planning Authority:
  - i. A revised Energy Strategy which sets out all existing energy saving measures, and which explores the feasibility of any further potential on-site carbon savings. The development shall implement and maintain the approved measures to achieve an overall sitewide reduction in regulated CO2 emissions of at least 35% beyond Building Regulations Part L 2021. These CO2 savings shall be achieved

through the Lean, Clean, Green Energy Hierarchy as detailed in the Climate Change Chapter of the Environmental Statement by Ecolytik;

- ii. A summary report prepared by a professionally accredited person comparing the TER to the DER figures against those in the final Energy Strategy, pursuant to part a.i. of this condition. The report shall include detailed technical in-situ performance evaluation data to confirm that the proposed dwelling energy systems will achieve a percentage reduction in carbon emissions beyond Building Regulations Part L (2021) using SAP 10.2 emission factors sufficient to meet the London Plan mandatory sitewide carbon reduction target of 35%.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- d. The approved scheme shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In the interest of addressing climate change and to secure environmentally sustainable development in accordance with Policies SI 1, SI 2, SI 3 and SI 4 of the London Plan and Policy E1 of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

11. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a Circular Economy Statement (CES) for the works yet to be carried out and completed shall have been submitted for the written approval of the Local Planning Authority. The CES shall be prepared in accordance with the GLA Circular Economy Guidance and shall provide for the work yet to be completed to meet the relevant targets set out in that guidance. The CES shall include evidence that the destination landfill sites have the capacity to receive waste where relevant. The development shall be carried out in accordance with the approved CES and operated and managed in accordance with the approved CES throughout the lifecycle of the development.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the CES or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted CES shall have been approved by the Secretary of State.
- d. The approved CES shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in

this condition will be suspended until that legal challenge has been finally determined.

Reason: In the interests of sustainable waste management and in order to maximise the appropriate re-use and recycling of materials in line with Policies D3, S17 and SI2 of the London Plan.

12. The legal Owner of the development hereby permitted shall at all times and all in all respects comply with the energy monitoring requirements set out in points a, b and c below. In the case of non-compliance the legal Owner of the development shall upon written notice from the Local Planning Authority immediately take all steps to remedy non-compliance:

a. Within four weeks of planning permission being issued by the Local Planning Authority, the Owner is required to submit to the GLA accurate and verified estimates of the 'be seen' energy performance indicators, as outlined in Chapter 3 'Planning stage' of the GLA 'Be seen' energy monitoring guidance document, for the permitted development. This must be submitted to the GLA's monitoring portal in accordance with the 'Be seen' energy monitoring guidance.

b. Within 1 month of completing the renewable energy equipment in the approved revised Energy Strategy and the proposed elements of the development, the legal Owner is required to provide updated accurate and verified estimates of the 'be seen' energy performance indicators for each reportable unit for the whole development hereby permitted, as per the methodology outlined in Chapter 4 'As-built stage' of the GLA 'Be seen' energy monitoring guidance. All data and supporting evidence must be uploaded to the GLA's monitoring portal. In consultation with the local planning authority and/or their chosen Automated Energy Monitoring Platform the owner must also confirm that suitable monitoring devices have been installed and maintained for the monitoring of the in-use energy performance indicators, as outlined in Chapter 5 'In-use stage' of the GLA 'Be seen' energy monitoring guidance document.

c. Upon completion of the first year after the renewable energy equipment in the approved revised Energy Strategy and the proposed elements of the development has been completed and for the following four years, the legal Owner is required to provide accurate and verified annual in-use energy performance data for all relevant indicators under each reportable unit for the whole development as per the methodology outlined in Chapter 5 'In-use stage' of the GLA 'Be seen' energy monitoring guidance document. All data and supporting evidence must be uploaded to the GLA's monitoring portal. This condition will be satisfied after the legal Owner has reported on all relevant indicators included in Chapter 5 'In-use stage' of the GLA 'Be Seen' energy monitoring guidance document for at least five years.

d. In the event that the in-use evidence submitted shows that the as-built performance estimates have not been or are not being met, the legal Owner must investigate and identify the causes of underperformance and the potential mitigation measures and set these out in the relevant comment box of the 'be seen' spreadsheet. Where measures are identified, which it would be practicable to implement, an action plan comprising such measures and the timetable for implementing them must be submitted to and approved in writing with the Local Planning Authority. The measures approved by the Local Planning Authority must be fully implemented by the legal Owner in full accordance with the approved action plan (including the approved timetable).



In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In order to ensure that actual operational energy performance is minimised and demonstrate compliance with the 'be seen' post-construction monitoring requirement of Policy SI2 of the London Plan.

13. The development shall be delivered in accordance with the approved Whole Life Carbon Assessment as detailed in Chapter 11 of the Environmental Statement (ES) (dated April 2024) and the ES addendum (dated July 2024).

Within 1 month of completing the entirety of the works approved under condition 2, the legal owner of the development shall submit the post-construction Whole Life-Cycle Carbon (WLC) Assessment to the GLA. The owner must use the post construction tab of the GLA's WLC assessment template and this must be completed accurately and in its entirety, in line with the criteria set out in the GLA's WLC Assessment Guidance.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In the interests of sustainable development and ensure the carbon emissions resulting from the materials, construction and MEP and the use of a building over its entire life have been appropriately reduced in line with policy SI2 of the London Plan.

14. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a scheme for the following matters shall have been submitted for the written approval of the Local Planning Authority:
  - i. Full details of the mechanical cooling system to achieve a maximum 0.3kw of cooling to all bedrooms, including full elevation drawings showing the internal ducting and external vents required for the installation;
  - ii. Details of unlocking window restrictors to allow windows to be fully openable; and
  - iii. Details of installing highly reflective internal blinds.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- d. The approved scheme shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in

this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure that the risk of overheating has been sufficiently addressed in accordance with Policies SI4 and D6 of the London Plan and Policy E1 of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

15. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a scheme for the following matters shall have been submitted for the written approval of the Local Planning Authority:
  - i. Confirmation from Thames Water that all water network upgrades required to accommodate the additional demand to serve the development have been completed, or confirmation that a development and infrastructure plan has been agreed in writing with Thames Water, including timeframes for implementation;
  - ii. Where a development and infrastructure plan is required, evidence of the full implementation of such works shall be provided for the written approval of the Local Planning Authority in consultation with Thames Water, within the agreed timeframes for implementation pursuant to part i.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- d. The approved scheme shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand in line with Policy D2 of the London Plan.

16. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 5 months of the date of this decision a foreshore and intertidal ecological monitoring and maintenance scheme shall have been submitted for the written approval of the Local Planning Authority. The scheme shall include but shall not necessarily be limited to:
  - i. a baseline survey of the foreshore and intertidal ecological zone, in order to suitably assess the potential future impacts from unrestricted surface water discharge;

- ii. suitable trigger points for the implementation of scour mitigation measures, such as a specified amount of depletion in foreshore;
  - iii. a foreshore monitoring plan, to be carried out at suitable intervals throughout the lifetime of the development;
  - iv. suitable mitigation measures, including an implementation plan, to be put in place should the impacts breach the agreed thresholds;
  - v. details of maintenance obligations;
  - vi. timescales for the carrying out of the above requirements.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- d. The approved scheme shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure the integrity of the intertidal foreshore, intertidal mudflat habitat and intertidal ecological zone in accordance with Policies G1 and G6 of the London Plan and Policies OS4 and OS(e) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

17. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a Landscaping Strategy, including a timetable for its implementation, shall have been submitted for the written approval of the Local Planning Authority. The strategy shall be for all the hard and soft landscaping of any part of the site not occupied by buildings, including communal roof terraces, and shall include appearance of all materials including samples and specifications, permeability of all hard surfaces, planting details, replacement/new trees and ongoing maintenance and management.

All hard and soft landscaping shall be retained and maintained as approved for the lifetime of the development and alterations shall not be made without the prior written approval of the Local Planning Authority.

All planting, seeding or turfing comprised in the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development hereby permitted. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the Landscaping Strategy or fail to give a

decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.

c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted Landscaping Strategy shall have been approved by the Secretary of State.

d. The approved Landscaping Strategy shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In order that the Local Planning Authority may be satisfied as to the details of the proposal and to comply with Policies G7, D3 and D4 of the London Plan and Policies DH1 and OS(f) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

18. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

a. Within 3 months of the date of this decision, and prior to commencement of any use falling within Class E(b) of The Town and Country Planning (Use Classes) Order 1987 (as amended) or any other use involving preparation of hot food on-site, details of any associated mechanical kitchen extraction and ventilation equipment shall have been submitted for the written approval of the Local Planning Authority. The details shall include full specifications of all filtration, deodorising systems, noise output and termination points, and scaled plan and elevation drawings showing the positioning and external appearance of the extractor flue as well as details of shrouding and materials. The approved scheme shall be fully implemented and verified before the commencement of the non-residential use. The insulation measures shall be permanently retained and maintained thereafter for the lifetime of the development.

b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the details or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.

c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted details shall have been approved by the Secretary of State.

d. The approved details shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In order to preserve the amenity and well-being of adjacent occupiers and to ensure compliance with Policy E(a) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

19. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be

carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision, and prior to the installation of any new plant on the site, an acoustic report detailing noise from all proposed fixed plant shall have been submitted for the written approval of the Local Planning Authority. The report shall be prepared by a suitably qualified expert and shall include a survey of existing background/ambient sound levels, manufacturers noise specification of proposed plant and equipment such as air handling units, boilers, lifts, mechanical ventilation, proposed operational hours of the plant, and proposed mitigation measures to ensure the existing background sound level will not increase when measured at one metre from the façade of the nearest noise sensitive premises.

The plant shall be designed/selected, or the noise from the plant must be attenuated, so that it is 10dB below the existing representative background sound level (LA90 15min). The measurements and assessment shall be made in accordance with the latest British Standard 4142, and verification measurements shall be conducted post-installation to confirm compliance with these standards. The results shall be submitted to and approved in writing by the Local Planning Authority.

For existing plant, the approved measures and requirements shall be fully implemented in accordance with the local planning authority's approval within 2 months of such approval or 5 months of the date of this permission (whichever is the earlier) and shall be permanently retained and maintained as approved thereafter.

No additional plant shall be installed anywhere on the site except plant that is approved under this condition and in full accordance with the approved details and measures and thereafter shall be retained as approved and maintained in good working order at all times.

- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the report or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted report shall have been approved by the Secretary of State.
- d. The approved report shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In order to safeguard the amenities of residents and to ensure compliance with Policy D14 of the London Plan and Policy E(a) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

20. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be

carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a detailed Accessibility Plan, including a timetable for its implementation, shall have been submitted for the written approval of the Local Planning Authority. The plan shall confirm measures to ensure that 90% of dwellings (184) shall meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings', and shall include 1:50 furnished drawings for each unit type that comply with Building Regulations 2016 (as amended) requirement M4(2) 'Accessible and Adaptable Dwellings', and a methodology for ensuring compliance following construction/remedial works and the process for verifying compliance upon final completion of the dwellings.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the Plan or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted Plan shall have been approved by the Secretary of State.
- d. The approved Plan shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To accord with Policy D5, D6 and D7 of the London Plan as amended and Policy H5 of the Royal Greenwich: Core Strategy and Detailed Policies.

21. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a scheme, including a timetable for its implementation, for the following matters shall have been submitted for the written approval of the Local Planning Authority:
  - i. A detailed Wheelchair Dwelling Plan confirming measures to ensure that at least 10% of dwellings (21) shall meet Building Regulation requirement M4(3) 'wheelchair user dwellings'. This must include 1:50 furnished drawings of each unit type that comply with Building Regulations 2016 (as amended) requirement M4(3) 'wheelchair user dwellings'. The plan shall include the methodology for ensuring compliance during construction/remedial works and the process for verifying compliance upon final completion of the dwellings.
  - ii. A Maintenance and Adaptability Plan, detailing how the accessible features of the M4(3) dwellings will be maintained over time, including a process for making further adaptations if required by existing/future residents. This plan shall be implemented for the lifetime of the development.
  - iii. The legal owner shall provide clear information to prospective tenants about the accessibility features of the M4(3) dwellings,

including a summary of key features and how to use or adapt them.

This information shall be provided in both digital and physical formats.

- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- d. The approved scheme shall have been carried out and completed in accordance with the approved timetable and shall thereafter be maintained for the lifetime of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To accord with Policy D5, D6 and D7 of the London Plan as amended and Policy H5 of the Royal Greenwich: Core Strategy and Detailed Policies.

22. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a scheme, including a timetable for its implementation, for the following matters shall have been submitted for the written approval of the Local Planning Authority:
  - i. Full details of access arrangements for people with mobility difficulties, for all external parts of the development. For the avoidance of doubt this shall include large scale plans illustrating the different gradients on all routes to and through the site, including details of ramps, steps, gates, canopies above main entrances (shelter) and street furniture (potential obstructions).
  - ii. A Maintenance and Adaptability Plan, detailing how the accessible features will be maintained over time, including a process for making further adaptations if required by existing/future residents. This plan shall be implemented for the lifetime of the development.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- d. The approved scheme shall have been carried out and completed in accordance with the approved timetable and shall thereafter be maintained for the lifetime of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To facilitate the movement of those with mobility difficulties and to comply with Policies D5 and D8 of the London Plan (2021) and Policies IM4 and IM(a) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

23. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a scheme, including a timetable for its implementation, for the following matters shall have been submitted for the written approval of the Local Planning Authority:
  - i. A detailed wheelchair adaptable unit marketing strategy. The strategy shall include detail on access, approach and internal dimensions, relevant detail and accessible layouts, detail on accessible parking, accessible transport and local facilities, drawings of the 'accessible' layout should be provided in the lettings packs to assist in demonstrating how a property could be adapted in future, if not already, advertisement in local press via Housing Associations/local groups, identification and outreach to specific organisations and agencies that support people with mobility impairments, ensuring that these groups are informed of the availability of wheelchair adaptable units, a plan for monitoring the strategy's effectiveness, including regular reviews of how well it is reaching the intended market, and a reporting mechanism to the Local Planning Authority.
  - ii. Upon each new marketing period for M4(3) units, the wheelchair adaptable units shall be marketed in full compliance with details approved under part (i) for a minimum period of 1 month before they may be advertised as standard dwellings.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- d. The approved scheme shall have been carried out and completed in accordance with the approved timetable and shall thereafter be maintained for the lifetime of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To accord with Policy D7 of the London Plan and Policy H5 of the Royal Borough of Greenwich Local Plan: Core Strategy with Detailed Policies.

24. Within one month of the commencement of marketing of any wheelchair accessible dwelling, evidence of the marketing strategy for that unit, as per Condition 23, and any responses received shall be submitted to and approved in writing by the Local Planning Authority. Any allocated wheelchair adaptable units must comply with the provisions of M4(3) wheelchair accessible at final completion unless the units are not to be occupied by wheelchair users. If, after the end of the marketing period, the units are not to be occupied by wheelchair users, installation



of a standard kitchen will be acceptable. A bath can also be installed over the installed level access shower, provided it meets the required M4(3) standards for accessibility.

Reason: To accord with Policy D7 of the London Plan and Policy H5 of the Royal Borough of Greenwich Local Plan: Core Strategy with Detailed Policies.

25. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision an External Lighting Plan setting out all details regarding the proposed lighting fixtures and locations, together with their hours of operation. The lighting plan must adhere to the relevant standards, such as the Institution of Lighting Professionals (ILP) Guidance Notes for the Reduction of Obtrusive Light, and must demonstrate that the lighting design will minimise light pollution, prevent light spill, and avoid adverse impacts on nearby residents and wildlife.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the Plan or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted Plan shall have been approved by the Secretary of State.
- d. The approved Plan shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In order to achieve an appropriately lit and high-quality public realm that balances the requirements for safety and security with reducing light pollution in accordance with policies D8 and G6 of the London Plan.

26. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision details of a scheme to secure a 'Secured by Design' certification shall have been submitted for the written approval of the Local Planning Authority. The scheme must address key security elements, including lighting, access control, and surveillance measures, and include a timetable for its implementation.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- d. The approved scheme shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure that Secured by Design principles are implemented into the development in accordance with policy D11 of the London Plan and policy DH1 of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

27. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a scheme for child playspace and equipment to be installed, in general accordance with JBA 23-045-PZP Rev D, including scaled plans, schedules, component drawings and specification shall have been submitted for the written approval of the Local Planning Authority. The scheme must include a timetable for its implementation, safety features, accessibility considerations, and age-appropriate equipment. The submission shall also include a suitable maintenance and management plan for the play and fitness apparatus and the attendant safety surfacing. This landscape management plan shall cover both the contractual maintenance and defects liability period, but then also the ongoing, longer-term maintenance and management, with details of who will be responsible for this. The scheme must address key security elements, including lighting, access control, and surveillance measures.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- d. The approved scheme shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In order to ensure that sufficient on-site play facilities are provided for the future occupiers of the development and to ensure compliance with policy S4 of the London Plan and policy H(e) of the Royal Borough of Greenwich Local Plan: Core Strategy with Detailed Policies.

28. All present and future occupants of the development hereby permitted shall have full access, upon completion, to the combined amenity and child play space identified on the drawings hereby approved, as listed in Conditions 1 and 2 (and condition 27) for the lifetime of the development. All amenity space provision shall be retained for the lifetime of the development.

Reason: In order to ensure that sufficient on-site play facilities are provided for the future occupiers of the development and to comply with policy S4 of the London Plan and policy H(e) of the Royal Borough of Greenwich Local Plan: Core Strategy with Detailed Policies.

29. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

a. Within 8 months of the date of this decision a scheme for the following matters, including a timetable for its implementation, shall have been submitted for the written approval of the Local Planning Authority:

i. A Landscape and Ecological Management Plan (LEMP), long-term design objectives, management responsibilities and maintenance schedules for all relevant areas of the site.

Development proposals must ensure a net gain for biodiversity and make a positive contribution to the protection, enhancement, creation and management of biodiversity for the approved site. The LEMP must include details from a suitably qualified ecologist specifying how the landscape features have been developed for biodiversity and ecological enhancement, are linked and will become part of the wider green infrastructure as well as provide ecological corridors for the local fauna. The mitigation and enhancement should include the following:

1. Native and/or non-native species of proven wildlife value and/or deciduous plant and tree species preferably of local provenance;

2. Meadow grassland areas such as lawns with low growing native herbs, unmown grass verges, wildflower mixes on amenity and recreational open spaces and/or meadow areas;

3. Extensive (suitable for foraging and/or breeding redstart) and intensive green roofs compliant with GRO Green Roof Code (2014 or subsequent version), substrate, vegetation and assessment of the effectiveness of the living roof as a source control mechanism and interceptor for a Sustainable Urban Drainage System (SUDS);

4. Details of the number, location (including eastings and northings) and design of the bird/bat boxes to be provided as part of the development and bird and bat sensitive lighting;

ii. Where habitats are created as mitigation for development, management plans for the habitat shall also be provided detailing how the areas are to be managed in the longer term. Once approved the mitigation and management plans shall be undertaken in accordance with the approved details.

1. Evidence that the approved ecological measures have been installed in accordance with the details above and confirmation of installation by the suppliers must be submitted to, and approved by, the Local Planning Authority within three months of implementation of the relevant works.

2. The LEMP shall include provisions for monitoring the success of the ecological measures over time, with regular reports submitted to the Local Planning Authority. If the measures are not achieving the desired outcomes, an updated LEMP to include adaptive management strategies shall be submitted to the Local Planning Authority for approval.

b. If within 15 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the

prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.

c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

d. The approved scheme shall be implemented as approved and shall be maintained for the lifetime of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure the protection of wildlife and supporting habitat and enhance the nature conservation value of the site and character of the area and to secure opportunities for the enhancement of the ecological value of the site in line with policies G5, G6 and G7 of the London Plan and policy OS4 of the Royal Borough of Greenwich Local Plan: Core Strategy with Detailed Policies.

30. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

a. Within 3 months of the date of this decision a scheme for refuse and recycling shall have been submitted for the written approval of the Local Planning Authority. The scheme shall include full details of refuse storage, recycling facilities and refuse collection arrangements, including separate and secure storage areas for residential and commercial uses, separate storage areas for bulk storage and bin storage, provision of storage for each non-residential unit, any communal collection points, management arrangements for movement of refuse to any collection points between the holding area and the accessible area, and a timetable for implementation of the scheme.

b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.

c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

d. The approved scheme shall be implemented as approved and shall be maintained for the lifetime of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In order that the Council may be satisfied with the details of the proposal and to ensure compliance with policy SI7 of the London Plan and policies H5 and DH1 of the Royal Borough of Greenwich Local Plan: Core Strategy with Detailed Policies.

31. Within six months of the date of this decision, a report on the feasibility of a rainwater recycling system for irrigation requirements of the development, including a timetable for any additional measures and works, shall have been submitted for the written approval of the Local Planning Authority. The feasibility

report shall address criteria such as potential water savings, technical feasibility, and any barriers to implementation.

Within three months from completion of the installation of the rainwater recycling system if required as a result of the feasibility report under Part A, evidence of commissioning and evidence that the rainwater recycling system has been installed in accordance with the details approved under Part A must be submitted to and approved by the Local Planning Authority.

The development shall be carried out in accordance with all of the details mentioned above as approved (including all approved timetables), shall be retained and maintained as such thereafter and shall not be amended without the prior written approval of the Local Planning Authority.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To reduce the amount of potable water consumed from the water mains supply and contribute towards the sustainable use of water to comply with policies D8, SI13 of the London Plan and Policy DH1 of the Royal Borough of Greenwich Local Plan: Core Strategy with Detailed Policies.

32. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (including any other provisions in Classes E) and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting either of those Orders with or without modification), the approved commercial uses within the development shall only be used for use within the following Use Classes and for no other use:

Block D – Use Classes E(a), E(b), E(c), E(e), E(f), E(g)(i)

Block E – Use Classes E(a), E(b), E(c), E(d), E(e), E(f), E(g)(i)

Reason: In order to provide a mix of sustainable uses and to safeguard the amenities of neighbouring properties, particularly residential properties and the area generally and to ensure compliance with policy E9 of the London Plan and Policy TC1 of the Royal Borough of Greenwich Local Plan: Core Strategy with Detailed Policies.

33. Prior to the occupation of any commercial unit hereby approved full details of hours of operation for that unit shall have been submitted for the written approval of the Local Planning Authority. Any proposed changes to the approved hours of operation shall require further approval from the Local Planning Authority. The uses shall thereafter be operated in strict accordance with the approved details.

Reason: To safeguard the amenities of neighbouring properties, particularly residential properties and the area generally and to ensure compliance with Policy D3 and T7 of the London Plan and Policies E(c) and DH1 of the Royal Borough of Greenwich Local Plan: Core Strategy with Detailed Policies.

34. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

a. Within 3 months of the date of this decision a finalised report on the urban greening measures that will improve the Urban Greening Factor score

to at least 0.46, including a timetable for its implementation, shall have been submitted for the written approval of the Local Planning Authority.

- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the report or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted report shall have been approved by the Secretary of State.
- d. The approved report shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure the urban greening measures have been maximised and to secure opportunities for the enhancement of the ecological value of the site in line with policies G5, G6 and G7 of the London Plan (2021), policy OS4 of the Royal Borough of Greenwich Local Plan: Core Strategy with Detailed Policies.

35. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a Construction Travel Plan (ConTP), including a timetable for its implementation, shall have been submitted for the written approval of the Local Planning Authority. The ConTP shall specify initiatives to be implemented to encourage access to and from the site by a variety of non-car means (including public transport, walking and cycling), shall set targets and shall specify a monitoring and review mechanism to ensure compliance with the ConTP objectives. The ConTP shall also include specific initiatives such as carpooling, shuttle services, and incentives for using public transport, and shall outline the criteria for setting and assessing targets.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the ConTP or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted ConTP shall have been approved by the Secretary of State.
- d. The approved ConTP shall be implemented as approved and shall be maintained until all construction works are completed.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure acceptable trip generation and to encourage sustainable forms of transport, and to comply with Policy T4 and T5 of the London Plan (2021) and Policies IM4, IM(a) and IM(b) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

36. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a Residential Travel Plan (RTP), including a timetable for its implementation, shall have been submitted for the written approval of the Local Planning Authority. The RTP shall specify initiatives to be implemented to encourage access to and from the site by a variety of non-car means (including public transport, walking and cycling), shall set targets and shall specify a monitoring and review mechanism to ensure compliance with the RTP objectives. The RTP shall also include specific initiatives such as discounted public transport passes, cycle uptake schemes and walking groups, and shall outline the criteria for setting and assessing targets.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the RTP or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted RTP shall have been approved by the Secretary of State.
- d. The approved RTP shall be implemented as approved and shall be maintained for the lifetime of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure acceptable trip generation and to encourage sustainable forms of transport, and to comply with Policy T4 and T5 of the London Plan (2021) and Policies IM4, IM(a) and IM(b) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

37. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a Commercial Travel Plan (ComTP), including a timetable for its implementation, shall have been submitted for the written approval of the Local Planning Authority. The ComTP shall specify initiatives to be implemented to encourage access to and from the site by a variety of non-car means (including public transport, walking and cycling), shall set targets and shall specify a monitoring and review mechanism to ensure compliance with the ComTP objectives. The ComTP shall also include specific initiatives such as carpooling programs, public transport incentives, and secure and accessible cycle storage, and shall outline the criteria for setting and assessing targets.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the ComTP or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted ComTP shall have been approved by the Secretary of State.

- d. The approved ComTP shall be implemented as approved and shall be maintained for the lifetime of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure acceptable trip generation and to encourage sustainable forms of transport, and to comply with Policy T4 and T5 of the London Plan (2021) and Policies IM4, IM(a) and IM(b) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

38. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a Delivery and Service Plan (DSP), including a timetable for its implementation, shall have been submitted for the written approval of the Local Planning Authority. The DSP shall include a tracking plan and ensure that deliveries are carried out outside of peak hours.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the DSP or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted DSP shall have been approved by the Secretary of State.
- d. The approved DSP shall be implemented as approved and shall be maintained for the lifetime of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In order to safeguard residential amenity and pedestrian and traffic safety and ensure compliance with Policy T7 of the London Plan (2021) and Policies E(c) and IM4 of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

39. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a Vehicle Parking Location and Management Plan (VPLMP), including a timetable for its implementation, shall have been submitted for the written approval of the Local Planning Authority. The VPLMP shall include details of the disabled person's parking, and shall provision of spaces for three per cent of dwellings from the outset, demonstrate how an additional seven per cent of dwellings could be provided with one designated disabled persons parking space per dwelling in future upon request as soon as existing provision is insufficient, confirm that all disabled persons parking bays are to be for residents' use only, and confirm that all disabled spaces are designed in accordance with the design guidance in BS:8300 Vol.1.



- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the VPLMP or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted VPLMP shall have been approved by the Secretary of State.
- d. The approved VPLMP shall be implemented as approved and shall be maintained for the lifetime of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In order to safeguard residential amenity and pedestrian and traffic safety and ensure compliance with Policies T6 and T6.1 of the London Plan (2021) and Policy IM(c) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

40. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision details of the electric vehicle charging points (EVCP) for residential parking and for Car Club spaces shall have been submitted for the written approval of the Local Planning Authority. The details shall include confirmation of a minimum of 20% of the total number of car parking spaces shall have active charging provision, and that all other spaces shall have passive provision to enable these to provide electric vehicle charging in the future.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the details or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted details shall have been approved by the Secretary of State.
- d. The approved details shall be implemented as approved and shall be maintained for the lifetime of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To promote sustainable travel and to ensure compliance Policies T1, T2 and T5 of the London Plan 2021 and Policies IM4, IM(b) and IM(c) of the Royal Borough of Greenwich Local Plan: Core Strategy with Detailed Policies.

41. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a scheme for the following matters, and including a timetable for its implementation, shall have been submitted for the written approval of the Local Planning Authority in

consultation with Transport for London and a Metropolitan Police Designing-Out Crime Officer;

- i. Details of cycle parking provision demonstrating provision of the quantum of spaces required by London Plan Policy T5 and compliance with the standards and principles set out in the London Cycling Design Standards:
  1. A minimum of 5% of all provision being Sheffield stands providing a minimum of 900mm width per cycle, allowing for larger cycles, and which are not mounted under an upper tier of cycle parking.
  2. A minimum of 20% of all provision being made for conventional cycles, allowing a minimum of 500mm alongside Sheffield stands. The remainder, a maximum of 75%, being on two-tier racks.
  3. Suitable security, CCTV and panic buttons, with appropriate management and monitoring regimes, to address security concerns. Following installation, these shall be maintained as approved for the lifetime of the development.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- d. The approved scheme shall be implemented as approved and shall be maintained for the lifetime of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To promote sustainable travel and to ensure compliance with the London Cycling Design Standards (LCDS) 2016 (or other such document that amends alters or supersedes the LCDS), Policies T1, T2 and T5 of the London Plan 2021 and Policies IM4, IM(b) and IM(c) of the Royal Borough of Greenwich Local Plan: Core Strategy with Detailed Policies.

42. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision details of cycle parking for commercial uses hereby approved, and any associated facilities, shall have been submitted for the written approval of the Local Planning Authority.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the details or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted details shall have been approved by the Secretary of State.
- d. The approved details shall be implemented as approved and shall be maintained for the lifetime of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To promote sustainable travel and to ensure compliance with the London Cycling Design Standards (LCDS) 2016 (or other such document that amends alters or supersedes the LCDS), Policies T1, T2 and T5 of the London Plan and Policies IM4, IM(b) and IM(c) of the Royal Borough of Greenwich Local Plan: Core Strategy with Detailed Policies.

43. Demolition, construction, earth removal and piling work and any mechanical building operations required to implement the development shall only be carried out between the hours of 0800 and 1800 on Mondays to Fridays, 0800 and 1300 on Saturdays, and not at all on Sundays and Bank Holidays.

Reason: To safeguard the amenities of neighbouring properties and the area generally and ensure compliance with Policy D14 of the London Plan (2021) and Policies E(a) and E(c) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

44. No cranes or scaffolding shall be erected on the site unless and until a construction methodology statement and diagrams clearly presenting the location, maximum operating height, radius and start/finish dates for the use of cranes during the development have been produced. Upon completing the initial assessment based on the information requested, these cranes will require to be assessed against LCY's Instrument Flight procedures (IFPs) by a CAA approved procedure designer. The statement and diagrams, along with the IFP report, shall be submitted for the written approval of the Local Planning Authority, in consultation with the Port of London Authority, London City Airport and Transport for London, and shall be adhered to until all construction works are completed.

Reason: In order to safeguard the general amenities of the local area, in the interests of aviation safety and of vessels navigating the River Thames, and to ensure compliance with Policies SI15 and T4 of the London Plan.

45. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision details of water saving and monitoring measures shall have been submitted for the written approval of the Local Planning Authority. The details shall demonstrate that the measures will meet water efficiency standards with a maximum water use target of 105 litres of water per person per day (l/p/d) and will prevent the undue consumption of water, and shall be prepared by suitably qualified assessor.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the details or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted details shall have been approved by the Secretary of State.
- d. The approved details shall be implemented as approved and shall be maintained for the lifetime of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure the sustainable use of water, in accordance with the approved sustainability statement and Policy SI 5 of London Plan.

46. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a scheme for marketing the gym in Block E to commercial operators (at market rent) for a period of two years shall have been submitted for the written approval of the Local Planning Authority. If, after the two year marketing period a commercial operator has not been secured, the unit shall continue as a residents' gym for the lifetime of the development.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- d. The approved scheme shall be implemented as approved.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure compliance with policies D5(B)(5) and D12(A) of the London Plan.

47. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision an accommodation schedule, which sets out the mix of units (bedrooms and proposed occupation numbers), as well as those 28 units without access to private outside space, shall have been submitted for the written approval of the Local Planning Authority.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the schedule or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted schedule shall have been approved by the Secretary of State.
- d. The approved schedule shall be adhered to and shall be maintained for the lifetime of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in

this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure that the Local Planning Authority have the most up-to-date information regarding occupancy levels within the development.

48. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision details, including physical samples, of the pyroglass to be installed on all balconies, in place of the existing glass, and a methodology and a timetable for replacement, shall have been submitted for the written approval of the Local Planning Authority.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the details or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted details shall have been approved by the Secretary of State.
- d. The approved details shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure the balconies are acceptable in respect of their design and appearance, together with their implications for fire safety, in compliance with Policies D4, D5, D9 and D12(A) of the London Plan.

49. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a detailed design of the intertidal zone (to be in general accordance with drawing ref: JBA 23/045 ITZ 01 Rev A) shall have been submitted for the written approval of the Local Planning Authority. The design shall include areas of timber cladding to tidal walls, an appropriate planting scheme, soil specification, and erosion control devices. The submission shall also include details of a suitable maintenance and management plan of the intertidal zone, covering both the contractual maintenance, defects liability period and establishment, and a timetable for implementation of the scheme.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the design or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted design shall have been approved by the Secretary of State.
- d. The approved design shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In order that the Local Planning Authority shall be satisfied as to the details of the proposal and to comply with Policies G7, D3 and D4 of the London Plan and Policies DH1 and OS(f) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

50. The development hereby permitted shall cease its residential and commercial uses and all requirements of the upheld enforcement notice shall be carried out within 36 months of the date of failure to meet any one of the requirements set out in (a) to (d) below:

- a. Within 3 months of the date of this decision a scheme for replacement of orange cladding on both blocks by cladding of an appropriate colour, and including a timetable for its implementation, shall have been submitted for the written approval of the Local Planning Authority.
- b. If within 9 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- c. If an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- d. The approved scheme shall have been carried out and completed in accordance with the approved timetable.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: In the interests of the external appearance of the development and for compliance with Policies D3 and D4 of the London Plan and Policy DH1 of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies.

## **SCHEDULE OF DRAWINGS FOR CONDITION 1**

MAS-PLA-Z1-00-DR-A-01100 Rev I (Site Master Plan – Overall Podium Level)  
MAS-PLA-Z1-00-DR-A-01101 Rev H (Site Master Plan - Basement Level)  
MAS-PLA-Z1-00-DR-A-01102 Rev F (Assessed Site Boundary Drawing)  
MAS-PLA-Z1-00-DR-A-02100 Rev F (Block D - Ground Floor Plan)  
MAS-PLA-Z1-00-DR-A-02101 Rev D (Block D - 1st to 2nd Floor Plan)  
MAS-PLA-Z1-00-DR-A-02102 Rev D (Block D - 3rd to 8th Floor Plan)  
MAS-PLA-Z1-00-DR-A-02103 Rev D (Block D - 9th to 13th Floor Plan)  
MAS-PLA-Z1-00-DR-A-02104 Rev C (Block D - 14th Floor Plan)  
MAS-PLA-Z1-ZZ-DR-A-04100 Rev E (Block D - South Elevation)  
MAS-PLA-Z1-ZZ-DR-A-04101 Rev D (Block D - East Elevation)  
MAS-PLA-Z1-ZZ-DR-A-04102 Rev D (Block D - West Elevation)  
MAS-PLA-Z1-ZZ-DR-A-04103 Rev C (Block D - North Elevation)  
MAS-PLA-Z1-ZZ-DR-A-05101 Rev D (Block D - Section BB)  
MAS-PLA-Z1-00-DR-A-02105 Rev K (Block E - Ground Floor Plan)  
MAS-PLA-Z1-01-DR-A-02106 Rev G (Block E - First Floor Plan)  
MAS-PLA-Z1-02-DR-A-02107 Rev H (Block E - 2nd Floor Plan)  
MAS-PLA-Z1-ZZ-DR-A-02108 Rev G (Block E - 3rd - 5th Floor Plan)  
MAS-PLA-Z1-06-DR-A-02109 Rev I (Block E - 6th Floor Plan)  
MAS-PLA-Z1-ZZ-DR-A-02110 Rev G (Block E - 7th to 8th Floor Plan)  
MAS-PLA-Z1-09-DR-A-02111 Rev H (Block E - 9th Floor Plan)  
MAS-PLA-Z1-10-DR-A-02112 Rev G (Block E - 10th Floor Plan)  
MAS-PLA-Z1-11-DR-A-02113 Rev I (Block E - 11th Floor Plan)  
MAS-PLA-Z1-ZZ-DR-A-02114 Rev G (Block E - 12th - 16th Floor Plan)  
MAS-PLA-Z1-ZZ-DR-A-02115 Rev G (Block E - 17th - 21st Floor Plan)  
MAS-PLA-Z1-22-DR-A-02116 Rev H (Block E - 22nd Floor Plan)  
MAS-PLA-Z1-22-DR-A-02117 Rev G (Block E - Roof Plan)  
MAS-PLA-Z1-ZZ-DR-A-04104 Rev F (Block E - West Elevation)  
MAS-PLA-Z1-ZZ-DR-A-04105 Rev C (Block E - SW & SE Elevation)  
MAS-PLA-Z1-ZZ-DR-A-04106 Rev D (Block E - North Elevation)  
MAS-PLA-Z1-ZZ-DR-A-04107 Rev D (Block E - East Elevation)  
MAS-PLA-Z1-ZZ-DR-A-04108 Rev F (Block E - South Elevation)  
MAS-PLA-Z1-ZZ-DR-A-05100 Rev C (Block E - Section AA)

## **SCHEDULE OF DRAWINGS FOR CONDITION 2**

MAS-PLA-Z1-00-DR-A-01103 Rev H (Site Master Plan - Overall Podium Level – Outstanding)

MAS-PLA-Z1-00-DR-A-01104 Rev J (Site Master Plan - Basement Level – Outstanding)

JBA 23 045 GA5 Rev G (General Arrangement Ground Floor)

JBA 23/045-LS01 Rev A (Proposed Ramp Long Section)

JBA 23 045 GA4 (General Arrangement 2nd Floor)

JBA 23 045 GA2 Rev B (General Arrangement 6th Floor)

JBA 23 045 GA1 Rev A (General Arrangement 9th Floor)

JBA 23 045 GA3 Rev A (General Arrangement 11th Floor)

JBA 23 045 UGF Rev E (Urban Greening Factor Plan)

JBA 23-045 - SK01 Rev E (Ground floor masterplan)

JBA 23-045 - SK02 (2nd floor masterplan)

JBA 23-045 –SK03 Rev A (6th floor masterplan)

JBA 23-045 – Rev A SK04 Rev A (9th floor masterplan)

JBA 23-045 - SK05 (11th floor masterplan)

JBA 23-045 - SK06 Rev A (Rooftop masterplan)

JBA 23-045 Rev D - SK07 Rev E (All areas masterplan)

JBA 23-045 - PZP Rev D (Play provision plan)

JBA 23-045 - 01 Rev E (Soft Landscaping, Ground Floor)

JBA 23-045 Design Rationale Booklet Rev E

JBA 23-045 – 03 Rev A (Soft Landscaping, Extensive Rooftops)

JBA 23-045 – 04 Rev A (Soft Landscaping, 11th Floor)

Intertidal Zone - ITZ 01 Rev B

In respect of Block D:

MAS-PLA-Z1-00-DR-A-02100 – Rev D (Block D - Ground Floor Plan – Outstanding)

MAS-PLA-Z1-00-DR-A-02101 – Rev B (1st to 2nd Floor Plan - Outstanding)

MAS-PLA-Z1-00-DR-A-02102 – Rev B (Block D - 3rd to 8th Floor Plan - Outstanding)

MAS-PLA-Z1-00-DR-A-02103 – Rev B (Block D - 9th to 13th Floor Plan - Outstanding)

MAS-PLA-Z1-00-DR-A-02104 – Rev B (Block D - 14th Floor Plan – Outstanding)

MAS-PLA-Z1-ZZ-DR-A-04104 – Rev C (Block D - East Elevation – Outstanding)]

MAS-PLA-Z1-ZZ-DR-A-09001 (Typical Facade Vents details - Block D)



MAS-PLA-Z1-00-DR-A-02102D.1 – Rev B (Block D - APT Type A&B Accessibility Layouts)

MAS-PLA-Z1-00-DR-A-02102D - Rev B (Block D - APT Type A&B Accessibility Layouts)

MAS-PLA-Z1-00-DR-A-11001D – Rev A (Block D - APT Type A&B Bathroom Layout M4(3)a)

MAS-PLA-Z1-00-DR-A-11002D – Rev A (Block D - APT Type A&B Kitchen Layout M4(3)a)

MAS-PLA-Z1-00-DR-A-11003D – Rev A (Block D - APT Type A&B M4(3)b Compliant)

MAS-PLA-Z1-00-DR-A-11004D – Rev A (Block D - Ceiling Mounted Hoist Detail)

MAS-PLA-Z1-00-DR-A-11005D – Rev A (Block D - Ceiling Mounted Hoist Plan Layouts)

In respect of Block E:

MAS-PLA-Z1-00-DR-A-02205 – Rev D (Block E - Ground Floor Plan – Outstanding)

MAS-PLA-Z1-01-DR-A-02206 – Rev C (Block E - First Floor Plan – Outstanding)

MAS-PLA-Z1-02-DR-A-02207 – Rev D (Block E - 2nd Floor Plan – Outstanding)

MAS-PLA-Z1-ZZ-DR-A-02208 – Rev C (Block E - 3rd - 5th Floor Plan – Outstanding)

MAS-PLA-Z1-06-DR-A-02209 – Rev D (Block E - 6th Floor Plan – Outstanding)

MAS-PLA-Z1-ZZ-DR-A-02210 – Rev C (Block E - 7th to 8th Floor Plan – Outstanding)

MAS-PLA-Z1-09-DR-A-02211 – Rev D (Block E - 9th Floor Plan – Outstanding)

MAS-PLA-Z1-10-DR-A-02212 – Rev C (Block E - 10th Floor Plan – Outstanding)

MAS-PLA-Z1-11-DR-A-02213 – Rev D (Block E - 11th Floor Plan – Outstanding)

MAS-PLA-Z1-ZZ-DR-A-02214 – Rev B (Block E - 12th - 16th Floor Plan – Outstanding)

MAS-PLA-Z1-ZZ-DR-A-02215 – Rev B (Block E - 17th - 21st Floor Plan – Outstanding)

MAS-PLA-Z1-22-DR-A-02216 – Rev C (Block E - 22nd Floor Plan – Outstanding)

MAS-PLA-Z1-ZZ-DR-A-04207 – Rev B (Block E - East Elevation – Outstanding)

MAS-PLA-Z1-ZZ-DR-A-04208 – Rev C (Block E - South Elevation – Outstanding)]

MAS-PLA-Z1-ZZ-DR-A-09002 (Typical Facade Vents details - Block E)

In respect of the optional enhancements for Block E:

MAS-PLA-Z1-ZZ-DR-A-04204 Rev E (Ground F - West Elevation) (this is not to include perforated panels shown on balconies)

MAS-PLA-Z1-ZZ-DR-A-04205 Rev C (Ground F - SW & SE Elevation) (this is not to include perforated panels shown on balconies)

MAS-PLA-Z1-ZZ-DR-A-04206 Rev C (Ground F - North Elevation) (this is not to include perforated panels shown on balconies)

MAS-PLA-Z1-ZZ-DR-A-04207 Rev D (Ground F - East Elevation) (this is not to include perforated panels shown on balconies)

MAS-PLA-Z1-ZZ-DR-A-04208 Rev F (Ground F - South Elevation) (this is not to include perforated panels shown on balconies)

MAS-PLA-Z1-ZZ-DR-A-04210 Rev E (Block E - West Elevation – Panelling)

MAS-PLA-Z1-ZZ-DR-A-04211 Rev D (Block E - East Elevation – Panelling)

MAS-PLA-Z1-ZZ-DR-A-04230 Rev E (Block E - West Elevation – Banding)

MAS-PLA-Z1-ZZ-DR-A-04231 Rev D (Block E - East Elevation – Banding)

MAS-PLA-Z1-ZZ-DR-A-04232 Rev C (Block E - SE Elevation – Banding)

MAS-PLA-Z1-ZZ-DR-A-04233 Rev F (Block E - South Elevation – Banding)

MAS-PLA-Z1-ZZ-DR-A-04240 Rev E (Block E - West Elevation – Capping)

MAS-PLA-Z1-ZZ-DR-A-04241 Rev D (Block E - North Elevation – Capping)

MAS-PLA-Z1-ZZ-DR-A-04242 Rev D (Block E - East Elevation – Capping)

MAS-PLA-Z1-ZZ-DR-A-04243 Rev F (Block E - South Elevation – Capping)

In respect of the optional enhancements for Block D:

MAS-PLA-Z1-ZZ-DR-A-04200 Rev A (South Elevation)

MAS-PLA-Z1-ZZ-DR-A-04201 Rev A (East Elevation)

MAS-PLA-Z1-ZZ-DR-A-04202 Rev A (West Elevation)

MAS-PLA-Z1-ZZ-DR-A-04203 Rev A (North Elevation)]

Supporting documents/reports

Expert Report on Alleged Deviations from the Fire Strategy Provision of the London Plan technical report (ref. 125168-104/BMR), prepared by Hollis, dated 2 July 2024

Environmental Statement dated April 2024

Environmental Statement Addendum dated July 2024

Energy Strategy Rebuttal Statement, prepared by Ecolytik, dated 15 July 2024

Expert report in relation to alleged deviations in relation to compliance with Part M of the Building Regulations (ref 125168-100/CAS) prepared by Hollis, dated 18 June 2024

Embodied Carbon Assessment, by Ecolytik, dated May 2024

Technical Note on Contamination, by Idom, dated June 2024

Sunlight and daylight report, prepared by GIA, dated 26 June 2024

Note regarding Intertidal Biodiversity Provision, prepared by JBA, dated 29 July 2024

Overheating Note on Air Conditioning Units, prepared by Hodkinson, dated 31 July 2024

Residential Cooling Statement, prepared by MKP Consultants, dated 7 August 2024

Response letter of Ardent to the TfL, dated 1 August 2024

Access arrangements to terraces to overcome steps (ref 125168-100/CAS), prepared

by Hollis, dated 6 August 2024

Framework draft transport management plan (ref 2401020-R11), prepared by Ardent, dated August 2024

Cooling Unit Vents – Summary Note, dated 14 August 2024

Appellant Response to Note on Energy/Overheating of Mr Steven Harris dated 13 August 2024

Accessibility comments (125168-100/CAS), prepared by Hollis, dated 30 August 2024

Visual Impact Study, prepared by Miller Hare, dated July 2024

Response to accessibility and fire issues raised in the course of the inquiry, prepared

by JBA, dated 7 August 2024

Structural Statement by Burdon, including RC Slab Calculations, dated 26 April 2024

Rebuttal of Proof of Evidence – Ecology, with associated BNG calculation, prepared by JBA, dated 15 July 2024

Transport Rebuttal, prepared by Ardent, dated July 2024



## Costs Decision

Inquiry held on 23-25 July, 30 July-2 August, 13-16 August, 28-30 August and 5 September 2024

Site visits made on 4 and 24 July and on 10 September 2024

**by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 January 2025**

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### **Costs application in relation to Appeal Ref: APP/E5330/C/23/3332209 Mast Quay Phase II, Woolwich Church Street, London, SE18 5BG**

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Royal Borough of Greenwich for a partial award of costs against Fincraft Limited.
  - The Inquiry was in connection with an appeal against an enforcement notice alleging the erection of a 15 storey tower block known as Sky Sail House and a tower block of 23 storeys known as Main Sail House, with linked tiered 11, 9 and 6 storeys known as Moon Sail House.
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **The submissions for the Royal Borough of Greenwich**

2. The application for costs and the response to the submissions on the application made by the Appellant were made in writing.

### **The response by Fincraft Ltd**

3. The Appellant's submissions on the application was made in writing.

### **Reasons**

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. The Appellant raised two matters in their ground (f) appeal; first, that optional enhancements could be made to the development; and second, the human rights of current residents of the development. The ground (f) appeal would only have been considered if the ground (a) appeal was unsuccessful. So optional enhancements to the development that might make it acceptable in planning terms must be considered in the ground (a) appeal. The human rights of residents is a matter to weigh in the planning balance, which is considered in the ground (a) appeal, and is not a matter to influence whether the requirements of the enforcement notice are excessive or not.
6. The relevance of the two matters supporting the ground (f) appeal should have been apparent to the Appellant when they were considering which grounds of

appeal to make, or at the latest when they were preparing their statement of case. However, the Appellant pursued the ground (f) appeal up until the Inquiry; only then was it withdrawn. This was unreasonable and the Council has incurred wasted expense in the appeal process. But the wasted expense is limited to their consideration of the two matters only in the context of the ground (f) appeal, and does not include expenses incurred in addressing the two matters in themselves, because they are matters which would, in any event, be considered in the ground (a) appeal.

7. This is indeed "...a highly unusual case requiring a highly unusual degree of detail in relation to submitted plans". However, the need for production and submission of a set of as-built drawings was raised in a Planning Contravention Notice (PCN) dated 22 March 2023, and the need for submission of such a set of drawings should have been apparent to the Appellant when they made their ground (a) appeal on 30 October 2023. In their statement of case dated 19 January 2024 the Appellant lists the drawings that illustrate the existing development, so they clearly had started the process of preparing a set of as-built drawings. The need for such a set, in addressing the possibility that planning permission might be granted, was also mentioned at the case management conference on 5 July 2024.

8. It is surprising, given modern surveying techniques, that the Appellant struggled to produce an agreed set of as-built drawings. Discrepancies between the development and the drawings produced were raised by Council Officers and the drawings remained under review even during the Inquiry; the final, and agreed, set of as-built drawings was submitted on 8 August 2024. That this is an unusual case is not relevant, nor is the size of the development. Drawings had been produced before 19 January 2024 and the Appellant had ample time, between then and the date for submission of proofs, or at the latest by the start of the Inquiry, to ensure that drawings accurately illustrated the development as built.

9. The burden of checking the drawings before and during the Inquiry fell on Council Officers, and the need to do so constitutes unreasonable behaviour on the part of the Appellant. Though the Officers will have been preparing for and attending the Inquiry, the time spent checking drawings will have been in addition to other duties and will have incurred wasted expense.

10. The ground (a) enforcement appeal differs from a prospective planning application but they have similarities, apart from anything else both would result in either a refusal or grant of planning permission. One difference is that the enforcement appeal was time limited by being considered at an Inquiry, whereas a planning application for a major development is not so time limited. It is true that many matters that were raised before and at the Inquiry generated documents and drawings, and required the Council's witnesses to consider and respond to those documents and drawings swiftly.

11. The Council's witnesses did not have the luxury of the time afforded during consideration of a planning application, but it was not unreasonable for the Appellant to produce evidence to ensure that all matters, principally those raised by the Council, were properly considered. Furthermore, for a major development many matters of detailed design are the subjects of conditions and it is not surprising that many of the issues raised by the Council, and which generated further submission of evidence, did, nevertheless, result in the imposition of conditions on the planning permission granted.

12. Preparing for and attendance at the Inquiry was challenging for all those involved. All witnesses were required to demonstrate flexibility, to provide swift responses to new evidence, and to contribute to the smooth running of the Inquiry. This they did with commendable professionalism. Other than as detailed above none of the matters and instances mentioned in the application for a partial award of costs justifies a conclusion that the Appellant has acted unreasonably.

#### Conclusion

13. The Appellant has acted unreasonably by making an unnecessary ground (f) appeal, by not withdrawing that appeal until after the Inquiry commenced, and by not preparing and submitting a set of as-built drawings of the development at the earliest opportunity. The Council has incurred wasted expense in addressing matters raised in the ground (f) appeal but the wasted expense is limited to their consideration of the two matters only in the context of the ground (f) appeal, and in checking and re-checking submitted as-built drawings before and during the Inquiry. In these respects the application for a partial award of costs is warranted.

#### **Costs Order**

14. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Fincraft Ltd shall pay to Royal Borough of Greenwich, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing matters raised in the ground (f) appeal but only in the context of the ground (f) appeal, and in checking and re-checking submitted as-built drawings before and during the Inquiry; such costs to be assessed in the Senior Courts Costs Office if not agreed.

15. The Applicant is now invited to submit to Fincraft Ltd, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*John Braithwaite*

Inspector